



MEMORANDUM

To: Mayor and City Councilors
From: Rich Olson, City Manager
Date: September 4, 2013
Re: Consideration – Public Hearing on Closing of Certain 4th Ward Alleys

BACKGROUND:

During the Work Session held on June 24, 2013, City staff provided an overview of certain alleys in the 4th Ward, which the Alleyway Committee has recommended be closed. To close an alley, the City must comply with NCGS 160A-299.

NCGS §160A-299 provides the procedure for closing an alleyway or street. First, the City Council must adopt a Resolution of Intent to close the alley. The resolution is required to set the time for a Public Hearing, which must be at least five weeks after the adoption of the Resolution of Intent. The Resolution of Intent must be published once a week for four weeks in *The Daily Advance*. In addition, the City must mail a notice to the adjacent property owners by Certified Mail. The alley must also be posted in two places. Anyone may speak at the Public Hearing, not just the adjacent property owners. If the Council elects to close an alleyway, the Council will need to adopt an Order closing the alley. That Order must be recorded with the Office of Register of Deeds. Once closed, the adjacent property owners split the alley equally. During the June 24, 2013 Council meeting, the City Council called for a public hearing to close eight (8) alleys, which are located in the 4th Ward.

ANALYSIS:

The Resolution of Intent adopted by the City Council called for the closing of eight (8) alleys, which are located in the 4th Ward. All adjacent property owners were notified by City staff via Certified Mail. In addition, all alleys were posted in two places. After further review, it was determined that Alley Number 94, which runs east and west approximately 400 feet between Herrington Road and Highland Avenue and parallel to Hemlock Street and Massachusetts Avenue has triplex electrical lines, which feed houses on both sides of the street. Staff has removed Alley 94 from the final resolution to close the alleys.

STAFF RECOMMENDATION:

AT THE CONCLUSION OF THE PUBLIC HEARING:

By motion, adopt the attached Resolution to Close Certain Alleys in the Fourth Ward as presented.

RCO/vdw

RESOLUTION #2013-_____
ALLEY CLOSING ORDER
FOR CERTAIN ALLEYS IN THE FOURTH WARD

WHEREAS, on the 8th day of July 2013 the City Council of the City of Elizabeth City directed the City Clerk to publish a Preliminary Resolution to consider closing certain alleys in the Fourth Ward in *The Daily Advance* once each week for four successive weeks, such resolution advising the public that a public hearing would be conducted in the City Council Chambers of the Municipal Administration Building on September 9, 2013 at 7:30 p.m.; and

WHEREAS, the City Council on the 8th day of July 2013 ordered the City Clerk to notify all persons owning property abutting the described certain alleys located in the Fourth Ward, by registered or certified mail, enclosing with such notification a copy of the Preliminary Resolution; and

WHEREAS, the City Clerk has advised the City Council that she sent a letter to each of the abutting property owners advising them of the day, time and place of the meeting, enclosing a copy of the Preliminary Resolution and advising the abutting property owners that the question as to closing of these certain alleys would be acted upon, said letters having been sent by registered or certified mail; and

WHEREAS, the City Clerk has advised the City Council that adequate notices were posted on the applicable alleys as required by NCGS 160A-299; and

WHEREAS, the seven (7) certain numbered alleys in the Fourth Ward, and shown on the attached map which is incorporated herein by reference, are further identified as:

1. Alley Number 98 described as extending north approximately 250 feet off of B Street and running parallel to Wood Street and Herrington road; and
2. Alley Number 42 described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Magnolia and Arbutus; and
3. Alley Number 39 described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Hemlock and Spruce; and
4. Alley Number 36 described as extending east and west approximately 400 feet between Herrington and Highland, parallel to Massachusetts and Witherspoon; and
5. Alley Number 38 described as extending east and west approximately 400 feet between Highland and Southern, parallel to Hemlock and Spruce; and

6. Alley Number 37 described as extending east and west approximately 400 feet between Highland and Southern, parallel to Massachusetts and Hemlock; and
7. Alley Number 35 described as extending east and west approximately 400 feet between Highland and Southern, parallel to Witherspoon and Massachusetts.

WHEREAS, after full and complete consideration of the matter and after having granted full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said alleys in the public hearing held on September 9, 2013; and

WHEREAS, it now appears to the satisfaction of the City Council that the closing of said alleys is not contrary to the public interest, and that no individual owning property, either abutting the alley or in the vicinity of the alley or in the subdivision in which the alley is located, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property.

NOW, THEREFORE, subject to the reservation of easements to the City of Elizabeth City for utility purposes as shown on a map recorded in Book of Maps in the office of the Pasquotank County Register of Deeds, the seven (7) certain Fourth Ward alleys as described herein are hereby ordered closed, and all right, title, and interest that may be vested in the public to said areas for street purposes is hereby released and quitclaim to the abutting property owners in accordance with the provisions of NCGS 160A-299.

The Mayor and City Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all right, title and interest in those persons owning lots or parcels of land adjacent to the alleys, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed alleys (with provision for reservation of easements to the City of Elizabeth City for utility purposes) in accordance with the provision of NCGS 160A-299(c).

The City Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Pasquotank County a certified copy of this resolution and order.

ADOPTED, this the 9th day of September 2013.

Joseph W. Peel
Mayor

Dianne S. Pierce-Tamplen, MMC
City Clerk

Elizabeth City Alleys

