May 7, 1990

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
ITEM S401 - COUNCIL DOCKET OF MONDAY, MAY 7 - AMENDMENT TO COUNCIL POLICY 600-15 - CONCERNS EXPRESSED BY CRAIG BEAM

At the Council meeting on April 30, Item 110 was continued for response from the City Attorney and the City Manager to concerned raised by Craig Beam of Luce, Forward, Hamilton & Scripps. Item 110, which is now item S401 on the May 7 docket, involves proposed amendments to Council Policy 600-15 which basically provides for additional community input on proposed street vacations. Attached is a copy of the memorandum expressing the concerns of Mr. Beam.

We feel that there is no problem in adding the phrase "and easement abandonment" in paragraph 4 as requested in paragraph 1 of the attached memorandum.

With regard to the change proposed in paragraph 2 of the attached memorandum, the phrase "in lieu of the procedures set forth in paragraphs 5, 6 and 8" could be added to paragraph 10 of the policy. However, such an addition would remove any significant community input from the summary vacation process. An alternative could be the addition of the following language to paragraph 10 as a second sentence:

> Where the property subject to the summary vacation procedures involves a Development Plan which has received discretionary review following community group consideration, then there shall be no additional requirement for the community group to review the summary vacation.

As to the request contained in paragraph 3 of the attached memorandum, the proposed change would add another fact situation justifying a summary vacation, and is not appropriate. The state law specifies the factual circumstances justifying summary vacations and the proposed addition is not consistent with the state law.

Language as recently proposed by Mr. Beam could, however, be added as paragraph 13 as follows:

> 13. Applications for easement abandonment received by the City prior to May 1, 1990,

shall comply with the previous policy relating to easement abandonment.

In summary, we have no objection to the change proposed in paragraph 1 of the attached memorandum from Mr. Beam. In lieu of the language proposed in paragraph 2 of the attached memorandum, it may be appropriate to specify that easements subject to summary vacation which are included in projects which must receive separate discretionary approvals from the City Council shall not be subject to the process specified in paragraphs 5, 6 and 8 of the policy. The proposed addition requested in paragraph 3 of the attached memorandum does not appear appropriate.

Respectfully submitted,
JOHN W. WITT
City Attorney

HOV:ps:221.1(x043.1)
Attachment
RC-90-31