

APR -7 2014


City Clerk

ORDINANCE NO. 3092

AN ORDINANCE TO VACATE A PORTION OF THOMAS STREET IN THE CITY OF COLUMBIA, ILLINOIS LOCATED BETWEEN THE NEW TERMINUS OF THOMAS STREET IN THE SOUTH PART OF THOMAS STREET AND CARL STREET IN THE COLUMBIA HILLS SUBDIVISION IN THE CITY OF COLUMBIA, ILLINOIS

WHEREAS, the Illinois Municipal Code allows and provides that wherever the corporate authorities of a municipality, such as the City of Columbia, Illinois (the "City") determines that it is in the public interest to vacate any street within the jurisdiction of the municipality, the corporate authorities in the municipality may vacate that street by enactment of an appropriate ordinance (65 ILCS 5/11-91-1);

WHEREAS, the Illinois Municipal Code provides that no ordinance shall be passed vacating any street within a municipality without a notice of hearing being published at least fifteen (15) days prior to the hearing describing the time, place and subject matter of the hearing, the publication to be in a newspaper of general circulation within the incorporated area which the street proposed for vacation serves and the conducting of a public hearing at which all interested persons shall be heard concerning the proposed street vacation (65 ILCS 11-91-1);

WHEREAS the ordinance vacating the street is required to contain the legal description or permanent property index numbers of the particular parcel or parcels of property acquiring title to the vacated street (65 ILCS 5/11-91-1);

WHEREAS, if there are any public service facilities in such street or alley, or part thereof, the ordinance vacating the street shall reserve to the municipality or to the public utility, as the case may be, owning such facilities, such property, rights of way and easements as, in the judgment of the corporate authorities, are necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof (65 ILCS 5/11-91-1);

WHEREAS an ordinance vacating a street in a municipality is required to be passed by the affirmative vote of at least three-fourths (3/4) of the Alderman holding office in a municipality (65 ILCS 5/11-91-1);

WHEREAS, relief to the public from further burden and responsibility of maintaining any street, or part thereof, constitutes a public use or public interest authorizing the vacation of the street (65 ILCS 5/11-91-1);

WHEREAS, the determination of the corporate authorities of the municipality of the nature and extent the public use or public interest that will be subserved in the vacation of the street is conclusive, and the passage of such an ordinance is

sufficient evidence of such determination, whether so recited in the ordinance or not (65 ILCS 5/11-91-1);

WHEREAS, when property is damaged by the vacation or closing of any street, the damage shall be ascertained and paid as provided by law (65 ILCS 5/11-91-1);

WHEREAS, Mark G. Kohlenberger who resides at 323 South Thomas Street in the City has requested that the City vacate a portion of Thomas Street in the Columbia Hills Subdivision in the City, which is located between the terminus of South Thomas Street that will be created by the street vacation and Carl Street in the City;

WHEREAS, the property acquiring title to the westerly one-half (1/2) of the to be vacated Thomas Street right-of-way that is located adjacent to the southerly fifty feet (50') of lots 23, and lots 24 and 25 of the Columbia Hills Subdivision in the City belongs to the Mark G. Kohlenberger and Tamara A. Kohlenberger, his wife, and the legal description and permanent property index number of said property is as follows, to wit:

A parcel of land in the Northeast Quarter of Section 21, in Township 1 South, Range 10 West of the 3rd Principal Meridian, in Monroe County, Illinois, and more particularly described as follows:

Beginning at an iron pipe at the northeast corner of a strip of land, being 50 feet off the southerly end of Lot 23 of COLUMBIA HILLS SUBDIVISION, as shown by plat recorded on page 117 of Plat Record "B" in the Recorder's Office of Monroe County, Illinois, (now being Plat Envelope 85 (A), as Document No. 39436 in said office) said corner being in the west line of Thomas Street, 50 feet wide, in said Subdivision; thence, along the northwest line of said strip of land, South 79° 38' 18" West 150 feet to a steel stake at the northwest corner of said strip of land; thence, along the west line of said Lot 23, South 10° 21' 42" East 26.24 feet to a steel stake at the southeast corner of a parcel of land conveyed to Edward Fred Schulmeister and wife as shown by deed recorded in Deed Record 75 at page 282 in said Recorder's Office; thence, along the south line of said Schulmeister parcel, North 83° 26' 50" West 214.29 feet to a steel stake at the southwest corner of said Schulmeister parcel, in the west line of Lot 25 of said COLUMBIA HILLS SUBDIVISION; thence South 7° 41' 14" West 332.19 feet to a steel stake in the extension westwardly of the western portion of the south line of said Lot 25, from which point a steel stake at the southwest corner of said Lot 25 bears South 80° 37' 22" East 46 feet; thence, along said south line of Lot 25 and its extension, South 80° 37' 22" East 643.88 feet to a steel stake at a corner of said Lot 25; thence, along the line of said Lot 25, North 0° 48' 27" West 66 feet to a stone at a corner of said Lot 25; thence, along the eastern portion of the south line of said Lot 25, North 89° 59' 13" East 74.90 feet to a steel stake at the intersection of said line with the extension southwardly of the west line of Carl Street, 50 feet wide, in said

Subdivision; thence, along said extension of said west line of Carl Street, North 0° 38' 18" East 50.89 feet to a steel stake at the intersection of said line with the south line of said Thomas Street; thence, along the north line of said Lot 25, being the south line of said Thomas Street, North 89° 21' 42" West 23.45 feet to a point of curvature, from which a steel stake at a point of intersection bears North 89° 21' 42" West 50.19 feet; thence, along said line of Lot 25 and of Thomas Street, westwardly along a curve to the right having a radius of 150 feet, for a distance of 96.86 feet to a point of tangency; thence, continuing along the line of said Lot 25 and of Thomas Street, North 52° 21' 42" West 146.53 feet to a point of curvature, from which a steel stake at a point of intersection bears North 52° 21' 42" West 57.58 feet; thence, continuing along the line of said Lot 25 and of Thomas Street, northwestwardly along a curve to the right having a radius of 150 feet, for a distance of 109.95 feet to a point of tangency; and thence, along the line of Lots 25, 24, and 23 in said subdivision and of Thomas Street, North 10° 21' 42" West 135 feet, back to the point of beginning; containing 4.35 acres, more or less.

EXCEPTING THEREFROM, part of Lot 25 of "Columbia Hills Subdivision", reference being had to the Plat thereof recorded in the Recorder's Office of Monroe County, Illinois, in Plat Record B on Page 117 (Envelope 85-A), and part of Tax Lot 3 of

Section 21, Township 1 South, Range 10 West, of the Third Principal Meridian, Monroe County, Illinois, being more particularly described as follows: Beginning at a bar in concrete which marks the most Southerly corner of Lot 5 of "Stone Gate", reference being had to the Plat thereof recorded in the Recorder's Office of Monroe County, Illinois, in Envelope 2-41B; thence North 07°-34'-46" East, along the East line of said Lot 5 of "Stone Gate", a distance of 191.13 feet to a bar in concrete which marks the Northeasterly corner of said Lot 5; thence South 49°-58'-57" East, a distance of 30.00 feet to a point; thence South 09° -39'-31" East, a distance of 185.74 feet to an iron bar which lies on the Southerly line of said Lot 25 of "Columbia Hills Subdivision"; thence North 80°-43'-49" West, along said Southerly line a distance of 80.38 feet to the Point of Beginning.

Containing 9,480 square feet, or 0.218 acre, more or less.

Permanent Property Index Number: 04-21-265-011-000.

WHEREAS, the property acquiring title to the easterly one-half (1/2) of the vacated South Thomas Street right-of-way belongs to Mark G. Kohlenberger and Tamara A. Kohlenberger, his wife, and the legal description and permanent property index number of said property is as follows, to wit:

Lot 33-A and 33-B of the Columbia Hills Subdivision, as shown by plat recorded on page 117 of Plat Record "B" in the Recorder's Office of Monroe County, Illinois.

Subject to Easement dated April 21, 1999, as granted to Illinois Power Company, an Illinois corporation, as shown by instrument of record in Deed Book 104, at Page 409, as Document No. 86569, in the Recorder's Office of Monroe County, Illinois.

Containing 1.00 acre, more or less.

Permanent Property Index Number: 04-21-265-016-000.

WHEREAS, the corporate authorities of the City (being the Mayor and the aldermen of the City Council holding office) have found and determined that the vacation of the subject portion of Thomas Street right of way in the Columbia Hills Subdivision in the City will relieve the public from the burden and responsibility of maintaining the same; that there will be no property damage sustained as a result of the vacation of the subject portion of the street; and, that it will subserve the public interest to vacate the subject portion of Thomas Street and reserve the use of the street right-of-way for the existing sanitary sewer, storm sewer, potable water line, natural gas and other municipal and public utility services utilizing the same, if any.

NOW, THEREFORE, BE IT ORDAINED, the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City hereby vacates the following described public right-of-way, in the City of Columbia, Monroe County, Illinois, being a portion of the South Thomas Street right-of-way in the City, described as follows:

All that portion of the right of way of a public road known as Thomas Street (50' wide) as shown on the "Columbia Hills Subdivision" plat recorded in the Recorder's Office of Monroe County, Illinois, in Envelope 85-A, which lies west of the west right of way line of Carl Street (50' wide) and south of the easterly extension of a line being parallel to and 50.00 feet, measured at right angles, north of the south line of Lot 23 of "Columbia Hills Subdivision", said line also being the north line of a tract of land conveyed to Mark G. & Tamara A. Kohlenberger by deed recorded in the Recorder's Office of Monroe County, Illinois, in Book of Deeds 237 on page 851.

Attached to this ordinance is a portion of the Columbia Hills Subdivision plat with the area to be vacated outlined and cross-hatched.

Subject to the reservation of the municipal and public utility easements and rights contained in the next successive Section 3 of this ordinance.

Section 3. For and in connection with the above-described street vacation, the City, its successors and assigns, retains and reserves permanent and perpetual easements in, over, along, under, through and across the tract of property described in the preceding Section 2 of this ordinance (being the South Thomas Street Tract that is vacated by this ordinance) for municipal sanitary sewer line, storm sewer line and outlet and potable water line uses and purposes, and for public utility natural gas line uses and purposes for the gas line installed in the property that belongs to Ameren Illinois (formerly Union Electric Company) their successors or assigns, being the permanent and perpetual right to construct, install, repair, alter, maintain, replace, remove and reconstruct: (i) a sanitary sewer line, (ii) a storm sewer line and outlet, (iii) a potable water line, and (iii) a natural gas line and all appurtenances appertaining thereto, in, under, through, along and across said property, and to have the free and unobstructed ingress and egress thereto for all easement uses and purposes herein described and intended. The easement holders shall be required to restore the ground and all improvements installed thereon or therein as nearly as practicable to their original pre-entry condition after each and every entry. The property owners who have acquired ownership of the subject right of way of South Thomas Street (50 feet wide), by said street vacation, their heirs, estate legal representatives, successor owners of record and assigns, shall not construct, install, locate or maintain any permanent buildings on or in said vacated street right of way that will interfere with the easement holders use of their easements for their intended uses and purposes.

Section 4 After this ordinance becomes effective, the property owner who has requested the street vacation, Mark G. Kohlenberger, or his attorney, Tom D. Adams, at said property owner's expense, shall record a certified copy of this Ordinance in the Office of the Monroe County, Illinois Recorder and shall provide to the City Administrator a copy of the recorded ordinance as soon as practicable thereafter.

Section 5. This ordinance shall become effective from and after its passage, as provided by law.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Reis, and the roll call vote was as follows:

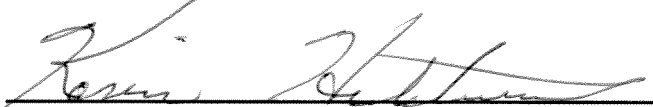
YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Mathews, Reis and Holtkamp.

NAYS: None.

ABSENT: None.

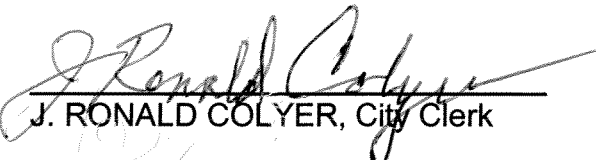
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 7th day of April, 2014.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

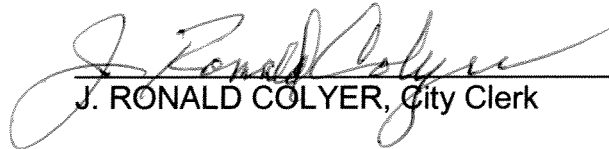
I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 3092, entitled:

"AN ORDINANCE TO VACATE A PORTION OF THOMAS STREET IN THE CITY OF COLUMBIA, ILLINOIS LOCATED BETWEEN THE NEW TERMINUS OF THOMAS STREET IN THE SOUTH PART OF THOMAS STREET AND CARL STREET IN THE COLUMBIA HILLS SUBDIVISION IN THE CITY OF COLUMBIA, ILLINOIS"

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois City Council held on the 7th day of April, 2014.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 7th day of April, 2014.



J. RONALD COLYER, City Clerk

(SEAL)