

September 10, 2008

TO: CHRIS JORDAN, CITY MANAGER

FROM: GORDON HOWARD, STAFF ATTORNEY

SUBJECT: CORRECTED ORDINANCE – HAMMERLE STREET VACATION

PURPOSE:

This item consists of a proposed ordinance that corrects a previously approved ordinance (No. 1566, adopted April 28, 2008) which vacated Hammerle Street between Elliott and Failing Streets, adjacent to the existing Bolton Fire Station. The street vacation was city-initiated.

DISCUSSION:

The adopted ordinance language conditioned the vacation “upon the recordation of an easement allowing permanent City access to the storm drainage line under the current ROW (right-of-way).” However, it is a postulate of property law that a property owner cannot grant an easement to itself – in this type of situation the property owner must transfer property and “reserve” an easement as an integral part of the transfer.

Staff investigated whether this error could be corrected administratively, but because it is an ordinance and involves a property transfer, adoption of a corrected ordinance is necessary to dispel any possible “cloud” on the property in the future.

OPTIONS:

None. The substantive reasons for the street vacation remain unchanged.

RECOMMENDATION:

Since the proposed fire station relocation represents a policy direction from the City Council, based upon an analysis of the fire protection and emergency services needs of West Linn, staff recommends that the proposed IGA be adopted.