



# City Council Report

**Date:** May 7, 2012

**To:** City Council

**Through:** Kari Kent, Deputy City Manager

**From:** Beth Huning, City Engineer  
Kelly Jensen, Assistant City Engineer

**Subject:** Vacate a portion of right-of-way at 10 W. Southern Avenue  
Council District #4

## Strategic Initiatives



## Purpose and Recommendation

The purpose of this report is to consider staff's recommendation to vacate a portion of the public street right-of-way located at 10 West Southern Avenue that was previously dedicated in October 1989 and sell the vacated right-of-way at appraised value.

## Background

In order for public street right-of-way to be taken out of the City's street system and the land returned to private use, the City Council must authorize a Resolution that "vacates" the excess right-of-way. The term "vacate" is used in our Council Reports in order to match the wording used in the Arizona Revised Statute section 28-7205.

A.R.S. Section 28-7205 requires, in certain circumstances, that the city be compensated for property vacated by the city. When setting the value of the vacated property, state law requires the city to consider the size and usability of the property, the marketability of the property and any other public benefit received by the governing body in return for the vacated roadway. State law also allows the city to determine that a public roadway has no public use and no market value. The law gives no specific criteria for the council to consider when making this determination.

In 1989, a Quit Claim Deed was recorded giving an additional 20 feet of property for right-of-way. Development and Sustainability Department records were reviewed going back to the 1980's and no justification could be found why this area was given to the City as right-of-way.

This property is part of the Mesa Drive and Southern Avenue Intersection Improvements Project (#01-817-001). It is located on the north side of Southern Avenue, immediately adjacent on the east side of the railroad track. The owner of the property operates a recycling business under the name Arizona Recycling. This property was appraised as part of the project in order to obtain some easements required for the road widening. The appraised value will be used in determining the value of the requested vacated area. Should the council decide to vacate this right-of-way, City staff has calculated the fair market value to be \$1,600.

### **Discussion**

The purpose of the abandonment is to allow the property owner to relocate his entrance gate at the 50-foot right-of-way line instead of the 65' line which is the current right-of-way line. Currently this gate is right behind the sidewalk (approximately at the 40' line) as it has been there for years and is in the right-of-way. The right-of-way was extended to the 65 foot line as a result of a dedication in 1989 from a previous owner. The abandonment will not be in conflict with the current Mesa Drive & Southern Avenue Road Widening Project.

This situation has been discussed with the Transportation and Engineering Departments and both agree that this right-of-way will not be needed by the City in the future. Once this abandonment is approved, the gate will be relocated by the contractor on the Mesa Drive & Southern Avenue Project back approximately 10 feet to the new 50 foot right-of-way line. The area from 50 to 65 feet is the subject of this abandonment. The size of this area is 25.10 feet wide by 15.00 feet deep (376.50 sq. ft.). There are no utilities in this area. However, we are reserving an easement for Public Utilities for any future potential needs.

### **Alternative**

The alternative is not to approve the vacate request. This would result in the applicant having to have his gate relocated at the 65 foot right-of-way line.

### **Fiscal Impact**

The fiscal impact for this request is the \$750 processing fee paid by the property owner and the appraised value of \$1,600 for the vacated roadway.

### **Coordinated With**

The Engineering and Transportation Departments concur with this request.