



AGENDA ITEM EXECUTIVE SUMMARY

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| Title: | Recommendation to approve a Resolution Authorizing City Administrator to Execute Fox Glade Court Indemnification Letters |
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|------------|-------------|
| Presenter: | Mark Koenen |
|------------|-------------|

Please check appropriate box:

| | | | |
|--|------------------------|---|------------------------------|
| | Government Operations | X | Government Services 01.28.13 |
| | Planning & Development | | City Council |
| | Public Hearing | | |

| | | | | | | |
|-----------------|----|-----------|-----|--|----|--|
| Estimated Cost: | NA | Budgeted: | YES | | NO | |
|-----------------|----|-----------|-----|--|----|--|

If NO, please explain how item will be funded:

Executive Summary:

Background- The Fox Glade PUD Subdivision Unit No. 1 final plat (dated Aug. 4, 1969) included a “walkway easement” along the common side-yard of lots 5/6 and 13/14. There was no other broad based reference to this “walkway easement” on the document to discuss purpose, beneficiary, maintenance, etc.

Issue- Property owners of lots 5/6/13/14 are concerned about the potential impacts of a public sidewalk on private property.

Analysis- City Atty. Catella advised in 1976, that liability if an accident were to occur on one of these walkways “rested solely with the city as it would be on a public sidewalk”. Gorski & Good (R. Jones) in 2012 generally concurred with the Catella comments, however noted that there could be various defenses and immunities available to the City.

Proposal- The property owners have reviewed the Indemnification Letter form and content and find it acceptable. The letter obligates the city to maintenance and to indemnify the property owners for damages resulting from use of the sidewalk for its intended purpose. The letter will be recorded and indemnify future property owners. The letter also restates the city interest in a “walkway easement” as originally proposed.

Attachments: *(please list)*

One copy of the Indemnification Letter for each property owner.

Recommendation / Suggested Action *(briefly explain):*

Recommendation to approve a Resolution authorizing City Administrator to execute Fox Glade Court Indemnification Letters.

For office use only:

Agenda Item Number: 5.a

Date: _____

Philip VanAcker
1227 Fox Glade Court
St. Charles, Illinois 60174

Re: Walkway located at 1227 Fox Glade Court

Dear Philip VanAcker:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

1. So long as the sidewalk remains in existence (including any replacement sidewalk that may be installed), the City shall, at its expense, maintain, repair, renew and replace the sidewalk as from time to time necessary and appropriate to keep it in good condition.

2. The City shall, to the extent permitted by law, indemnify, defend and hold harmless you, as owner of the Premises, and any successor owner of the Premises, from and against all liability arising out of claims for bodily injuries, death or property damage resulting from the use of the sidewalk for its intended purpose. However, nothing set forth in this paragraph shall be deemed a waiver of any defenses or immunities relating to the sidewalk that are, or would be, available by law to the City.

3. Nothing contained in this letter is intended to give rise to any duties or liabilities on behalf of the City which are not set forth herein or authorized by law.

4. Nothing contained in this letter is intended to abrogate the police powers of the City.

5. This letter is intended to benefit you, as owner of the Premises and any successor owner of the Premises.

6. If the City removes and does not replace the sidewalk, it will grade and seed the affected area. Upon such removal, all obligations and undertakings set forth in this letter shall cease and the City may record a document to that effect with the Kane County Recorder's Office.

CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this _____ day of _____

Philip VanAcker

Date: _____

Hilda Holm
1228 Fox Glade Court
St. Charles, Illinois 60174

Re: Walkway located at 1228 Fox Glade Court

Dear Hilda Holm:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

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CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this _____ day of _____

Hilda Holm

Date: _____

Gary and Sherry Fox
1309 Fox Glade Court
St. Charles, Illinois 60174

Re: Walkway located at 1309 Fox Glade Court

Dear Gary and Sherry Fox:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

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CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this _____ day of _____

Gary Fox / Sherry Fox

Date: _____

Jeff Fox and Christine Carlson-Fox
1310 Fox Glade Court
St. Charles, Illinois 60174

Re: Walkway located at 1310 Fox Glade Court

Dear Jeff Fox and Christine Carlson-Fox:

This letter is in reference to the sidewalk on the premises that you own, located at the above-referenced address (the "Premises"). The sidewalk was constructed by the City pursuant to a walkway easement denoted on the plat of subdivision for Fox Glade Unit No. 1. The City Council of the City has authorized me to inform you as follows:

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CITY OF ST. CHARLES, ILLINOIS

By: _____
Brian Townsend, City Administrator

Receipt acknowledged
this _____ day of _____

Jeff Fox / Christine Carlson-Fox