



## Legislation Text

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**File #:** ID 17-201, **Version:** 1

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### Agenda Information Sheet

**DEPARTMENT:** Denton Municipal Electric

**ACM:** Howard Martin

**Date:** February 21, 2017

### SUBJECT

Consider adoption an ordinance defining a 0.084 acre portion of a 9.5 acre blanket electric easement assigned to the City of Denton from Brazos Electric Power Cooperative, Inc., recorded in Volume 1106, Page 78 of the Deed Records of Denton County Texas, being originally conveyed by Billy W. Claytor and W.O. Claytor to Brazos River Transmission Electric Cooperative, Inc., recorded in Volume 357, Page 48, Deed Records, Denton County, Texas, easement located in the R.B. Longbottom Survey, Abstract No. 775; providing for severability and an effective date. [Blanket electric easement description refinement to provide for specific location of electric infrastructure]

### BACKGROUND

The property owner, Victory & 288 LLC., has made a formal request for the City of Denton to abandon a blanket electric easement as it encumbers their property at 3012 E. University, Denton Texas 76209. Presently, their property tract, a former Shell gas station business, has not been occupied for many years. In 1947, Brazos River Transmission Electric Cooperative, Inc. was granted a blanket electric easement that encumbered a 9.5 acre property tract. That easement was subsequently assigned to the City of Denton in 1981, as part of a City's purchase of electric line segments from that entity. As was common practice during the time or rural electrification projects, electric companies acquired easements to allow electric facilities to traverse a particular overall property tract, primarily to forgo the expense of boundary survey work and the preparation of specific legal descriptions of where the electric facilities would be constructed. Blanket easements also gave field installation crews some latitude to adjust alignments as terrain and conditions warranted, on a tract by tract basis. It was simple practice and simpler times. A consequence of blanket easements are that, upon strict interpretation, the easement holder does have the right to place electric facilities at any location upon a property tract subject to that easement. The subject abandonment request will define the electric easement boundaries on the subject property. Currently located on the property is an electric line that provides service to the property. The electric facilities on the property have been located and defined by survey exhibit referenced within the proposed abandonment ordinance, of which an electric easement for those facilities will be retained. Within the easement area to be retained, there is an existing structure, the bathroom facilities associated with the former gas station business. The easement reservation within the proposed ordinance that requires the removal of the bathroom improvements prior to the issuance of a certificate of occupancy. That bathroom structure is low lying and poses no material risk to continued electric operation of the overhead facilities. The subject abandonment request will also aid the property owner's future plans to redevelop the property, by formally defining the location of the electric easement.

Staff performs an analysis on the request for abandonments as follows:

- Is the easement tract requested for abandonment considered “excess easement”?
- Does the easement tract requested for abandonment have a continued public use?
- Is it in the best interest of the general public to abandon the government’s rights in the subject abandonment tract?
- Would the granting of this request establish a precedent for future abandonment requests?

Staff findings on this analysis are as follows:

1. The requested easement abandonment tract fits the criteria of “excess easement.” Excess easement is defined as: Property rights acquired or used by the City for easement subsequently declared excess (not needed for any public project, the continuation of operation and maintenance of public facilities, and/or no foreseeable utility application in the future).
2. The easement abandonment tract is not slated for utilization for any future electric facilities.
3. The easement abandonment is in the public interest, because the area for the subject abandonment are no longer needed by the public and/or have not been utilized for the public.
4. This abandonment will not set precedent, because the above three standards have been met.

### **OPTIONS**

1. Recommend approval of the Ordinance.
2. Do not recommend approval.

### **RECOMMENDATION**

Staff recommends approval of the Ordinance.

### **PRIOR ACTION/REVIEW (Council, Boards, Commissions)**

Development Review Committee recommended approval on November 18, 2016.

Public Utility Board recommended approval on February 13, 2017 (5-0).

### **STRATEGIC PLAN RELATIONSHIP**

The City of Denton’s Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

**Related Key Focus Area: Public Infrastructure**

**Related Goal: 3.4 Encourage development, redevelopment, recruitment, and retention**

### **EXHIBITS**

- 1 Location Map
- 2 Site Map
- 3 Applicant request letter
- 4 Ordinance

Respectfully submitted:

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