

South Portland City Council
Position Paper of the City Manager

Subject:

ORDER #7-16/17 - Authorizing the City Manager to execute and deliver to Portland Water District an easement deed for water utilities within Spring Point Drive. Passage requires majority vote.

Position:

This item is brought forward to authorize the execution of an easement to Portland Water District (PWD) for a strip of land owned by the City known as Spring Point Drive. The property is located on the northeast side of Benjamin W. Pickett Street. The easement area will be thirty (30) feet wide and located fifteen (15) feet on both sides of the 8" water main that was laid in 2011, and extend in a northeasterly direction from Benjamin W. Pickett Street approximately 625 feet to and including the fire hydrant next to the pier.

The easement will allow PWD to enter upon the City's property to install maintain, replace and remove conduits or pipelines for conveying water, with all necessary fixtures and appurtenances, including electric or other energized control lines, as well as make connections on land adjacent to the easement area. It also allows PWD to remove and/or trim trees and other vegetation as needed.

The easement will be recorded in the Cumberland County Registry of Deeds once it is fully executed.

Requested Action:

Council passage of ORDER #7-16/17.


City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

JAMES H. GAILEY
City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

EMILY F. CARRINGTON
City Clerk

IN CITY COUNCIL

ORDER #7-16/17

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

ORDERED, that the City Manager be, and hereby is, authorized and directed to execute and deliver on behalf of the City an easement deed, in the same form as shown on the attached, to Portland Water District ("PWD"), granting PWD the right to install, maintain, replace and remove conduits or pipelines for conveying water, with all necessary fixtures and appurtenances, including electric or other energized control lines, and other rights as described in the easement deed, in a 30 foot wide easement area within Spring Point Drive and located on the northeast side of Benjamin W. Pickett Street.

Fiscal Note: Less than \$1,000

Dated: July 6, 2016

EASEMENT DEED

The **CITY OF SOUTH PORTLAND**, a municipal corporation organized under the laws of the State of Maine with a mailing address of 25 Cottage Street, South Portland, Maine 04106 (the "CITY"), for consideration paid, hereby grants to the **PORTLAND WATER DISTRICT**, a public quasi-municipal Maine corporation of Portland, Maine (the "DISTRICT"), with quitclaim covenants, a permanent easement on, over and under property in South Portland, Cumberland County, Maine (the "EASEMENT AREA"), bounded and described as follows:

An easement and right-of-way in and over a certain strip of land known as Spring Point Drive located on the northeast side of Benjamin W. Pickett Street in the City of South Portland, County of Cumberland, State of Maine, said easement being thirty (30) feet in width and located fifteen (15) feet on both sides of the 8" water main as laid in 2011, and presently in place, extending in a generally northeasterly direction from Benjamin W. Pickett Street approximately 625 feet to and including the fire hydrant next to the pier.

The DISTRICT shall have the following easement rights in the EASEMENT AREA described above:

1. the right to install, maintain, replace and remove conduits or pipelines for conveying water, with all necessary fixtures and appurtenances, including electric or other energized control lines; and
2. the right to make connections with the conduits or pipelines on land adjacent to the EASEMENT AREA; and
3. the right to trim, cut down, and/or remove bushes, grass, crops, trees or any other vegetation, to such extent as is reasonably necessary for any of these purposes in the sole judgment of the DISTRICT; and
4. the right to enter on the EASEMENT AREA at any and all times for any of these purposes; provided, however, to the extent reasonably practical, the DISTRICT shall meet and confer with the CITY in good faith in advance of exercising its easement rights hereunder to coordinate the same so as not to unreasonably interfere with the CITY's use of the EASEMENT AREA for its intended purposes.

The CITY reserves the use and enjoyment of the EASEMENT AREA for any purpose that does not interfere with the use of the EASEMENT AREA by the DISTRICT for its own purposes; provided, further, that none of the following improvements may be made by the CITY in the EASEMENT AREA, without the prior written permission of the DISTRICT:

1. No buildings or any other permanent structures shall be allowed, except pavement and utilities.

2. No earth shall be removed, no fill may be added, and no other change shall be made to the final surface grade of the EASEMENT AREA from engineering plans approved by the City of South Portland that result in the cover over the DISTRICT's pipeline being less than 5 feet or more than 10 feet.

3. No conduits, pipelines or facilities shall be installed within 5 feet of or above any conduit or pipeline installed by the DISTRICT, except that pipelines and conduits may be installed if they cross perpendicular to the DISTRICT's conduits and pipelines with a minimum vertical clearance of one foot.

If the DISTRICT should grant permission for any such work by the CITY, then the CITY shall indemnify the DISTRICT for any claims against the DISTRICT or expenses of the DISTRICT resulting from such work, excepting any such claims arising from the DISTRICT's negligence.

The DISTRICT shall promptly restore the easement area after each entry to the condition that existed prior to the entry.

This easement deed is signed as a document under seal.

Dated: July ____, 2016

CITY OF SOUTH PORTLAND

By: James H. Gailey
Its: City Manager

State of Maine
County of Cumberland, ss.

July ____, 2016

James H. Gailey, City Manager, personally appeared before me and acknowledged that his signature on this document was his free act and deed and the free act and deed of the City of South Portland.

Notary Public/Attorney at Law

Print Name