



Legislation Details (With Text)

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**Type:** Resolution      **Status:** Passed

**File created:** 4/9/2008      **In control:** PUBLIC WORKS COMMITTEE

**On agenda:**      **Final action:** 9/16/2008

**Effective date:**

**Title:** Substitute resolution amending a special privilege to Miller Compressing Company for addition of a fence crossing South Muskego Avenue for the premises at 510 South Muskego Avenue, in the 12th Aldermanic District.

**Sponsors:** THE CHAIR

**Indexes:** SPECIAL PRIVILEGE PERMITS

**Attachments:** 1. Special Privilege Petition, 2. cover letter, 3. Fiscal Note, 4. Pictures, 5. Map, 6. 071658 Hearing notice list

Date	Ver.	Action By	Action	Result	Tally
4/9/2008	0	COMMON COUNCIL	ASSIGNED TO		
4/11/2008	0	PUBLIC WORKS COMMITTEE	REFERRED TO		
5/27/2008	1	CITY CLERK	DRAFT SUBMITTED		
8/29/2008	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
8/29/2008	1	PUBLIC WORKS COMMITTEE	HEARING NOTICES SENT		
9/4/2008	1	PUBLIC WORKS COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	3:0
9/16/2008	1	COMMON COUNCIL	ADOPTED	Pass	14:0
9/26/2008	1	MAYOR	SIGNED		

071658  
SUBSTITUTE  
980976  
THE CHAIR

Substitute resolution amending a special privilege to Miller Compressing Company for addition of a fence crossing South Muskego Avenue for the premises at 510 South Muskego Avenue, in the 12<sup>th</sup> Aldermanic District.

This resolution amends a special privilege to Miller Compressing Company for addition of a fence crossing South Muskego Avenue, creating a “locked gate” situation for the premises at 510 South Muskego Avenue.

Whereas, Miller Compressing Company requested permission to keep, use and maintain overhead cables attached to the 16<sup>th</sup> Street Viaduct; an area under the 16<sup>th</sup> Street Viaduct for parking and storage; a fence in West Bruce Street; a beam-guard fence in South Muskego Avenue; and an electrical cord in the public right-of-way; and

Whereas, Permission for said items was granted in 2001 under Common Council Resolution File Number 980976; and

Whereas, Miller Compressing Company is presently requesting permission to keep and maintain a fence crossing South Muskego Avenue that, when closed, creates a “locked gate” situation across South Muskego Avenue; and

Whereas, The applicant hopes to secure its property on the east and west sides of South Muskego Avenue from West Bruce Street north to the end of South Muskego Avenue; and

Whereas, South Muskego Avenue is a dead end street at this location and the fence does not prevent access to properties not owned by the applicant; and

Whereas, Said fence and “locked gate” situation may only legally exist in the public right-of-way by granting of a special privilege resolution adopted by the Common Council; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that Common Council Resolution File Number 980976 is hereby rescinded; and, be it

Further Resolved, That Miller Compressing Company, 1640 West Bruce Street, Milwaukee, Wisconsin 53204, is hereby granted the following special privileges:

1. To keep and maintain a fence located at the northline of West Bruce Street crossing the 66-foot wide public right-of-way of South Muskego Avenue. Said 7-foot tall fence swings open away from West Bruce Street. South Muskego Avenue is 613.30 feet long from the northline of West Bruce Street to the end of South Muskego Avenue. The applicant must continue to display a contact phone number to open the fence as needed to respond to maintenance requirements or emergencies.
2. To keep and maintain two overhead cables attached to the underside of the 16<sup>th</sup> Street Viaduct (bridge) that also crosses South Muskego Avenue. Said cables are attached to the bridge approximately 287 and 589 feet north of the northline of West Bruce Street then extend east across private property and then across South Muskego Avenue at locations approximately 300 and 613 feet north of the northline of West Bruce Street, respectively. The cables crossing South Muskego Avenue are attached to existing WE Energies poles, providing a minimum vertical clearance of 18 feet between the cable and the roadway pavement below.
3. To use and maintain an area within the 70-foot wide right-of-way of South 16<sup>th</sup> Street under the 16<sup>th</sup> Street Viaduct. Said area, used for parking and storage, is located between the northline of West Bruce Street and a point approximately 590 feet to the north. Engines or machinery using steam, gas or explosive mixtures or storage receptacles containing volatile, flammable liquid shall not be permitted to occupy the area below the viaduct. No permanent structures shall be placed within this area. The bridge shall be accessible for maintenance at all times.
4. To keep and maintain a 7-foot tall chain link fence encroaching 4 feet into the north 15-foot wide sidewalk area of West Bruce Street. The fence commences at the westline of South 16<sup>th</sup> Street and extends approximately 60 feet to the west.
5. To keep and maintain a 40-inch tall beam-guard type fence located within the west, 13-foot wide sidewalk area of South Muskego Avenue. Said fence encroaches 2 feet and begins approximately 57 feet north of the northline of West Bruce Street, extending 305 feet to the north. There is a 25-foot long driveway opening in the length of fence.
6. To keep and maintain an electrical cord for vehicular usage for cold weather startup. Said cord is attached to the aforementioned beam-guard fence.

Said above-mentioned items shall be used, kept and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

Said items shall be maintained or removed from the public right-of-way, at such future time as it is no longer needed, to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services.

; and, be it

Further Resolved, That this special privilege is granted only on condition that by acceptance of this special privilege the grantee, Miller Compressing Company, shall:

1. Become primarily liable for damages to persons or property by reason of the granting of this special privilege.
2. File with the City Clerk a bond of a surety company duly incorporated in the State of Wisconsin, or duly licensed to do business in this State, in the sum of \$10,000 such bond to be approved by the City Attorney. This applicant shall also file with the City Clerk a certificate of insurance indicating applicant holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident and \$10,000 covering property damage to any own owner on the area or areas included within the special privilege and naming the City of Milwaukee as an insured. Both bond and insurance policy shall provide that they shall not be cancelled until after at least thirty days' notice in writing to the City Clerk.
3. Pay to the City Treasurer an annual fee, which has an initial amount of \$4,571.63. The subsequent annual fee is subject to change pursuant to the annual fee schedule in effect at the time of annual billing.
4. Whenever this special privilege is discontinued for any reason whatsoever, including public necessity whenever so ordered by resolution adopted by the Common Council not only remove all construction work executed pursuant to this special privilege, but shall also restore to its former condition and to the approval of the Commissioner of Public Works and curb, pavement or other public improvement which was removed, changed or disturbed by reason of the granting of this special privilege. Such grantee shall be entitled to no damages due to the alteration and/or removal for such purposes.
5. Waive the right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes (1999), or the amount of the annual fixed fee, payable on or before July 1<sup>st</sup> of each year.
6. Put this special privilege into use within one year after approval by the Common Council of the City of Milwaukee; failing to do so in the time specified, the Commissioner of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works  
Infrastructure Services Division  
MDL:ns  
April 18, 2008  
071658