

February 9, 2001

To the Public Improvements Committee

Subject: Common Council Resolution File Number 001318

Dear Honorable Members:

Returned herewith is Common Council Resolution File Number 001318, being a petition by the Greater Milwaukee Convention and Visitors Bureau, for a special privilege to allow the installation of a data interconnect between the Midwest Express Center, 400 West Wisconsin Avenue, and the new home of the Greater Milwaukee Convention and Visitors Bureau (GMCVB) at 101 West Wisconsin Avenue, also known as Ivory Tusk.

The Petition, dated December 8, 2000, requests that an underground communication cable be allowed to be installed in existing City conduit under and within West Wells Street, North Plankinton Avenue and West Wisconsin Avenue rights-of-way, as depicted generally on the attached map identified as Exhibit A. The GMCVB has indicated that the network will not be used for the commercial distribution of entertainment and will not be in conflict with Chapter 99 of the Code of Ordinances.

We are also aware of a subsequent letter, dated December 11, 2000, from the GMCVB to Alderman Marvin Pratt, President of the Common Council, requesting that the fee for the special privilege, which is calculated at the rate of \$1.00 per foot, be waived by the Common Council. Our calculation for this item would be \$2,388. For members of the Public Improvements Committee, as well as other members of the Common Council, serving either instructive or as a reminder, we offer the following background information:

- 1) Sec. 245-12-3 of the Code of Ordinances, entitled "Special Privileges. . . Provisions", indicates that "A special privilege shall be granted only on condition that by acceptance of such special privilege the grantee shall:" and in subparagraph c. says, "Pay to the City Treasurer the annual fee fixed by the special privilege board, consisting of the mayor, commissioner of public works and the city attorney. The Commissioner of Neighborhood Services shall act as secretary of such board. "and in subparagraph e. says, "Waive the right to contest in any manner the validity of S.66.045, Wis. Stats., or the amount of the annual fixed fee as determined by the special privilege board."

To the Public Improvements Committee

February 9, 2001

Page 2

Since as a practical matter it would be time consuming as well as cumbersome for the special privilege (board) to meet for each special privilege on a case by case basis, in 1965 and again as recently as 1992 the board adopted a study committee's updated recommendations of fees for categories of items Rates for Special Privileges, (chart), to be allowed to be placed within the public rights-of-way by special privilege procedures. This information was communicated to the Common Council as C.C. 922103. This chart is what is presently used in fee calculations and has allowed expeditious calculating and processing of special privileges without the board needing to hold routine meetings.

- 2) Chapter 98 of the Code of Ordinances was established to regulate the placement of things such as fiber cable within the City's conduit system. One of the provisions covered is the fees. They are in categories by percentage of conduit used and also upon the class of use and range from \$0.55/ft. to \$0.95/ft. However, Section 98-3, entitled "Applicability," reads as follows: "This chapter applies to all transmission facilities used by any person who provides cable services or telecommunications services, including but not limited to alternative telecommunications utilities; public utilities; telecommunications utilities; telecommunications carriers and telecommunications providers; public service corporations; cable television telecommunications service providers; cable television service providers; and, open video system service providers."

Unfortunately, the GMCVB does not fall into any of those categories and therefore a special privilege is the only way to allow the cable to occupy the public right-of-way.

We do not believe that the new cable, as proposed, will have an adverse effect on the general use of the public rights-of-way. We have, therefore, prepared the attached special privilege resolution, which, if adopted, will allow the cable to occupy City conduit and the public rights-of-way using the chart. If the Committee or Council chooses, they could consider holding this item in Committee and referring the fee question to the board or it could be sent back for us to contact the board. Furthermore, if the board determines a different fee, a substitute resolution could easily be prepared.

To the Public Improvements Committee
February 9, 2001
Page 3

The City's crews will place the cable in the existing City conduit and a private contractor working for GMCVB is to construct (extend) a conduit from the end of our system south and east to the Ivory Tusk premises. A permit for the latter work is currently before us. It is our understanding that upon its' placement, this section of conduit will become the City's and the resolution indicates this as a condition of approval.

Very truly yours,

Jeffrey S. Polenske, P.E.
City Engineer

Mariano A. Schifalacqua
Commissioner of Public Works

Martin G. Collins
Commissioner
Department of Neighborhood Services

JJM:cjt
Attachment
cc: Alderman Marvin E. Pratt
 Mr. Grant F. Langley
 Mayor John O. Norquist
bcc: Mr. Martin Aquino