



Legislation Details (With Text)

**File #:** 080117      **Version:** 1  
**Type:** Resolution      **Status:** Passed  
**File created:** 5/20/2008      **In control:** PUBLIC WORKS COMMITTEE  
**On agenda:**      **Final action:** 7/30/2008  
**Effective date:**

**Title:** Substitute resolution amending a special privilege to P&H Mining Equipment, Inc. for addition of underground communications cabling in the public right-of-way for the premises at 4107 West Orchard Street, in the 8th Aldermanic District.

**Sponsors:** THE CHAIR

**Indexes:** SPECIAL PRIVILEGE PERMITS

**Attachments:** 1. Special Privilege Petition, 2. Letter from Dept of Public Works, 3. Fiscal note, 4. picture for 4107 W Orchard St, 5. Map for 4107 W Orchard St, 6. 080117 Hearing notice list

| Date      | Ver. | Action By              | Action                   | Result | Tally |
|-----------|------|------------------------|--------------------------|--------|-------|
| 5/20/2008 | 0    | COMMON COUNCIL         | ASSIGNED TO              |        |       |
| 5/21/2008 | 0    | PUBLIC WORKS COMMITTEE | REFERRED TO              |        |       |
| 7/8/2008  | 1    | CITY CLERK             | DRAFT SUBMITTED          |        |       |
| 7/9/2008  | 0    | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT     |        |       |
| 7/16/2008 | 0    | PUBLIC WORKS COMMITTEE | RECOMMENDED FOR ADOPTION | Pass   | 5:0   |
| 7/30/2008 | 1    | COMMON COUNCIL         | ADOPTED                  | Pass   | 12:0  |
| 8/6/2008  | 1    | MAYOR                  | SIGNED                   |        |       |

080117  
SUBSTITUTE 1  
070251  
THE CHAIR

Substitute resolution amending a special privilege to P&H Mining Equipment, Inc. for addition of underground communications cabling in the public right-of-way for the premises at 4107 West Orchard Street, in the 8<sup>th</sup> Aldermanic District.

This resolution amends a special privilege to P&H Mining Equipment, Inc. for addition of underground communications cabling in the public right-of-way for the premises at 4107 West Orchard Street.

Whereas, P&H Mining Equipment, Inc. requested permission to keep and maintain a turnstile on a concrete step; an underground conduit; and overhead cables for communications purposes within the public right-of-way; and

Whereas, Permission for said items was granted under Common Council Resolution File Number 070251 in 2007; and

Whereas, The applicant is requesting permission to construct and maintain additional underground communications cabling in the public right-of-way; and

Whereas, Said communications cabling may only legally encroach into the public right-of-way by the 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 070251 is hereby rescinded; and, be it

Further Resolved, That P&H Mining Equipment, Inc., 4400 West National Avenue, Milwaukee, Wisconsin 53214 is hereby granted the following special privileges:

1. To construct and maintain underground communications cabling crossing the 60-foot right-of-way of West Orchard Street at a point approximately 122 feet west of South 42<sup>nd</sup> Street.
2. To keep and maintain a turnstile on a concrete platform in the south 15-foot wide sidewalk area of West Orchard Street. Said 6-foot 6-inch wide turnstile and concrete platform project 3 feet into the public right-of-way. Said items are centered approximately 20 feet west of the westline of South 41<sup>st</sup> Street.
3. To keep and maintain a 3-inch diameter galvanized iron pipe containing communications cabling under the 60-foot wide right-of-way of West Orchard Street. Said conduit crosses West Orchard Street at a point approximately 125 feet west of the westline of South 42<sup>nd</sup> Street.
4. To keep and maintain two telephone and two coaxial cables over and across the 60-foot wide right-of-way of West Greenfield Avenue. Only the south 30 feet of West Greenfield Avenue is located within the City of Milwaukee; the north 30 feet is located within the Village of West Milwaukee. Said cables cross over West Greenfield Avenue at a point approximately 175 feet west of the westline of South 42<sup>nd</sup> Street at a minimum elevation of 18 feet.

Said above-mentioned items shall be used, kept, and maintained to the satisfaction of the Commissioners of Public Works and Department of Neighborhood Services. All necessary permits shall have been obtained prior to the granting of this special privilege.

Said items shall be maintained or removed from the public right-of-way, at such future time as they are 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 accepting this special privilege the grantee, P&H Mining Equipment, Inc., 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 \$4,000 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 \$50,000 covering bodily injury to any one person and \$100,000 covering bodily injury to more than one person in any one accident and \$20,000 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 \$155.88. 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 the Department of Neighborhood Services shall have the authority to seek, by resolution, revocation of said special privilege.

Department of Public Works

Infrastructure Services Division

MDL: nas

July 1, 2008

080117