

ORDINANCE No. 183890

*Approve revocation of City authority for an industry spur track within SE 7th Ave, SE Caruthers St and SE Division St to facilitate alignment of the Portland-Milwaukie Light Rail Transit Project. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The alignment of the Portland-Milwaukie Light Rail Transit Project (Project), as approved by July 2008 Locally Preferred Alternative, includes a crossing of a certain industry spur railroad track located in SE Seventh Avenue (the Seventh Avenue Spur), as shown in Exhibit A.
2. The Seventh Avenue Spur is a stub ended track approximately 1,325 feet long, with approximately 210 feet located within railroad right of way, 450 feet within public right of way, and 665 feet of track located within private property currently owned by Darigold, Inc.
3. As part of the Project, the Tri-County Metropolitan Transportation District of Oregon (TriMet) proposes to remove the portion of the Seventh Avenue Spur lying within public right of way and restore the affected streets. If this portion of the Seventh Avenue Spur is not removed, the Project will be required to provide a railroad crossing at grade approved by the Federal Railroad Administration, at considerable public expense.
4. The Seventh Avenue Spur is addressed in various permits and franchises granted by the Portland City Council. Ordinance No. 69162 passed January 28, 1937; Ordinance No. 76091 passed October 16, 1941; Ordinance No. 81150 passed June 21, 1945; and Ordinance No. 118216 passed March 18, 1964.
5. TriMet has engaged in discussions with Union Pacific Railroad (successor to Southern Pacific Company), Darigold and neighboring property owner Land O'Lakes Purina Feed, LLC. These parties have confirmed that the Seventh Avenue Spur has not been utilized for railroad operations since at least 2007 and that the Seventh Avenue Spur was discontinued for railroad operations for a period in excess of one hundred twenty (120) days.
6. The Seventh Avenue Spur is an industry spur and not a railroad line: the track is considerably less than a mile long and stub ended; would serve only a single customer; has not received service for over 2 years; is in poor condition; has no stations; and is composed of 90-lb light rail (after it leaves the main line), which is considered obsolete for modern day railroading.
7. In discussions with Tri-Met, Union Pacific Railroad, Darigold, and Land O'Lakes have all confirmed that they have no objections to removal of the Seventh Avenue Spur.

8. Following revocation of authority for the Spur from the City Council, TriMet has agreed to remove the portion of the Seventh Avenue Spur lying within public right of way and restore the affected streets as required by the Permits and Franchisees, and Union Pacific Railroad has agreed to remove the track switch connecting the Seventh Avenue Spur to its main line, once the Project receives a federal funding commitment.

NOW, THEREFORE, the Council directs:

- a. Upon receipt of a federal funding commitment for the Project, the authority granted by the City under Ordinance No. 69162, Ordinance No. 81150 shall be considered revoked.
- b. Upon receipt of a federal fund commitment for the Project, and pursuant to the terms and conditions of this Ordinance and consistent with TriMet's agreement, TriMet shall remove the Seventh Avenue Spur tracks from the city streets and put those portions of the streets affected by such removal in a condition as good as the adjoining portions of said street at the time of removal; all to be done as directed by and to the satisfaction of the City Engineer.
- c. The Mayor, or his designee, is hereby authorized to execute any and all documents as may be necessary for revocation of the authority for the Seventh Avenue Spur within the streets of the City of Portland.

Section 2. The Council declares an emergency exists because the schedule for the Portland-Milwaukie Light Rail Transit Project is affected by timing of the removal of the Seventh Avenue Spur tracks, with impacts upon the public welfare; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

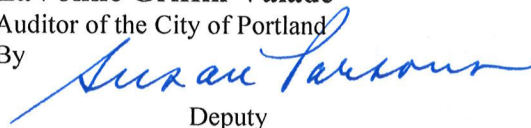
Passed by the Council, JUN 16 2010

Mayor Sam Adams
Prepared by: Teresa Boyle:slg
Date Prepared: 5-26-10

LaVonne Griffin-Valade

Auditor of the City of Portland

By



Deputy

875

140

Agenda No.
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INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS <i>R. D. Stittmann</i> COMMISSIONER APPROVAL	CLERK USE: DATE FILED <u>JUN 11 2010</u> <i>on behalf of Mayor Adams</i> LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Adams	By: <u><i>Susan Parsons</i></u> Deputy ACTION TAKEN:
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Leonard	
BUREAU APPROVAL	
Bureau: Bureau of Transportation	
Group Manager: Greg Jones <i>GW</i>	
Development & Capital Program	
Other: Jody Yates <i>JY</i>	
Prepared by: Teresa Boyle:slg <i>TS</i>	
Date Prepared: 5-26-10	
Financial Impact Statement Completed <input type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required X	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date JUNE 16, 2010	
City Attorney Approval	

AGENDA TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input checked="" type="checkbox"/> <i>2 of 2</i>
REGULAR <input type="checkbox"/> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	