

## ORDINANCE No. 185986

Vacate a portion of SW Moody Dr north of Ross Island Bridge subject to certain conditions and reservations and rename a portion of SW Moody Dr (Hearing; Ordinance; VAC-10084)

The City of Portland ordains:

### Section 1. The Council finds:

1. A request for the vacation of a portion of SW Moody Drive north of Ross Island Bridge was received from Teresa Boyle, Senior Engineer, Project Management Division at the Bureau of Transportation.
2. The request states that the reason for the vacation is to assemble it to TriMet property and use it in conjunction with SW Moody Avenue realignment and the Portland to Milwaukie Light Rail Project. A small portion of the area to be vacated will revert to Oregon Department of Transportation (ODOT).
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated September 5, 2012 and on file with the Office of the City Auditor and the Bureau of Transportation.
4. In accordance with ORS 271.100, the Council fixed a time and place for public hearing before the Council; the Auditor published notice thereof, and posted notice in the areas proposed for vacation.
5. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto, and it is in the public interest that said street be vacated.
6. With the relocation of SW Moody Avenue, a portion was reconstructed over SW Moody Drive, therefore it is necessary to rename that segment of SW Moody Drive as SW Moody Avenue to maintain continuity and to eliminate possible confusion in locating properties, particularly in the event of an emergency. The City Engineer believes that renaming this street segment would be beneficial to the public.
7. The street renaming proposal complies with the procedures and requirements established in Title 17, Chapter 17.93, Renaming City Streets and 17.92.010, Street Designation.

NOW, THEREFORE, the Council directs:

- a. The following described street area is hereby vacated:

That portion of SW Moody Drive as described on Exhibit 1 and depicted on Exhibit 2 attached hereto excepting there from that street area described on Exhibit 3 and depicted on Exhibit 4.

Vacation area contains 28,812 square feet, more or less.

- b. The vacation of the above described street area is granted subject to the following conditions and reservations:

1. An 8.00 foot wide access and maintenance easement is hereby reserved within the vacated street area as described on Exhibit 5 and depicted on Exhibit 4.

Property owner shall keep the easement area free of obstructions. No structures shall be erected within the easement area without the prior written consent of the Director of the Bureau of Transportation, City of Portland.

In the event that property within the easement area is redeveloped, Grantor may request release of the easement area from the Director of the Bureau of Transportation, City of Portland. Grantor shall pay all costs associated with the release of the easement area.

This easement allows the City of Portland, Bureau of Transportation access at all times.

2. A public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facilities referenced as ABY757ANY804 and ANY804ANR264. Said easement is located over the south 20 feet of the vacation area described on Exhibit 1 and is depicted on Exhibit 6 attached hereto.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said easement area without the prior written consent of the Director of the Bureau of Environmental Services, and further that the City or its contractors will not be responsible for damage to any improvements, including landscaping existing on the easement area, if such things are damaged or destroyed by the City or its contractors in the course of reconstruction or maintenance of the existing public sewer facility.

This easement allows the City of Portland, Bureau of Environmental Services access at all times.

3. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service, including, but not limited to those identified by Century Link. The ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Director of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities in the street vacation area will require written agreements between the Petitioner and owner(s) of the utilities.
  4. Notwithstanding b3 and except for b1 and b2, this Ordinance will serve as a full release of City interests in the street vacation area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
  5. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
  6. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.
- c. The following described City street is hereby renamed SW Moody Avenue:

That segment of SW Moody Drive as described on Exhibit 3 and depicted as "Right-of-Way Exception" on Exhibit 4.

Section 2. Petitioner shall file with the City Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of the Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, the assessor, and the surveyor of the county in which said property is located, the certified copy of this Ordinance and the acceptance, and any map, plat or other record which may be required by law. The Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor.

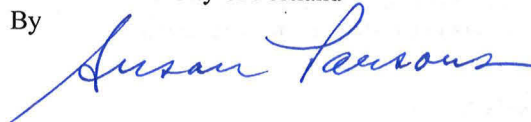
Passed by the Council, APR 17 2013

Mayor Charlie Hales  
Prepared by: Lance D. Lindahl:slg  
March 11, 2013  
RW # 7372

**LAVONNE GRIFFIN-VALADE**

Auditor of the City of Portland

By



DEPUTY

Agenda No.  
**ORDINANCE NO. 185986**  
Title

Vacate a portion of SW Moody Dr north of Ross Island Bridge subject to certain conditions and reservations and rename a portion of SW Moody Dr (Hearing; Ordinance; VAC-10084)

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>MAYOR CHARLIE HALES</b></p> <p><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales <i>JAH</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick</p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Transportation Group Manager: Greg Jones Development &amp; Capital Program <i>Greg Jones</i></p> <p>Prepared By Lance D. Lindahl:slg <i>slg</i> Date Prepared: March 11, 2013 <i>slg</i></p> <p>Financial Impact &amp; Public Involvement Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Council Meeting Date <b>April 10, 2013</b></p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter</p>	<p>CLERK USE: DATE FILED <u>APR 05 2013</u></p> <p style="text-align: right;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p><b>ACTION TAKEN:</b></p> <p>APR 10 2013 <i>Rescheduled to</i> APR 10 2013 <b>2 P.M.</b></p> <p>APR 10 2013 <b>PASSED TO SECOND READING</b> APR 17 2013 <b>9:30 A.M.</b></p>
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<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <b>5 Minutes</b> (for presentation, testimony and discussion)</p>

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