

ORDINANCE No. 99154

An Ordinance vacating, subject to conditions, all that portion of N. Page Street from the east line of N. Gantenbein Avenue to the west line of N. Flint Avenue and N. Gantenbein Avenue from the south line of N. Page Street to the westerly prolongation of the south line of Lot 7, Block 37, Albina Addition in the City of Portland, Oregon, repealing Ordinance No. 98749, and declaring an emergency.

The City of Portland does ordain as follows:

WHEREAS, it appears to the Council that School District No. 1 of Multnomah County, Oregon, on May 19, 1953, by Andrew Comrie, School Clerk, acting pursuant to a resolution of the School Board, duly authorizing said individual to execute such petition on behalf of said District, filed with the City Auditor a petition for the vacation of the following named street and avenues:

North Page Street from the West line of North Gantenbein Avenue to the West line of North Flint Avenue; also North Gantenbein Avenue from the South line of North Page Street to the Westerly prolongation of the South line of Lot 7, Block 37, Albina Addition, in the City of Portland, County of Multnomah and State of Oregon,

under the provisions of sections 95-1331 to and including 95-1340 O.C.L.A., and also filed with the Auditor a consent in writing of all abutting property owners upon the portions of said avenues and street to be vacated, and more than two-thirds in area of all the real property affected by such vacation; and that the City Auditor duly gave notice by posting and also by publication of a notice, once each week for four successive weeks that said petition had been filed for said proposed vacation, and that said petition, together with any objections, remonstrances, and all claims for damages which might be made in writing and filed with the Auditor of the City of Portland, Oregon, prior to the time of hearing, would be heard and considered at a regular meeting to be held at 9:30 A.M., Wednesday, July 1, 1953, in the Council Chambers of the City Hall in said City; that said notice was first published in the City official newspaper, to wit: the Daily Journal of Commerce, on May 29, 1953, and that the said Auditor on the same date of said first publication further published notice by posting three notices headed, "Notice of Street Vacation", in three conspicuous places in the area of said vacation at the places described and designated as follows:

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Location

Object to which attached

At the approximate intersection of the south line of N. Page Street and the west line of N. Flint Avenue.

On a stake

At the approximate intersection of the west line of N. Gantenbein Avenue and the north line of N. Page Street

On a stake

On the approximate east line of N. Gantenbein Avenue approximately 150 feet north of the north line of N. Tillamook Street.

On a stake

and

WHEREAS, said matter came on regularly for hearing on July 1, 1953, at which time a hearing was held on said petition, together with the report of the City Engineer and the recommendation of the Commissioner of Public Works; and that at the hearing above mentioned objections and remonstrances were heard and considered, and the only objection or remonstrance thereto was conditional, and therefore did not amount to an objection to the vacation, said condition being one of the conditions recommended for the vacation, and

WHEREAS, it was the recommendation in the report of the City Engineer and the recommendation in the report of the Commissioner of Public Works that said vacation petition be granted in part only, namely to the east line of N. Gantenbein Avenue instead of to the west line of said N. Gantenbein Avenue as requested in said petition, and that it was the intention of the Council to adopt said recommendation and vacate N. Page Street only from the east line of N. Gantenbein Avenue to the west line of N. Flint Avenue, and

WHEREAS, the Council did, on July 8, 1953, enact Ordinance No. 98749 for the vacation of said streets, which Ordinance, through a typographical error, provided for the vacation of N. Page Street from the west line of N. Gantenbein Avenue to the west line of N. Flint Avenue, as originally requested in said petition instead of to the east line of N. Gantenbein Avenue only as was intended by the Council and the said error should now be corrected by the repeal of said Ordinance No. 98749 and enactment of a new ordinance vacating said streets as originally intended by the Council, and

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WHEREAS said error has been called to the attention of School District No. 1 and the School Board, by resolution adopted at its meeting of August 27, 1953, indicated its desire to have N. Page Street vacated only from the east line of N. Gantenbein Avenue instead of from the west line of N. Gantenbein Avenue so as to leave sufficient street area for a turn-around and to conform with the report of the City Engineer, and

WHEREAS the Council finds that the reason for this vacation is for general public purposes, the same as the adjacent ground, and particularly for park and school purposes; that the reasons for such vacation and the particular circumstances for the vacation area: To provide desirable school and park sites, and

WHEREAS the Council finds that a vacation of the real property herein described will not injuriously affect the market value of the property abutting or affected by such vacation, but such vacation is in the public interest and necessary for the public purposes of School District No. 1, and said vacation in all respects will be for the public welfare, and it further appearing that all things have been done as provided by law for the vacation of said street area and that no further hearing or posting of notices is necessary prior to the enactment of this ordinance since no person could possibly be prejudiced by said change in view of the resolution of the School Board, and that final action should now be taken thereon, and that such vacation should be made a matter of record; now, therefore,

The City of Portland does ordain as follows:

Section 1. It hereby is ascertained and determined that the vacation of street area herein described will not injuriously or substantially affect the market value of any of the property abutting on said street area to be vacated, but will be beneficial thereto; that the owners of property abutting upon certain area to be vacated will not be damaged by said vacation; that notice has been duly and regularly given of such vacation and a hearing thereon to be duly and regularly had; that the consent of the owners of all the property abutting said property to be vacated and the consent of the owners of more than two-thirds in area of the real property affected by such vacation, have been obtained in writing, duly acknowledged, and filed as hereinabove stated; that a public hearing was duly and regularly had at which time the Council found and does now find that no claims for damages were made or filed against said vacation; that only one objection or remonstrance was made or filed which was conditional, which condition will be met by the conditions of this vacation; that no other objection or remonstrance was made or filed against said vacation and that the public interest will not be prejudiced by said vacation but that said vacation will advance the public interest and welfare and all such determinations are hereby made a matter of record:

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Section 2. There hereby is vacated the following described real property in the City of Portland, County of Multnomah, State of Oregon:

All that portion of N. Page Street from the east line of N. Gantenbein Avenue to the west line of N. Flint Avenue and N. Gantenbein Avenue from the south line of N. Page Street to the westerly prolongation of the south line of Lot 7, Block 37, Albina Addition, in the City of Portland, County of Multnomah, and State of Oregon.

Section 3. This vacation is made upon the following conditions, and with the following reservations:

- (a) Nothing herein contained shall cause or require the removal of or abandonment of any sewer, water main, gas main, conduit of any kind, wire, pole, or thing used or intended to be used for any public service; and the right hereby is reserved for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild and/or enlarge any and all such things; provided, the Pacific Power & Light Company shall have the right to continue to maintain its facilities in said vacated street area, including the right to substitute higher poles for the existing poles and otherwise improve their said facilities; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the center line of any such utility except by written consent of the City Engineer and the owner of such utility first had; and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Building Inspections Director, Bureau of Buildings, to the end that such construction may be so adjusted with reference to all public utilities in said area as to cause a minimum amount 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 hereafter reconstructed, renewed, replaced, and/or enlarged.
- (b) That petitioner herein (School District No. 1) shall obtain the reversionary rights to all of said N. Gantenbein Avenue proposed to be vacated.
- (c) That the intersections at N. Page Street and N. Flint Avenue, and N. Page Street and N. Gantenbein Avenue shall be reconstructed in

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accordance with the plans and specifications as prepared by the City Engineer and that such reconstruction and costs incidental thereto shall be defrayed by petitioner.

- (d) The total cost of all the above mentioned improvements and reconstruction work, including engineering and permit fees of the City of Portland, shall be defrayed by the petitioner, School District No. 1 of Multnomah County.

Section 4. This vacation is further conditioned that the petitioner herein shall file with the Auditor of the City of Portland an acceptance of this vacation in form approved by the City Attorney, and the Auditor shall file for record with the County Clerk, who is ex-officio recorder in and for Multnomah County, a certified copy of this ordinance and said acceptance, and likewise file a copy with the County Assessor and County Surveyor of said County.

Section 5. Ordinance No. 98749 entitled: "An Ordinance vacating, subject to conditions, all that portion of N. Page Street from the west line of N. Gantenbein Avenue to the west line of N. Flint Avenue and N. Gantenbein Avenue from the south line of N. Page Street to the westerly prolongation of the south line of Lot 7, Block 37, Albina Addition, in the City of Portland, Oregon, and declaring an emergency." passed by the Council July 8, 1953, hereby is repealed.

Section 6. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: In order that there may be no unnecessary delay in providing the needed school and park sites in the city, therefore, an emergency hereby is declared to exist and this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, SEP 16 1953

Lud L. Peterson
Mayor of the City of Portland

Attest:

Will Gibson

Auditor of the City of Portland

Calendar No. 4989

INTRODUCED BY
Order of Council

ORDINANCE No. 99154

Title

An Ordinance vacating, subject to conditions, all that portion of N. Page Street from the east line of N. Gantenbein Avenue to the west line of N. Flint Avenue and N. Gantenbein Avenue from the south line of N. Page Street to the westerly prolongation of the south line of Lot 7, Block 37, Albina Addition in the City of Portland, Oregon, repealing Ordinance No. 98749, and declaring an emergency.

THE COMMISSIONERS VOTED AS FOLLOWS:

	Yeas	Nays
Bean	/	
Boody	/	
Bowes	-	
Earl	/	
Peterson	/	

FOUR-FIFTHS CALENDAR

Bean	
Boody	
Bowes	
Earl	
Peterson	

Filed SEP 11 1953

Will Sibson
Auditor of the CITY OF PORTLAND

By R. S. IVEY
Deputy

DRAWN BY

JS:EM

Date 9/10/53

NOTED BY THE COMMISSIONER

Affairs
Finance
Safety
Utilities
Works

City Attorney *MCR*

NOTED FOR CITY AUDITOR

<i>RSI</i>
<i>JHL</i>

APPROVED

Date
By <i>City Engineer</i>
Date
By