

**ORDINANCE No. 186204 As Amended**

\*Vacate portions of SE Sherrett St and SE Umatilla St west of SE Grand Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10080)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 12, 2010, the Bureau of Transportation received a request from Tammy Cleys, Supervising Engineer, Design Division, (Initiator) at the Bureau of Environmental Services (BES) for the vacation of portions of SE Sherrett Street and SE Umatilla Street west of SE Grand Avenue.
2. The request states that the reason for the vacation is pursuant to a Stipulated General Judgment, Case No. 0912-17034 dated April 6, 2010, in exchange for the granting of easements to BES required for the Sellwood Pump Station Project No. E08467. The consolidation of property will provide for the future development of Portland Rowing Club's property. At the time the Portland Rowing Club applies for a permit for such future development, the Club will be required to grant an easement for the Willamette Greenway Recreational Trail as provided by Chapter 33.272 of the City Code.
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 May 23, 2013 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. In accordance with ORS 271.190, since the area to be vacated lies within 5,000 feet of the harbor line, approval in writing of the proposed vacation has been secured from the Port of Portland.
6. 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.

NOW, THEREFORE, the Council directs:

- a. The following described street areas are hereby vacated:

As depicted on Exhibits 1 and 2 and described on Exhibits 3 and 4 attached hereto.

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

1. A public recreational trail easement is hereby reserved over the entirety of the vacated street areas, excepting therefrom those portions lying below the Ordinary High Water Line of the Willamette River.

This easement will be reserved for Portland Parks & Recreation to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of a recreational trail and necessary appurtenances.

2. A public sewer easement is hereby reserved over the entire length and width of the vacated street area of SE Umatilla Street for an existing 10 inch sanitary sewer facility.

This easement will be reserved for BES to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of the existing public sewer facility and necessary appurtenances, and 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 BES access to the easement area 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 Northwest Natural. 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 property owners 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. BES has provided an Internal Order No. to this department in order to reimburse this department for staff costs incurred for processing the street vacation. All staff costs shall be reimbursed in full before the City records this Ordinance.
6. In the event the conditions required associated with this vacation, if any, are not met within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.

Section 2. The Initiator 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, if any, 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 Initiator, 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.

Section 5. The Council declares that an emergency exists because postponement of the second reading of this ordinance due to the cancellation of future hearing dates would unnecessarily delay its passage. Therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

AUG 14 2013

Commissioner Steve Novick  
Prepared by: John Deyo:slg  
Date Prepared: July 15, 2013

**LaVonne Griffin-Valade**  
Auditor of the City of Portland  
By

  
Deputy

Agenda No. **ORDINANCE NO. 186204** As Amended  
Title

\*Vacate portions of SE Sherrett St and SE Umatilla St west of SE Grand Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10080)

**INTRODUCED BY**  
Commissioner/Auditor:  
**COMMISSIONER STEVE NOVICK**

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**COMMISSIONER APPROVAL**

Mayor—Finance and Administration - Hales

Position 1/Utilities - Fritz

Position 2/Works - Fish

Position 3/Affairs - Saltzman

Position 4/Safety – Novick *Novick*

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**BUREAU APPROVAL**

Bureau: Bureau of Transportation  
Group Manager: Greg Jones  
Development & Capital Program  
Prepared by: John Deyo:slg *John B. Deyo*  
Date Prepared: July 15, 2013

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Financial Impact & Public Involvement Statement  
Completed  Amends Budget

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Portland Policy Document  
If "Yes" requires City Policy paragraph stated in document.  
Yes  No

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Council Meeting Date  
**August 7, 2013**

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**City Auditor Office Approval:**  
required for Code Ordinances

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**City Attorney Approval:**  
required for contract, code, easement, franchise, comp plan, charter

CLERK USE: DATE FILED AUG 02 2013

LaVonne Griffin-Valade  
Auditor of the City of Portland

By: *[Signature]*  
Deputy

**ACTION TAKEN:**  
**AUG 07 2013 PASSED TO SECOND READING AUG 14 2013 9:30 A.M.**

**AGENDA**

**TIME CERTAIN**   
Start time: \_\_\_\_\_

**Total amount of time needed:** \_\_\_\_\_  
(for presentation, testimony and discussion)

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**CONSENT**

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**REGULAR**   
**Total amount of time needed: 15 minutes**  
(for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	<input checked="" type="checkbox"/>	
Hales	<input checked="" type="checkbox"/>	