

ORDINANCE No. 187123

Vacate a portion of SE Gideon St east of SE Milwaukie Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10092)

The City of Portland ordains:

Section 1. The Council finds:

1. On March 12, 2014, the Office of the City Auditor certified a petition for the vacation of a portion of SE Gideon Street east of SE Milwaukie Avenue, with the petition initiated by TriMet, the owner of adjoining property.
2. The petition states that the reason for the vacation is to consolidate property for future development in connection with the Portland Milwaukie Light Rail.
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 February 27, 2015 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.

NOW, THEREFORE, the Council directs:

- a. The street area, as described on the attached Exhibit 1 and depicted on the attached Exhibit 2, is hereby vacated.
- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
  1. The Petitioner will provide a survey showing an 11.00 foot sidewalk / pedestrian corridor is maintained.
  2. Subject to Paragraph 5 below, a 20 foot wide public sewer easement is hereby reserved to provide for the maintenance, operation, inspection, repair, reconstruction, replacement, enlargement or relocation of the existing public sewer facility. The 20 foot easement shall be centered over an existing 12 inch pipe within the vacated street area as depicted on Exhibit 3.

3. 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.
4. 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. Subject to Paragraph b6 below, 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 said vacation area, 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.
5. Notwithstanding b4, and except for b3 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.
6. If any property, encumbered by an easement reserved in this vacation Ordinance, is ever rededicated as public right-of-way, that portion of the easement located in the rededicated right-of-way shall automatically be terminated.
7. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
8. 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.

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 and retain a copy in RWA File No. 7750.

Passed by the Council,

MAY 13 2015


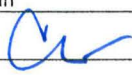


Commissioner Steve Novick  
Prepared by: Sarah Johnston: slg  
Date Prepared: 3.30.15

**Mary Hull Caballero**  
Auditor of the City of Portland  
By

  
Deputy

Agenda No.  
**ORDINANCE NO. 187123**  
Title

Vacate a portion of SE Gideon St east of SE Milwaukie Ave subject to certain conditions and reservations (Hearing; VAC-10092)  
*Ordinance;*

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>COMMISSIONER STEVE NOVICK</b>	CLERK USE: DATE FILED <u>MAY 01 2015</u>
<b>COMMISSIONER APPROVAL</b>	Mary Hull Caballero Auditor of the City of Portland  By:  Deputy  <b>ACTION TAKEN:</b>  <b>MAY 06 2015 PASSED TO SECOND READING MAY 13 2015 9:30 A.M.</b>
Mayor—Finance and Administration - Hales	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety – Novick 	
<b>BUREAU APPROVAL</b>	
Bureau: <b>Transportation</b> Development, Permitting & Transit Group Manager: <b>Christine Leon</b> Director: 	
Prepared by: Sarah Johnston: slg Date Prepared: March 30, 2015	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter 	
<b>Council Meeting Date</b> May 6, 2015	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <b>5 minutes</b> (for presentation, testimony and discussion)

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