

ORDINANCE No. 96196

An Ordinance authorizing the settlement of a condemnation case for sewer easement through Tax Lot 96, Section 17, Township 1 South, Range 1 East, Willamette Meridian, for the total amount of \$250.00, said amount to be paid directly into court from a specific appropriation, amending section 2 of Ordinance No. 95601 to provide partial reimbursement to said appropriation from the particular sewer project fund involved, authorizing the drawing and delivery of a warrant, and declaring an emergency.

The City of Portland does ordain as follows:

Section 1. The Council finds that proceedings for the acquisition of a sewer easement through Tax Lot 96, Section 17, Township 1 South, Range 1 East, Willamette Meridian, for the S.W. Sunset Boulevard and S.W. Dosch Road Sewer System were commenced by the City of Portland in the condemnation case of City of Portland v. Viggers, No. 199603 in the Circuit Court of the State of Oregon for the County of Multnomah, pursuant to Ordinance No. 94269, passed by the Council May 25, 1951; that the amount alleged in the complaint in said cause as the reasonable value of said sewer easement is \$107.00; that provision was made by Ordinance No. 95601, passed by the Council December 26, 1951, for the addition of said amount of \$107.00 to the cost of said sewer system and for the drawing of a warrant in the amount of \$107.00 chargeable to the fund to be created for said sewer project in favor of the defendant owners of said property, said warrant to be delivered only on direction of the City Attorney, and providing further for payment of any excess judgment against the city awarded in said litigation from the General Fund Appropriation, Widenings and Rights of Way; that the owners of said property have now offered to settle said condemnation litigation for the total amount of \$250.00 to cover the cost of sewer easement and right of way and all damages claimed by said property owners arising out of the taking of said sewer easement including damages for destruction of fruit, ornamental and shade trees; that said total amount of \$250.00 is not unreason- able in view of inclusion of compensation for such damages in addition to the amount originally allotted to easement and right of way cost; that it is in the interest of the

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city that immediate advantage be taken of this offer of settlement to avoid the hazard and expense of jury trial of such compensation and damages, and therefore provision should now be made for immediate settlement of said condemnation case upon such basis and for the immediate payment into court of the amount of settlement from said General Fund appropriation; and the Council further finds the warrant authorized by said Ordinance No. 95601 in the amount of \$107.00 for said easement to be drawn in favor of J. Wayne Viggers and June M. Viggers has not yet been so drawn for the reason that the fund for said sewer project has not yet been created by spread and collection of assessments therefor, and that therefore provision should be made herein for amendment of section 2 of said Ordinance No. 95601 so that the payee of the warrant authorized thereby shall be changed to the Treasurer of the City of Portland to provide partial reimbursement from said sewer fund to said General Fund appropriation for the settlement of said case; now, therefore, the City Attorney hereby is authorized to settle on behalf of the City of Portland that certain condemnation case brought in the Circuit Court of the State of Oregon for the County of Multnomah, No. 199603, entitled: City of Portland v. J. Wayne Viggers and June M. Viggers, for the total amount of \$250.00, without costs to either party.

Section 2. The Mayor and the Auditor hereby are authorized and directed to draw a warrant payable to Si Cohn, County Clerk, for deposit in said case in the amount of \$250.00, said warrant to be chargeable to the General Fund appropriation, Property for Widening and Rights of Way (No. 4650.680), and to be delivered to said County Clerk only upon direction of the City Attorney.

Section 3. Section 2 of Ordinance No. 95601 entitled: "An Ordinance authorizing the addition to the cost of the S.W. Sunset Boulevard and S.W. Dosch Road sewer system of the amount of \$107.00 as the reasonable value of a certain sewer easement for said project, extending through Tax Lot 96, Section 17, Township 1 South, Range 1 East, Willamette Meridian, which is the subject of pending condemnation litigation, authorizing payment of any excess judgment over \$107.00 to be charged against a specific appropriation, authorizing the drawing and delivery of a warrant, and declaring an emergency," hereby is amended to read as follows:

Section 2. The Mayor and the Auditor hereby are authorized to draw and deliver a warrant in the amount of \$107.00 chargeable

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to the fund created for said sewer project in favor of the Treasurer of the City of Portland to be credited to the General Fund appropriation, Property for Widening and Rights of Way (No. 4650,680).

Section 4. Inasmuch as this ordinance is necessary for the immediate preservation of the public health, peace and safety of the City of Portland in this: So that there be no unnecessary delay in taking immediate advantage of such reasonable offer of settlement of said condemnation case for acquisition of easement for sewer facilities so as to avoid the hazards and expense of determination of cost to the public by jury trial; 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, APR 17 1952

A.V. 67386 4/28/52

Dorothy McCullough Lee
Mayor of the City of Portland
Will Gibson.

Attest:

Auditor of the City of Portland

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Title

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Filed APR 16 1952

Will Gibson.
Auditor of the CITY OF PORTLAND

By **R. S. IVEY**
Deputy

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Bean	/	
Bennett	/	
Bowes	/	
Peterson	/	
Lee	/	

FOUR-FIFTHS CALENDAR		
Bean	ORB	MAG
Bennett		
Bowes	WAB	
Peterson	FLP	HAG
Lee	DMcL	WJW

INTRODUCED BY
Commissioner Bowes

DRAWN BY
HFA HFA-ak
Date
April 15, 1952

NOTED BY THE COMMISSIONER
Affairs
Finance
Safety
Utilities
Works
WAB

City Attorney
ACB

NOTED FOR CITY AUDITOR
RSI
JHL

APPROVED
Date
By
Chief Civil Engineer
Date 4-16-52
By
L. G. Apperson
City Engineer