

ORDINANCE NO. 1323

AN ORDINANCE PROVIDING FOR THE VACATION OF A 60 FOOT STREET RIGHT-OF-WAY EXTENDING EAST-WEST A DISTANCE OF APPROXIMATELY 944 FEET FROM THE EAST SIDE OF PACIFIC AVENUE RIGHT-OF-WAY TO A POINT APPROXIMATELY 200 FEET WEST FROM THE MILLER AVENUE RIGHT-OF-WAY, LOCATED WITHIN THE CITY OF TILLAMOOK, TILLAMOOK COUNTY, OREGON, AND AMENDING THE CODE OF THE CITY OF TILLAMOOK, SPECIAL TABLE OF ORDINANCES, TABLE III: PUBLIC WAYS; DEDICATIONS AND VACATIONS

WHEREAS, the Tillamook People's Utility District (hereafter referred to as "TPUD") and the City of Tillamook (hereafter referred to as "City") signed a Memorandum of Understanding (MOU) effective April 20, 2015 regarding the vacation of this right-of-way, and

WHEREAS, this matter came before the Tillamook City Council (hereafter referred to as "Council") on July 20, 2015 at which time the Council initiated vacation proceedings, pursuant to ORS 271.130 and the public hearing was held on August 17, 2015 pursuant to ORS 271.120; and

WHEREAS, notice of the proposed street vacation was, given as provided in ORS 271.110, published in the Headlight Herald, a newspaper of general circulation within the City's jurisdictional boundaries, on July 29, 2015 and August 5, 2015. The date of first publication was not less than 14 days before the scheduled hearing, and further notice was posted in four of the most public places in the City, e.g. City Hall, Tillamook County Court House and City web site at www.tillamookor.gov on July 29, 2015 and posted at or near each end of the proposed vacation in at least two conspicuous places in the proposed vacation area at least 14 days before the hearing; and

WHEREAS, the public hearing was held on August 17, 2015 with no written or oral testimony provided from the public, other than the supportive testimony of the TPUD; and

WHEREAS, no written objections from land owners within the affected area (as prescribed by ORS 271.110) nor remonstrance were received; and

WHEREAS, the Council is fully apprised of the records and files herein; and

WHEREAS, the street for vacation is a 60 a foot street right-of-way extending east-west a distance of approximately 944 feet from the east side of Pacific Avenue right-of-way to a point approximately 200 feet west from the Miller Avenue right-of-way, located within the City of Tillamook, Tillamook County, Oregon; and

WHEREAS, the City Recorder will file or otherwise indorse on the petition for such street vacation a certificate showing that all city liens and all taxes have been paid on the lands of the street vacation.

NOW, THEREFORE, the City of Tillamook ordains as follows:

Section 1. The Tillamook City Council agrees that it is proper and expedient that said street vacation be granted; with the condition that surveys conducted for the vacation or any associated property line adjustments are the responsibility of the Tillamook People's Utility District.

Section 2. The Tillamook City Council agrees that a 60 a foot street right-of-way extending east-west a distance of approximately 944 feet from the east side of Pacific Avenue right-of-way to a point

approximately 200 feet west from the Miller Avenue right-of-way as described in Attachment A and shown on the Assessor's Map in Attachment B, shall be vacated with title to said alley portion attached to abutting property in equal proportions, pursuant to ORS 271.140.

Section 3. The following are conditions of approval of this vacation:

- a. City shall retain an easement for a pedestrian/bicycle path, and other future underground utilities, along the south side of the old 12th Street right-of-way, the location, and dimensions of such easements to be determined between the Parties through subsequent negotiations.
- b. Following the vacation of the 12th Street right-of-way, the southern property line for Tax Lot 10100 will be adjusted to extend to the northern property line of Tax Lot 10000, as it existed prior to the vacation of the 12th Street right-of-way.
- c. Following the adjustment of the property lines for Tax Lots 10000 and 10100 as set forth above, TPUD and City will execute deeds whereby City transfers ownership of Tax Lot 10800 to TPUD, and TPUD transfers ownership of Tax Lot 10000 to City. The properties shall be transferred subject to existing easements of record and any new easements necessary for the operation of the sewer system, but free and clear of any liens.

Section 4. The City Recorder is directed to file a certified copy of this Ordinance with each of the following: Tillamook County Clerk, Tillamook County Assessor, and Tillamook County Surveyor.

PASSED 1st reading by the City Council this 7th day of November, 2016.

PASSED 2nd reading by the City Council this 21st day of November, 2016.

ADOPTED by the Tillamook City Council this 21st day of November, 2016.

APPROVED:

Suzanne Weber, Mayor

Date

ATTEST:

Abigail Donowho, City Recorder

Date