

**BEFORE THE CITY COUNCIL  
OF THE CITY OF ROCKAWAY BEACH, OREGON**

<b>In the Matter of the</b>	)	<b>Order/Ordinance No. <u>19-434</u></b>
<b>Street Right-of-Way Vacation (in part) of</b>	)	<b>ORDER</b>
<b>N. 24<sup>th</sup> Street, Block 2, MANHATTAN,</b>	)	<b>Granting Right-of-Way Vacation.</b>
<b>Rockaway Beach, Tillamook County,</b>	)	
<b>Oregon.</b>	)	

This matter came before the Rockaway Beach City Council (hereafter "Council") on June 13, 2018, on the application dated April 17, 2018, and case file #18-05, of Barbara M. Rovang-Roberts, Trustee, Barbara Rovang-Roberts Living Trust dated August 9, 1994, pursuant to ORS 271.080 *et seq.* The Council is fully apprized of the records and files herein.

**Findings of Fact & Conclusions of Law.**

1. Property owner requesting the proposed street right-of-way vacation is Barbara M. Rovang-Roberts, Trustee, Barbara Rovang-Roberts Living Trust dated August 9, 1994, 2340 N. Highway 101, Rockaway Beach, Oregon.
2. The proposed street vacation is a portion of N. 24<sup>th</sup> Street (a.k.a. NE 24<sup>th</sup> St.) of 8.5 feet in its height running east/west the entire 183.64 feet and along the northern boundaries of applicant's Lots 2, 3, 4, 5, 6 and 7, Block 2, MANHATTAN, Rockaway Beach, Tillamook County, Oregon, between U. S. Highway 101 and Lake Boulevard, and all within the Rockaway Beach, Oregon, city limits, and as legally described in **Exhibit A**, attached and incorporated here by reference.
3. Notice of the proposed vacation was given as provided in ORS 271.110.
- 3.1 City Recorder caused notice of the proposed right-of-way vacation to be published in The Headlight Herald, a newspaper of general circulation within the City's jurisdictional boundaries, once each week for two consecutive weeks prior to the hearing scheduled on this matter. The date of first publication was not less than 14 days before the scheduled hearing date of June 13, 2018.
- 3.2 Notice was further posted in at least three of the most public places in the city, e.g. City Hall, Rockaway Beach Post Office, and Rockaway Beach Fire Station, and at the U.S. Bank, Rockaway Beach branch, 126 South Highway 101.
- 3.3 The notice described the geographic area bounding proposed for vacation, the date the "petition" was filed, the name of at least one petitioner, and the date when the proposed vacation will be heard (upon which same date the Council will also hear any written remonstrances to the proposed vacation which have been filed prior to the hearing with the City Recorder).
4. Within 5 days after the date of first publication of the notice prescribed in paragraph 3.1 above, the City Recorder caused a notice which read "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation" to be posted in two conspicuous places at or near the ends of the proposed vacation.
5. No written objections from land owners within the affected area (as prescribed by ORS 271.080) were received. Therefore, fewer than a majority of affected area landowners submitted written objections.
6. A hearing was held on June 13, 2018, during which time the Council heard testimony and

considered all the evidence.

- 7. Evidence was presented which indicated no substantial affect on the market value of property abutting the area being vacated. Further, no evidence was presented to indicate a substantial affect on the market value of property abutting the area being vacated. Therefore, there was no necessity for Council to make any provisions for paying damages to affected landowners since no damages were foreseen.
- 8. The City Recorder has filed or otherwise indorsed on the petition a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.
- 9. Upon a motion duly made and seconded, the Council on June 13, 2018, passed a decision granting the right-of-way vacation described herein as being within the health, safety and general welfare interests of the citizens of the city of Tillamook, Oregon. Further, the Council directed staff to prepare this ordinance consistent with their decision and the law.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF ROCKAWAY BEACH, OREGON, THOUGH THEIR CITY COUNCIL DO ORDAIN AND ORDER AS FOLLOWS:**

The proposed street right-of-way vacation is granted in part only insofar as described in **Exhibit A**, attached and incorporated here by reference, to the owner or owners of record of the benefitted real property legally described as Lots 2, 3, 4, 5, 6 and 7, Block 2, MANHATTAN, Rockaway Beach, Tillamook County, Oregon,

**SUBJECT AT ALL TIMES TO:** Any covenants, conditions and restrictions of record; The rights of the public and/or special districts in and to the premises or portion of the premises lying within streets, roads and highways; and Any encumbrances of record or other claim of encumbrance, e.g. any easement, claim or water right, which is discoverable by a reasonable inspection of the land or inquiry of persons in possession thereof; AND,

**STRICTLY SUBJECT AT ALL TIMES TO:** The following terms and conditions:

- 1. City reserves the rights, title and interest of the public in and to all utilities, easements and franchises, if any, in the described subject vacated property;
- 2. Title to the vacated 8.5' portion of the N. 24<sup>th</sup> Street right-of-way shall vest [as provided in ORS 271.140] exclusively in adjacent property owner(s) of record of the lots legally described above, its heirs, successors and assigns, and strictly subject to #3 below;
- 3. Any claim of right in favor of Barbara M. Rovang-Roberts, Trustee, Barbara Rovang-Roberts Living Trust dated August 9, 1994, any other current owner of record of the benefitted real property, their heirs, successors and assigns, to the northern 8.5' of the remaining right-of-way is also vacated and/or otherwise assigned to and/or vested in the property owner(s) of record adjacent thereto, i.e. Neah-Kah-Nie School District #56.

///  
 ///  
 ///  
 ///  
 ///  
 ///  
 ///  
 ///  
 ///

The City Recorder is directed to cause a certified copy of this ordinance to be filed and/or recorded with each of the following: Rockaway Beach City Recorder, Tillamook County Clerk in Deed Records, the Tillamook County Assessor and Tillamook County Surveyor.

Applicant shall pay, and/or otherwise reimburse City, for all recording fees and costs associated with this order.

PASSED 1<sup>st</sup> reading by the Rockaway Beach City Council this 9/11/19.

PASSED 2<sup>nd</sup> reading by the Rockaway Beach City Council this 10/9/19.

ADOPTED and APPROVED by the Rockaway Beach City Council this 9<sup>th</sup> day of October, 2019.

  
Sue Wilson, Mayor.

///

**Adoption Roll Call Vote:**

Tom Martine  
Christine Hayes  
Nate Beeman, Council President  
Terry Walhood  
James Doyle

(Aye / Nay)  
X /  
X /  
X /  
X /  
X /

///

ATTEST:  
  
Terri Michel, City Manager / Recorder.

*Luke Shepard*  
*Pro-Tem City Manager*

**Exhibit A: Legal Description of partial N. 24<sup>th</sup> Street Vacation.** This partial street vacation is of the southerly 8.5 feet portion of North 24<sup>th</sup> Street between U.S. Highway 101 and Lake Boulevard, all in Rockaway Beach, Tillamook county, Oregon. The **Legal Description** of the portion of North 24<sup>th</sup> Street being vacated is as follows:

Beginning from the most westerly point on the southern boundary line of North 24<sup>th</sup> Street [originally platted as FIRST STREET and also known as NE 24<sup>th</sup> Street], Rockaway Beach, Tillamook county, Oregon, which point is adjacent to the eastern right-of-way boundary line of U.S. Highway 101; Thence easterly along the southern boundary line of North 24<sup>th</sup> Street, which line is in common with the northern boundary lines of Lots 2, 3, 4, 5, 6 and 7, Block 2, MANHATTAN, Rockaway Beach, Tillamook county, Oregon, a distance of 183.64 feet more or less<sup>1</sup> to the right-of-way of Lake Boulevard; Thence north along said right-of-way to a point on a line parallel to, and 8.5 feet in equal height north from, said southern boundary line of North 24<sup>th</sup> Street; Thence west parallel to, and 8.5 feet from, said southern boundary line of North 24<sup>th</sup> Street to the right-of-way of U.S. Highway 101, a distance of 183.64 feet, more or less; Thence south along the eastern right-of-way of U.S. Highway 101 to the point of beginning.

– END.

---

<sup>1</sup> See Survey for City of Rockaway Beach dated 10/06/1988, recorded in Tillamook County Surveyor records on November 21, 1988, at B-1332, by Handforth & Larson, Inc., surveyors.

Exhibit B

Partial N. 24th Street Vacation

