

Ordinance No. 120607

Council Bill No. 113915

AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

The City of Seattle - Legislative Department
Council Bill/Ordinance sponsored by: Ria

Committee Action:

(S)
Approved 2-0 RTM, HW (as amended)
10/22/01 Held one week (McIver)

CF No. _____

Date Introduced:	OCT 15 2001	
Date 1st Referred:	OCT 15 2001	To: (committee) TRANSPORTATION
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	11-5-01	Full Council Vote: 7-1 DRAO
Date Presented to Mayor:	11-6-01	Date Approved: 11/13/01
Date Returned to City Clerk:	11/13/01	Date Published: 3pp T.O. F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

10-29-01 Hold
(Excused Pageler)

This file is complete and ready for presentation to Full Council. Comm

Law Department

Law Dept. Review OMP Review City Clerk Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by:

Richard J. McIVER
Councilmember

McIVER

Committee Action:

Approved 2-0 RTM, HW (as amended)

10/22/01 Held one week (McIver)

10-29-01 Hold

(Excused: Pageler)

This file is complete and ready for presentation to Full Council.

Committee:

(Initial/date)

Law Department

Law Dept. Review

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Review

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Review

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AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

WHEREAS, the City derives its authority to charge a fee for street vacations from the State of Washington; and

WHEREAS, the State had limited the amount that cities could charge as compensation for vacations to an amount not greater than one-half the appraised value of the right-of-way to be vacated, except in circumstances where the right-of-way was acquired at public expense or where the right-of-way was a water-abutting street end; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, amended RCW chapter 35.79 to grant cities the authority to charge a fee for the compensation for street vacations that is equal to the full appraised value of the right-of-way for all streets that have been part of a dedicated public right-of-way for twenty-five years or more; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, specified that one-half of the revenue received by the City as compensation for the area vacated shall be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects; and

WHEREAS, the City Council has determined that the highest priority for the use of the vacation compensation funds shall be for transportation capital projects; and

WHEREAS, the City Council has historically required the payment of a vacation compensation fee (in addition to other related fees) in the maximum amount allowed by State Law from all petitioners, other than State or Federal agencies, and the City Council desires to revise the Seattle Municipal Code to reflect the changes in State Law; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.62.090 of the Seattle Municipal Code, as last amended by

Ordinance 117569, is hereby amended as follows:

15.62.090 Compensation for vacation.

A. Ordinances vacating any street or alley or part thereof shall not be passed by the City Council until a sum equal to one-half (1/2) of the appraised value of the area

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1 vacated is paid to the City, provided that if the street or alley has been a part of a dedicated
2 public right-of-way for twenty-five years or more, the City shall be compensated in an
3 amount equal to the full appraised value of the area vacated. In certain circumstances,
4 provision of other valuable consideration acceptable to the City may be made in lieu of up to
5 one-half (1/2) of the payment; provided that such consideration shall not be acceptable if it
6 is required for the street vacation, or it is required by other regulatory action. Acceptable
7 consideration shall be quantified in dollars which shall then be credited to the required
8 payment. (where the area vacated was acquired at public expense, the sum to be paid to the
9 City shall be equal to the full appraised value of the area vacated:)) State and federal
10 agencies shall be exempt from such payment, but shall pay to the City all costs incurred by
11 the City in processing the vacation request. As contemplated by RCW 35.79.035(3), the full
12 market value shall be paid upon vacation of streets abutting upon bodies of water.
13

14
15 B. Conveyance of other property acceptable to the City may be made in lieu of
16 the payment required by subsection A, whether required to mitigate adverse impacts of the
17 vacation or otherwise. ~~((When such conveyance is made for street purposes, one-half (1/2)~~
18 ~~of the fair market value of the land conveyed shall be credited to the required payment.~~
19 ~~When the conveyance is made in fee for purposes other than street purposes, t))~~ The full
20 appraised value of the land conveyed shall be credited to the required payment. When the
21 value of the in-lieu parcel is less than the payment required by subsection A, the petitioner
22 shall pay the difference to the City. When the value of the in-lieu parcel exceeds the
23 payment required by subsection A, the City shall pay the difference to petitioner.
24

25 C. One-half of the revenue received by the City as compensation for the area
26 vacated shall be dedicated to the acquisition, improvement, and development of public open
27 space or transportation capital projects. This revenue shall be deposited in the Street
28 Vacation Compensation Fund and the highest priority for the use of these funds shall be for
29 transportation capital projects.
30

31
32 Section 2. There is hereby established as a Subfund of the General Fund, a Street
33 Vacation Compensation Fund. One-half of the revenue received by the City as
34 compensation for areas vacated pursuant to S.M.C. 15.62.090 shall be deposited into the
35 Street Vacation Compensation Fund. The revenues so received shall be used to pay for the
36 acquisition, improvement, and development of public open space or for transportation
37 capital projects. The highest priority for the use of these funds shall be for transportation
38 capital projects.

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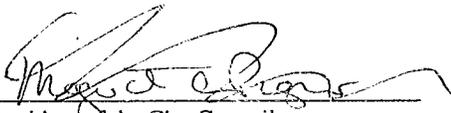
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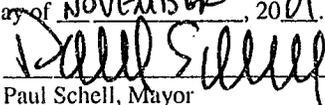
Section 3. The increased vacation compensation fee shall be applicable to all petitions received by the City after the effective date of this Ordinance. The remaining one-half of the vacation compensation revenues and revenues from the petition fee and the post-hearing fee shall continue to be deposited into the Cumulative Reserve Subfund of the General Fund.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

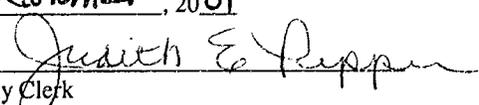
Passed by the City Council the 5th day of November, 2001, and signed by me in open session in authentication of its passage this 5th day of November, 2001.



President of the City Council

Approved by me this 13th day of NOVEMBER, 2001.


Paul Schell, Mayor

Filed by me this 13th day of November, 2001.


City Clerk

(SEAL)



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**Legislative Department
Seattle City Council
Memorandum**

Date: October 11, 2001
To: Councilmember Richard McIver, Chair, Transportation Committee
From: Geri Beardsley, *Geri Beardsley* Legislative Analyst
Subject: Street Vacation Compensation Increase

Attached is legislation to increase street vacation fees, as requested by the Transportation Committee and Council after discussions in both the Transportation Committee and a Council Briefings meeting in July and August of this year.

The legislation amends S.M.C 15.62, the chapter relating to street vacation fees, consistent with recent changes in the State law governing vacations. The legislation increases the compensation paid for vacated right-of-way to the full appraised value of the right-of-way, in certain circumstances; establishes a new Subfund of the General Fund, the Street Vacation Compensation Fund; and specifies that 1/2 of the revenues received as compensation for vacations be deposited in the new Fund.

Legislative History Regarding Vacation Fees

The power to vacate streets was granted by the State Legislature to the legislative bodies of city and towns pursuant to RCW chapter 35.79. The State statute sets forth some procedural and other parameters that cannot be changed locally. Seattle has enacted an ordinance, codified at SMC Chapter 15.62, that conforms to the requirements of State law as well as adding some matters of local concern. Only these latter portions can be amended without authority from the State.

The statute set the fee charged as compensation for the City's interest in the right-of-way. The State had established that a fee of up to 1/2 of the fair market of the right-of-way or up to the full appraised value where the City paid for the acquisition of the street area may be charged. The fee is permissive, not mandatory, under the State statute.

The City Council has, by ordinance, made payment of the vacation fee at the maximum amount allowed by State law mandatory for all petitioners, including City Departments, except State and Federal agencies. Vacation compensation is defined as the fee paid to acquire the City's property interest in the street right-of-way. Other vacation fees, including the petition fee and the post-hearing fee are not impacted by the legislation and will continue to be deposited in the Cumulative Reserve Subfund (CRF). Other obligations of the petitioner to meet the criteria

An equal opportunity-affirmative action employer
600 Fourth Avenue, 1100 Municipal Building, Seattle, Washington 98104-1876
Office: (206) 684-8888 Fax: (206) 684-8587 TTY: (206) 233-0025
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established by the Street Vacation Policies including addressing utility issues, mitigating land use impacts and the provision of public benefit are not altered by this legislation. The payment of the vacation compensation fee does not offset the cost of any other obligations identified during the review of the vacation petition.

New State Law Regarding Vacation Fees

The State Legislature during the past legislative session made major changes in the State law pertaining to vacation compensation. State law will now allow cities, in certain circumstances, to charge a vacation fee that is the full appraised value of the right-of-way. State law now also mandates how at least 1/2 of the vacation compensation fees must be utilized.

The major provisions of the changes to RCW Chapter 35.75 are highlighted here:

- Cities may charge vacation fees of up to 1/2 the appraised value of the right-of-way;
- If the right-of-way has been part of a dedicated public right-of-way for twenty-five years or more, cities may charge up to the full appraised value as the vacation fee. (This would apply to most of the street right-of-way in Seattle.)
- One-half of the revenue received as compensation for the vacation must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city.

The Governor approved the legislation on May 7, 2001, with an effective date of July 22, 2001.

City Council Review of Changes in State Law

Seattle Transportation (SeaTran) briefed the Council's Transportation Committee on the changes in the State law on July 17 and August 7, 2001 and also briefed the Council in a Briefings Meeting on July 23, 2001. Based on its review and discussions about the State law, the Transportation Committee requested legislation consistent with the issues discussed below.

The fees will continue to be mandatory. The fees will be applicable to all petitioners and also applicable to all petitions received after July 22, 2001. Petitions received before July 22, 2001 that are currently being reviewed by SeaTran will not be covered by the new fees.

The time frame to process a vacation is eight to ten months and vacation compensation fees are not due and owing at the time a petition is received, but only after SeaTran and Council review, a public hearing and Council approval of a petition. As a result, the Transportation Committee recognized that the legislation will increase the fees with some lag time before any increased fee is actually assessed. The use of the date of July 22, 2001 provides a means to advise petitioners that the vacation compensation fee will be raised and should their petition be granted by the City Council, their petition would be subject to the new fees.

The legislation also establishes a new Subfund of the General Fund, to be known as the Street Vacation Compensation Fund. This new Fund will receive ½ of the revenues paid to the City as compensation for a vacation, as required by State law. The other ½ of the revenues received as compensation for a vacation shall continue to be deposited to the CRF. The use of the Street Vacation Compensation Fund is limited to the acquisition, improvement, and development of public open space or transportation capital projects within the city with a preference for transportation capital projects.

The Transportation Committee asked for annual briefings on the use of the Fund and how the priority for the funds has been implemented. The Transportation Committee directed SeaTran to begin depositing monies received as compensation for vacations in the new Fund as soon as it is established. The Street Vacation Compensation Fund will be managed and dispersed in a manner to similar to the CRF.

Attachments and Additional Information

Attached to this Memorandum are the following documents for Committee review: proposed legislation, briefing materials prepared in July by SeaTran including information on the pros and cons of increasing the street vacation compensation fees, and a fiscal note.

If you have additional questions, please let me know.

Cc: All Councilmembers
Daryl Grigsby, SeaTran
Beverley Barnett, SeaTran
Judy Barbour, Law Department
Jeff Davis, City Budget Office

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Fiscal Note
Street Vacation Fee Increase

Department: Legislative	Contact Person/Phone: Geri Beardsley 684-8148	Analyst/Phone: Geri Beardsley 684-8148
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Legislation Title:

AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

Summary of the Legislation:

The legislation increases the fee charged as compensation for a vacation to an amount equal to the full appraised value of the right-of-way. The fee is mandatory and applies to all petitioners, including City departments, except State and Federal agencies.

Vacation compensation is defined as the fee paid to acquire the City's property interest in the street right-of-way. Other vacation fees, including the petition fee and the post-hearing fee are not impacted by the legislation and will continue to be deposited in the CRF. Other obligations of the petitioner to meet the criteria established by the Street Vacation Policies including addressing utility issues, mitigating land use impacts and the provision of public benefit are not altered by this legislation. The payment of the vacation compensation fee does not offset the cost of any other obligations identified during the review of the vacation petition.

The legislation also establishes a new Subfund of the General Fund, titled the Street Vacation Compensation Fund. One-half of the revenues received as compensation for a vacation are to be deposited in the new Fund, with the remaining one-half of the vacation compensation fee to continue to be deposited in the Cumulative Reserve Subfund (CRF).

The State also established how the revenues in the new Fund are to be used. From the uses permitted by the State, the City Council specified that the money was to be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects within the city. The primary purpose of the funds shall be for transportation capital purposes.

Background (Include justification for the legislation and funding history, if applicable):

The power to vacate streets was granted by the State Legislature to the legislative bodies of cities and towns pursuant to RCW chapter 35.79. The State statute sets forth some procedural and other parameters that cannot be changed locally. Seattle has enacted an ordinance, codified at SMC chapter 15.62, that conforms to the requirements of State law as well as adding some matters of local concern. Only these latter portions can be amended without authority from the State.



The State statute set the fee charged as compensation for the City's interest in the right-of-way. The State had established that a fee up to 1/2 of the fair market value of the right-of-way or up to the full appraised value where the City paid for the acquisition of the street area may be charged.

The City Council has, by ordinance, made payment of the vacation fee at the maximum amount allowed by State law mandatory for all petitioners, including City departments, except State and federal agencies.

In the 2001 Legislative Session, the State significantly revised the laws governing vacations. The State now allows cities to charge a vacation fee that is the full appraised value of the right-of-way where the street has been part of a dedicated public right-of-way for twenty-five years or more.

The State also required that one-half of the revenue received as compensation for vacations be placed in a fund that is dedicated to the acquisition, improvement, and development of public open space or transportation capital projects within the city.

This legislation amends the SMC to increase the compensation as allowed under State law.

Public Private Partnership Review Status: Is the project referenced in the legislation subject to P4 review? If yes, identify P4 review to date.

This fee increase is not subject to P4 review.

Is the legislation subject to public hearing requirements? If yes, what public hearings have been held to date?

This fee increase is not subject to public hearing requirements. There have been two discussions about the fee increase in the City Council's Transportation Committee on July 17 and August 7, 2001 and one in the City Council Briefings Meeting on July 23, 2001. The Transportation Committee will discuss the proposed legislation on October 16, 2001.

Fiscal Sustainability Issues (related to grant awards):

NA

Estimated Expenditure Impacts:

FUND (List # and/or Account)	2000	2001	2002
No additional revenues are expected until 2003; however 1/2 of any compensation received in the last half of 2001 or in 2002 (estimated at approximately \$500,000 per year) will be placed in the Street Vacation Compensation Fund rather than the CRF. The Funds will be used in a similar manner, so no significant expenditure impacts are expected.			
TOTAL			

One-time \$ _____

On-going \$ _____

Estimated Revenue Impacts:

FUND (List # and/or Account)	2000	2001	2002
No revenue impacts expected until 2003.			
TOTAL			

One-time \$ _____ On-going \$ _____

Estimated FTE Impacts:

FUND	2000	2001	2002
None expected.			
TOTAL			

Full Time _____ # Part Time _____ # TES _____

Do positions sunset in the future? If yes, identify sunset date?
 No positions will be affected by this legislation.

Other Issues (including long-term implications of the legislation):

The review process for a vacation petition is extensive and generally takes from eight to ten months. After a petition is reviewed and analyzed by SeaTran, the petition is forwarded to the Transportation Committee with a recommendation. The Committee holds a public hearing and makes a decision about the petition. If the petition is approved by the Council it is subject to conditions, including payment of the vacation compensation fee.

Because of the review time it is not expected that the change in the fees would have any revenue impact until 2003. Those revenue impacts will be addressed in the 2003 proposed budget. However, because of the effective date of the new fees, there may be some minor expenditure impacts. While no additional revenues are expected until 2003; 1/2 of any compensation received in the last half of 2001 or in 2002 (estimated at approximately \$500,000 per year) will be placed in the Street Vacation Compensation Fund rather than the CRF. The Funds will be used in a similar manner, so no significant expenditure impacts are expected.

Decisions about the use of the revenue in the Street Vacation Compensation Fund will be handled during the budget review as are decisions about the use of other similar funds, such as the CRF. The Transportation Committee has requested that it be briefed each year on the use of the funds in the Street Vacation Compensation Fund.

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SeaTran

Seattle Transportation
City of Seattle

Paul Snell, Mayor
Daryl R. Grigsby, Director



MEMORANDUM

July 19, 2001

To: City Councilmembers

From: Beverly Barnett
SeaTran

Subject: Vacation Fees

The Council Briefings meeting of July 23 will include a review of recent changes in State law relating to vacation fees. The Law Department has reviewed the State legislation, and Judy Barbour, who provided information for this memo, will be available at the meeting. Jeff Davis from CBO will also be available.

Legislative History Regarding Vacation Fees

The power to vacate streets was granted by the State Legislature to the legislative bodies of city and towns pursuant to RCW chapter 35.79. The State statute sets forth some procedural and other parameters that cannot be changed locally. Seattle has enacted an ordinance, codified at SMC Chapter 15.62, that conforms to the requirements of State law as well as adding some matters of local concern. Only these latter portions can be amended without authority from the State.

The statute set the fee charged as compensation to acquire the City's interest in the right-of-way. The State had established that a fee up to 1/2 of the fair market of the right-of-way or up to the full appraised value where the City paid for the acquisition of the street area may be charged. The fee is permissive, not mandatory, under the State statute.

The City Council has, by ordinance, made payment of the vacation fee at the maximum amount allowed by State law mandatory for all petitioners, including City Departments, except State and Federal agencies.

New State Law Regarding Vacation Fees

The State Legislature during the past legislative session made major changes in the State law pertaining to vacation compensation. State law will now allow cities, in certain circumstances, to charge a vacation fee that is the full appraised value of the right-of-way. State law now also mandates how at least 1/2 of the vacation compensation fees must be



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utilized. Currently, all vacation revenues are deposited in the Cumulative Reserve Fund. The new State law is attached for review as the legislative bill, House Bill 1750. The major provisions are highlighted here:

- Cities may charge vacation fees of up to ½ the appraised value of the right-of-way;
- If the right-of-way has been part of a dedicated public right-of-way for twenty-five years or more, cities may charge up to the full appraised value as the vacation fee. (This would apply to most of the street right-of-way in Seattle.)
- One-half of the revenue received as compensation for the vacation must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city.

This legislation was approved by the Governor on May 7, 2001 and has an effective date of July 22, 2001. Councilmembers have indicated a desire to revise the City code to conform to the new State law and have also indicated a desire to implement the new changes as soon as possible.

The Transportation Committee began a discussion of the issues at its meeting of July 17, 2001. The Committee determined it was appropriate to continue the fees as mandatory and as applicable to all petitioners. The Committee specified that the new fees should be applicable to all petitions received after July 22, 2001. The Committee also indicated a desire to have a larger discussion of the issues related to vacation fees. In particular the Committee did not resolve the question of whether the new fee should apply to petitions currently being reviewed by SeaTran but not yet approved by Council and the Committee did not address the creation of the new fund required by the State.

Questions for Committee Discussion

1. Should the SMC be amended to conform to the new State legislation for the purposes of raising the vacation fees to the full appraised value where allowed?

Pro:

- The City of Seattle has always set the vacation fee at the maximum amount allowed by State law. This would be consistent with a long history of City action.
- The City acts as a trustee for the public in the management of streets and the City has an obligation to manage in the best interests of the public. While streets are not a financial resource and are not managed to produce revenue, when a decision has been made to vacate a street it is a sound financial practice to obtain the highest possible financial return.
- When a developer is acquiring property to create a building site for a new project, the developer will pay the full market value for the parcels. But the developer will only pay the City ½ of the appraised value for the vacated right-of-way. This could be viewed as

encouraging vacations to consolidate building sites and has been viewed by some members of the public as a subsidy of private development activity.

Con:

- The vacation fee requires an abutting property owner, who still holds the underlying fee interest in the property, to pay the City the full market value of the right-of-way to extinguish a public easement for street purposes that the City has declared to be surplus.
 - The vacation process is more difficult than other land use actions and with a more uncertain outcome. The acquisition of other "surplus" City property does not carry an obligation to provide a public benefit. The requirements of public benefit add to the cost of the development. Raising the fees as an additive to the other vacation requirements may prove so onerous that some developers will not proceed with their plans.
2. **Should the SMC, when amended, mandate that the full appraised value be required rather than the permissive language of the State law which states that "compensation may be required..."?**

Pro:

- The City Council has always made the vacation fee mandatory in the SMC and this would be consistent with that practice.
- The City Council requires that all petitioners, including City departments pay the vacation fee. This consistent policy and practice means that all petitioners are treated the same.
- This consistent policy means that all petitioners understand the expectations and financial impacts when beginning the vacation process and there is no expectation that fees will be reduced.

Con:

- Raising the fees and requiring that all petitioners pay the full fee imposes a heavy financial burden on other public agencies, City departments, housing developers, the school district, and small developers.
 - Making the fees mandatory limits the flexibility of the Council to alter the fees for public projects or projects that serve the public in some way such as the development of a school or projects that the Council would like to encourage.
3. **What should be the effective date of the new fees? Should the fee apply to new petitions received after the effective date or should the new fees also apply to current petitions being reviewed by SeaTran but not yet reviewed and approved by the City Council?**

Pro:

- There is no right to acquire or use public right-of-way so all petitioners undertake the risk that the vacation petition may be denied or the proposal significantly altered by the City



Council. This decision comes at the end of the review process so all developers undertake a risk when they petition for a vacation. Since there is no right to acquire the right-of-way, there is no question of vesting and the petitioner should be subject to any changes in the policies or codes governing the vacation process.

- The changes to the State law were introduced in the State Legislature in February so there has been ongoing discussion at the State for the last six months, an ample time period for petitioners to review the finances for the project.

Con:

- While petitioners have no right to acquire street right-of-way the petitioners who have projects being reviewed by the City have all begun a process and thought they understood the rules and the costs involved. The projects have been designed and budgeted to match this understanding. It is fundamentally unfair to significantly alter the ground rules for projects that are already being reviewed.
 - The level of design work and the amount of information required by the City dictate the time that the vacation process takes. Information required can include traffic analysis, SEPA analysis, Design Review, Design Commission review, and utility easements. The vacation review is an iterative process with lots of changes, negotiation, and discussions. The process and information required by the City have kept the projects in process from reaching the City Council more quickly and perhaps before the State changed the fees.
4. State law will require that ½ of the revenue for vacations now be placed in a fund to be used for open space or transportation projects within the City. Should all of the vacation revenues be placed in this new fund? Or should ½ the revenue be placed in the CRF and ½ the revenue be placed in the new fund? The State provisions would allow use of the money for "acquisition, improvement, development, and related maintenance of public open space or transportation capital purposes". Should maintenance be removed as an allowable use of these funds?

This question doesn't have the same policy implications and relates to the management of the funds. Where should the revenue be deposited, for what purposes should the revenue be utilized, and how should the fund be managed and the funds dispersed? Options include:

- Revenues dispersed ½ in the CRF and ½ in the new Vacation Fee Fund.
- All revenues in the new Vacation Fee Fund.
- Revenues in the new fund could be split 50-50 between open space and transportation, or the revenues could be disbursed through the budget process (as done currently with the CRF) by departmental budget requests, or the Council could establish more specific guidelines for the use of the funds.

Following the discussion, staff will prepare legislation as directed by the Committee.

From: Geri Beardsley
To: Margaret Carter
Date: 10/11/01 5:24PM
Subject: Mclver walk on for monday

Title is:

AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

Jackel is with Eric Parsons (it includes the disk, etc. and has a Law Dept. stamp)

CC: Beverly Barnett; Eric Parsons; Theresa Dunbar



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AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

WHEREAS, the City derives its authority to charge a fee for street vacations from the State of Washington; and

WHEREAS, the State had limited the amount that cities could charge as compensation for vacations to an amount not greater than one-half the appraised value of the right-of-way to be vacated, except in circumstances where the right-of-way was acquired at public expense or where the right-of-way was a water-abutting street end; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, amended RCW chapter 35.79 to grant cities the authority to charge a fee for the compensation for street vacations that is equal to the full appraised value of the right-of-way for all streets that have been part of a dedicated public right-of-way for twenty-five years or more; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, specified that one-half of the revenue received by the City as compensation for the area vacated shall be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects; and

WHEREAS, the City Council has determined that the highest priority for the use of the vacation compensation funds shall be for transportation capital projects; and

WHEREAS, the City Council has historically required the payment of a vacation compensation fee (in addition to other related fees) in the maximum amount allowed by State Law from all petitioners, other than State or Federal agencies, and the City Council desires to revise the Seattle Municipal Code to reflect the changes in State Law; NOW
THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.62.090 of the Seattle Municipal Code, as last amended by Ordinance 117569, is hereby amended as follows:

15.62.090 Compensation for vacation.

A. Ordinances vacating any street or alley or part thereof shall not be passed by the City Council until a sum equal to one-half (1/2) of the appraised value of the area vacated is paid to the City, provided that if the street or alley has been a part of a dedicated



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St Vac Inc
10/10/01
V #1

1 public right-of-way for twenty-five years or more, the City shall be compensated in an
2 amount equal to the full appraised value of the area vacated, where the area vacated was
3 acquired at public expense, the sum to be paid to the City shall be equal to the full appraised
4 value of the area vacated. State and federal agencies shall be exempt from such payment,
5 but shall pay to the City all costs incurred by the City in processing the vacation request. As
6 contemplated by RCW 35.79.035(3), the full market value shall be paid upon vacation of
7 streets abutting upon bodies of water. The ordinance may provide that the City retain an
8 easement or the right to exercise and grant easements in respect to the vacated land for the
9 construction, repair, and maintenance of public utilities and services. A certified copy of
10 such ordinance shall be recorded by the City Clerk and in the office of the auditor of King
11 County.

12
13 B. Conveyance of other property acceptable to the City may be made in lieu of
14 the payment required by subsection A, whether required to mitigate adverse impacts of the
15 vacation or otherwise. ~~When such conveyance is made for street purposes, one half (1/2) of~~
16 ~~the fair market value of the land conveyed shall be credited to the required payment.~~ ~~When~~
17 ~~the conveyance is made in fee for purposes other than street purposes, the full appraised~~
18 ~~value of the land conveyed shall be credited to the required payment.~~ When the value of the
19 in-lieu parcel is less than the payment required by subsection A, the petitioner shall pay the
20 difference to the City. When the value of the in-lieu parcel exceeds the payment required by
21 subsection A, the City shall pay the difference to petitioner.

22
23 C. One-half of the revenue received by the City as compensation for the area
24 vacated shall be dedicated to the acquisition, improvement, and development of public open
25 space or transportation capital projects. This revenue shall be deposited in the Street
26 Vacation Compensation Fund and the highest priority for the use of these funds shall be for
27 transportation capital projects.

28
29 Section 2. There is hereby established as a Subfund of the General Fund, a Street
30 Vacation Compensation Fund. One-half of the revenue received by the City as
31 compensation for areas vacated pursuant to Section 1A above shall be deposited into the
32 Street Vacation Compensation Fund. The revenues so received shall be used to pay for the
33 acquisition, improvement, and development of public open space or for transportation
34 capital projects. The highest priority for the use of these funds shall be for transportation
35 capital projects.

36 Section 3. The increased vacation compensation fee shall be applicable to all
37 petitions received by the City after July 22, 2001. The remaining one-half of the vacation

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compensation revenues and revenues from the petition fee and the post-hearing fee shall continue to be deposited into the Cumulative Reserve Subfund of the General Fund.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 20____, and signed by me in open session in authentication of its passage this ____ day of _____, 20____.

President of the City Council

Approved by me this ____ day of _____, 20____.

Paul Schell, Mayor

Filed by me this ____ day of _____, 20____

City Clerk

(SEAL)

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St Vac Inc
10/16/01
V #2

ORDINANCE _____

AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

WHEREAS, the City derives its authority to charge a fee for street vacations from the State of Washington; and

WHEREAS, the State had limited the amount that cities could charge as compensation for vacations to an amount not greater than one-half the appraised value of the right-of-way to be vacated, except in circumstances where the right-of-way was acquired at public expense or where the right-of-way was a water-abutting street end; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, amended RCW chapter 35.79 to grant cities the authority to charge a fee for the compensation for street vacations that is equal to the full appraised value of the right-of-way for all streets that have been part of a dedicated public right-of-way for twenty-five years or more; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, specified that one-half of the revenue received by the City as compensation for the area vacated shall be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects; and

WHEREAS, the City Council has determined that the highest priority for the use of the vacation compensation funds shall be for transportation capital projects; and

WHEREAS, the City Council has historically required the payment of a vacation compensation fee (in addition to other related fees) in the maximum amount allowed by State Law from all petitioners, other than State or Federal agencies, and the City Council desires to revise the Seattle Municipal Code to reflect the changes in State Law; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.62.090 of the Seattle Municipal Code, as last amended by

Ordinance 117569, is hereby amended as follows:

15.62.090 Compensation for vacation.

A. Ordinances vacating any street or alley or part thereof shall not be passed by the City Council until a sum equal to one-half (1/2) of the appraised value of the area vacated is paid to the City, provided that if the street or alley has been a part of a dedicated

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10/16/01
V #2

1 public right-of-way for twenty-five years or more, the City shall be compensated in an
2 amount equal to the full appraised value of the area vacated. ~~((where the area vacated was~~
3 ~~acquired at public expense, the sum to be paid to the City shall be equal to the full appraised~~
4 ~~value of the area vacated.))~~ State and federal agencies shall be exempt from such payment,
5 but shall pay to the City all costs incurred by the City in processing the vacation request. As
6 contemplated by RCW 35.79.035(3), the full market value shall be paid upon vacation of
7 streets abutting upon bodies of water.
8

9 B. Conveyance of other property acceptable to the City may be made in lieu of
10 the payment required by subsection A, whether required to mitigate adverse impacts of the
11 vacation or otherwise. ~~((When such conveyance is made for street purposes, one-half (1/2)~~
12 ~~of the fair market value of the land conveyed shall be credited to the required payment.~~
13 ~~When the conveyance is made in fee for purposes other than street purposes, t))~~ The full
14 appraised value of the land conveyed shall be credited to the required payment. When the
15 value of the in-lieu parcel is less than the payment required by subsection A, the petitioner
16 shall pay the difference to the City. When the value of the in-lieu parcel exceeds the
17 payment required by subsection A, the City shall pay the difference to petitioner.
18

19 C. One-half of the revenue received by the City as compensation for the area
20 vacated shall be dedicated to the acquisition, improvement, and development of public open
21 space or transportation capital projects. This revenue shall be deposited in the Street
22 Vacation Compensation Fund and the highest priority for the use of these funds shall be for
23 transportation capital projects.
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26 Section 2. There is hereby established as a Subfund of the General Fund, a Street
27 Vacation Compensation Fund. One-half of the revenue received by the City as
28 compensation for areas vacated pursuant to S.M.C. 15.62.090 shall be deposited into the
29 Street Vacation Compensation Fund. The revenues so received shall be used to pay for the
30 acquisition, improvement, and development of public open space or for transportation
31 capital projects. The highest priority for the use of these funds shall be for transportation
32 capital projects.
33

34 Section 3. The increased vacation compensation fee shall be applicable to all
35 petitions received by the City after July 22, 2001. The remaining one-half of the vacation

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V #2

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compensation revenues and revenues from the petition fee and the post-hearing fee shall continue to be deposited into the Cumulative Reserve Subfund of the General Fund.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 20____, and signed by me in open session in authentication of its passage this ____ day of _____, 20____.

President of the City Council

Approved by me this ____ day of _____, 20____.

Paul Schell, Mayor

Filed by me this ____ day of _____, 20____

City Clerk

(SEAL)

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STATE OF WASHINGTON - KING COUNTY

--SS.

138448
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120607 ORD. IN FULL

was published on

11/21/01

Valery Wilcox

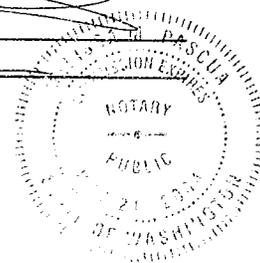
Subscribed and sworn to before me on

11/25/01

Michael M. Furr

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



City of Seattle

ORDINANCE 120507

AN ORDINANCE relating to the fees for the vacation of streets and other public rights-of-way, amending S.M.C. 15.62.090 to increase the fee charged as compensation for street vacations and creating a new Subfund of the General Fund, the Street Vacation Compensation Fund.

WHEREAS, the City derives its authority to charge a fee for street vacations from the State of Washington; and

WHEREAS, the State had limited the amount that cities could charge as compensation for vacations to an amount not greater than one-half the appraised value of the right-of-way to be vacated, except in circumstances where the right-of-way was acquired at public expense or where the right-of-way was a water-shutting street end; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, amended RCW chapter 35.79 to grant cities the authority to charge a fee for the compensation for street vacations that is equal to the full appraised value of the right-of-way for all streets that have been part of a dedicated public right-of-way for twenty-five years or more; and

WHEREAS, the State Legislature, in the 2001 Legislative Session, specified that one-half of the revenue received by the City as compensation for the area vacated shall be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects; and

WHEREAS, the City Council has determined that the highest priority for the use of the vacation compensation funds shall be for transportation capital projects; and

WHEREAS, the City Council has historically required the payment of a vacation compensation fee in addition to other related fees in the maximum amount allowed by State Law from all petitioners, other than State or Federal agencies, and the City Council desires to revise the Seattle Municipal Code to reflect the changes in State Law; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 15.62.090 of the Seattle Municipal Code, as last amended by Ordinance 117569, is hereby amended as follows:

15.62.090 COMPENSATION FOR VACATION.

A. Ordinances vacating any street or alley or part thereof shall not be passed by the City Council until a sum equal to one-half (1/2) of the appraised value of the area vacated is paid to the City, provided that if the street or alley has been a part of a dedicated public right-of-way for twenty-five years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated. In certain circumstances, provision of other valuable consideration acceptable to the City may be made in lieu of up to one-half (1/2) of the payment; provided that such consideration shall not be acceptable if it is required for the street vacation. It is considered a public benefit to meet the public benefit requirements of the street vacation, if it is required by other regulatory action. Acceptable consideration shall be quantified in dollars which shall then be credited to the required payment. (Where the area vacated was acquired at public expense, the sum to be paid to the City shall be equal to the full appraised value of the area vacated.) State and Federal agencies shall be exempt from such payment, but shall pay to the City all costs incurred by the City in processing the vacation request. As contemplated by RCW 35.79.0363, the full market value shall be paid upon vacation of streets abutting upon bodies of water.

B. Conveyance of other property acceptable to the City may be made in lieu of the payment required by subsection A, whether required to mitigate adverse impacts of the vacation or otherwise. (When such conveyance is made for street purposes, one-half (1/2) of the fair market value of the land conveyed shall be credited to the required payment. When the conveyance is made in fee for purposes other than street purposes, 1/3 the full appraised value of the land conveyed shall be credited to the required payment. When the value of the in-lieu parcel is less than the payment required by subsection A, the petitioner shall pay the difference to the City. When the value of the in-lieu parcel exceeds the payment required by subsection A, the City shall pay the difference to petitioner.)

C. One-half of the revenue received by the City as compensation for the area vacated shall be dedicated to the acquisition, improvement, and development of public open space or transportation capital projects. This revenue shall be deposited in the Street Vacation Compensation Fund and the highest priority for the use of these funds shall be for transportation capital projects.

Section 2. There is hereby established as a Subfund of the General Fund, a Street Vacation Compensation Fund. One-half of the revenue received by the City as compensation for areas vacated pursuant to S.M.C. 15.62.090 shall be deposited into the Street Vacation Compensation Fund. The revenues so received shall be used to pay for the acquisition, improvement, and development of public open space or for transportation capital projects. The highest priority for the use of these funds shall be for transportation capital projects.

Section 3. The increased vacation compensation fee shall be applicable to all petitions received by the City after the effective date of this Ordinance. The remaining one-half of the vacation compensation revenues from the petition fee and the post-hearing fee shall continue to be deposited into the Cumulative Reserve Subfund of the General Fund.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 6th day of November, 2001, and signed by me in open session in authentication of the passage this 6th day of November, 2001.

MARGARET PAGLEER,
President of the City Council.
Approved by me this 13th day of November, 2001.

PAUL SCHELL,
Mayor.
Filed by me this 13th day of November, 2001.

(Seal) JUDITH E. PIPPIN,
City Clerk.
Publication ordered by JUDITH PIPPIN, City Clerk.

(Boldface denotes deletion.)
Date of official publication in Daily Journal of Commerce, Seattle, November 21, 2001. 11/21(138440C)

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