

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 395, City Hall
Los Angeles, CA 90012
Council File Information - (213) 978-1043
General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

01-1459

PLACE IN FILES
MAR 28 2002

March 21, 2002

DEPUTY

Councilmember Perry
Bureau of Engineering,
Land Development Group
City Clerk, Executive Office
cc: Council and Public Services Division

Board of Public Works
Chief Legislative Analyst
City Administrative Officer
City Attorney

RE: STREAMLINING THE CITY STREET VACATION PROCEEDINGS PROCESS

At the meeting of the Council held March 5, 2002, the following action was taken:

Attached report adopted	_____ X
Attached motion (-) adopted.....	_____
Attached resolution (-) adopted.....	_____
Mayor concurred.....	_____
FORTHWITH.....	_____
Ordinance adopted.....	_____ X
Ordinance number.....	_____ 174471
Effective date.....	_____ 04-20-02
Publication date.....	_____ 03-20-02
Mayor approved.....	_____ 03-14-02

J. Michael Carey

City Clerk

me

steno\011459

*FF 607
3/28/02*



Mayor's Time Stamp

TIME LIMIT FILES
ORDINANCES

City Clerk's Time Stamp

RECEIVED

'02 MAR -6 P1:33

DEPUTY MAYOR

RECEIVED
CITY CLERK'S OFFICE
2002 MAR -6 PM 2:05
BY _____
CITY CLERK
DEPUTY

COUNCIL FILE NUMBER 01-1459

COUNCIL DISTRICT _____

COUNCIL APPROVAL DATE March 5, 2002

LAST DAY FOR MAYOR TO ACT MAR 18 2002

ORDINANCE TYPE: Ord of Intent Zoning Personnel General

Improvement LAMC LAAC CU or Var Appeals - CPC No _____

SUBJECT MATTER: ORDINANCE AMENDING DIVISION 7, CHAPTER 1, ARTICLE 6, SECTIONS 7.42, 7.43, 7.44, 7.46 AND 7.48 OF THE LOS ANGELES ADMINISTRATIVE CODE, AND CHAPTER 1, ARTICLE 6, SECTION 15.00D OF THE LOS ANGELES MUNICIPAL CODE, RELATIVE TO STREAMLINING THE CITY STREET VACATION PROCEEDINGS

APPROVED DISAPPROVED

PLANNING COMMISSION

DIRECTOR OF PLANNING

CITY ATTORNEY

_____ X _____

BUREAU OF ENGINEERING

_____ X _____

RECEIVED
CITY CLERK'S OFFICE
2002 MAR 15 PM 2:03
BY _____
CITY CLERK
DEPUTY

MAR 14 2002

DATE OF MAYOR APPROVAL, DEEMED APPROVAL OR *VETO: _____
*VETOED ORDINANCES MUST BE ACCOMPANIED WITH OBJECTIONS IN WRITING PURSUANT TO CHARTER SEC. 250 (b) (c)

(CITY CLERK USE ONLY PLEASE DO NOT WRITE BELOW THIS LINE)

DATE RECEIVED FROM MAYOR MAR 15 2002 ORDINANCE NO. 174471

DATE PUBLISHED MAR 20 2002 DATE POSTED _____ EFFECTIVE DATE APR 20 2002

ORD OF INTENT: HEARING DATE _____ ASSESSMENT CONFIRMATION _____

ORDINANCE FOR DISTRIBUTION: Yes [] No [x]

ORDINANCE NO. **174471**

An Ordinance amending Division 7, Chapter 1, Article 6, Sections 7.42, 7.43, 7.44, 7.46 and 7.48 of the Los Angeles Administrative Code, and Chapter 1, Article 6, Section 15.00D of Los Angeles Municipal Code, relating to streamlining the city street vacation proceedings.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Division 7, Chapter 1, Article 6, Section 7.42 of the Los Angeles Administrative Code is hereby deleted.

Section 2. Division 7, Chapter 1, Article 6, Section 7.43 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.43. Refund.

In the event the petition for vacation is withdrawn by petitioner or is denied by the City Council, petitioner shall be entitled to a refund of any unused deposits paid pursuant to Section 7.44 of this Code.

Section 3. Division 7, Chapter 1, Article 6, Section 7.44 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.44. Deposit to Cover Cost.

The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.

In the event that, immediately prior to the recordation of the final resolution, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.

Section 4. Division 7, Chapter 1, Article 6, Section 7.46 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.46. Government Agencies Exempted.

All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48, Termination of Vacation proceedings.

Section 5. Division 7, Chapter 1, Article 6, Section 7.48 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.48. Termination of Vacation Proceedings.

If the applicant does not satisfy all conditions required by the City Council within 180 days, together with an additional one time 180 days extension of the date for the public hearing as specified in the notice declaring the City's intention to vacate, all proceedings relating thereto shall be terminated and any orders made after the public hearing shall be of no future force and effect. In the

event the proceedings are thus terminated, the Department of Public Works, through its Bureau of Engineering, shall return the official files to the City Clerk for its appropriate action and no further action shall be required.

Section 6. Chapter 1, Article 6, Section 15.00D of the Los Angeles Municipal Code is amended as follows:

D. Time Limit.

The Commission shall make and file its report and recommendations on any petition, ordinance, order or resolution within 30 days of receipt of same. If the same be disapproved, the Director of Planning shall advise the Bureau or Department submitting the matter of its disapproval and reasons therefor within such 30-day period.

Section 7. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of Los Angeles at its meeting of MAR 05 2002.

J. MICHAEL CAREY, City Clerk

By Maria Koshenich
Deputy

Approved MAR 14 2002

James Hill
Mayor

Approved as to Form and Legality

ROCKARD DELGADILLO, City Attorney

By CALL
Deputy

File No. 01-1459

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

Your

PUBLIC WORKS

Committee

reports as follows:

Public Comments: Yes No
XXX —

PUBLIC WORKS COMMITTEE REPORT and ORDINANCE relative to a streamlined street vacation process.

Recommendations for Council action, SUBJECT TO THE APPROVAL OF THE MAYOR:

1. PRESENT and ADOPT the accompanying Ordinance amending Division 7, Chapter 1, Article 6, Sections 7.42, 7.43, 7.44, 7.46 and 7.48 of the Los Angeles Administrative Code, and Chapter 1, Article 6, Section 15.00D of the Los Angeles Municipal Code, relative to streamlining the city street vacation proceedings.
2. APPROVE the revised procedures for processing street vacations as described in the City Engineer report dated February 5, 2002, attached to the Council file.

Fiscal Impact Statement: The City Engineer reports that the streamlined street vacation process would lead to significant less processing time in various City departments and would substantially increase Bureau of Engineering cost recovery in processing a street vacation application.

SUMMARY

On February 13, 2002, the Public Works (PW) Committee considered a revised report and draft ordinance from the City Engineer relative to a streamlined street vacation process.

The City Engineer reported that there were six areas that required restructuring of the current process to substantially reduce the processing time involved, reduce the cost to the petitioner, and maximize the City's cost recovery.

With respect to fees, the petitioner currently is required to pay up to three different fees during the process. The initial fee is usually nominal (averaging \$1000 to \$1500) and does not cover the costs of preparing the Initial City Engineer's report (usually \$5,000 - \$8,000). Although the petitioner is clearly informed that a larger Processing fee will be required later along with potentially expensive Conditions of approval, they are unprepared for the actual cost and the project gets stalled waiting for payment. The revised process would require

an up-front deposit of \$6,000, or \$3,000 for a minor vacation, in lieu of the Investigation and Processing fees. Any remaining amount in excess of costs would be refunded at the end of the process, whether approved or canceled. The attached draft Ordinance would, if approved, enable the revised process.

The current procedure to initiate a vacation can take several weeks and sometimes months, because the petitioner's application must be reviewed for feasibility. If it is found feasible the Department must then wait for the petitioner to submit an Investigation Fee, followed by the preparation of a map and preliminary investigation of the affected agencies and adjacent property owners. The revised process would allow the Department to review the application upon receipt and, if feasible, prepare a vacation map and send out agency referrals within a week. If the vacation area is more than 10,000 square feet, a completed Environmental Assessment Form would be required along with the application.

Currently, dedication and improvement conditions are imposed on vacations as with other discretionary actions. The petitioner is given five years after the Public Hearing to clear the conditions of the vacation's approval. In order to process vacations in a timely manner, the revised street vacation process would only be used for relatively simple cases that are not intended to facilitate significant development and where substantial mitigation measures are not required. Thus, applications to vacate over 10,000 square feet of improved right-of-way or to facilitate a project that would require a Negative Declaration or Environmental Impact Report, would be rejected, and the petitioner would be instructed to apply for a Tract or Parcel Map with City Planning.

The Bureau of Engineering currently sends out a cover letter to outside governmental agencies and utility companies during the investigatory process of the vacation initiation requesting a written response within 50 days. Some of these responses are being received up to 6 months or longer after the original requests are sent. The draft Ordinance would shorten the deadline to 30 days and permit the Bureau of Engineering to proceed by reflecting the non-response in its report or including clearance from the utility as a condition of the vacation.

Currently, Council files are assigned to a vacation application at the request of the City Engineer or in response to a Council motion, and are referred simultaneously back to the City Engineer and to the Public Works Committee to await the City Engineer's report. Once the report is submitted, the same vacation may make up to four trips through Council as various steps are completed. The revised street vacation process would have all street vacations initiated by a Rule 16 Motion presented by the Chair and Vice Chair of the Public Works Committee requesting a report back. The elements that currently comprise the

reason for each trip to Council would be combined, i.e., the Bureau of Engineering would transmit the City Engineer's report, a Notice of Public Hearing with date left blank, and the Final Resolution to Vacate to the Public Works Committee. Once the Committee considers the City Engineer report, the Legislative Assistant will set the date for Council consideration allowing for sufficient lead time to publish the Notice of Public Hearing as required by State law. The Bureau of Engineering would continue to post the site, and would send a copy of the Notice of Public Hearing to all interested parties.

The new process would negate the need for an Ordinance of Intention. The City Attorney stated, for the record, that the proposed new process is in compliance with California Street and Highways Code Section 8320. This law requires the publication of a notice of public hearing and posting of the site at least two weeks in advance of the hearing. The City Attorney was requested to place a written opinion with regard to replacing the Ordinance of Intention with a Notice of Public Hearing on the Council file prior to its consideration by the Council.

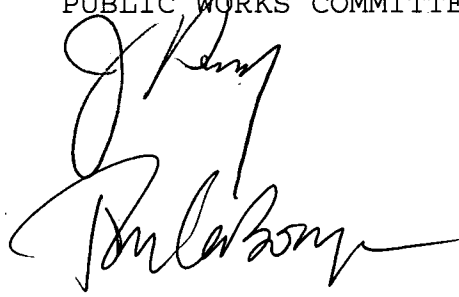
The last area the City Engineer would like to revise is LAAC, Section 7.46, which exempts governmental agencies from certain provisions, including payment of fees and time limits to complete conditions of approval. It is estimated that there are over 100 open files more than 10 years old that have not been followed through on and completed by various agencies due to their claim that they are exempt from the 5-year time limit. The accompanying draft Ordinance modifies the LAAC to eliminate the governmental agency exemption related to the time limit for completing conditions and vacation proceedings.

These changes would shorten the street vacation process that currently takes from two to eight years to complete to a maximum of a year (see Transmittal No. 1, attached to this report).

The PW Committee concurred with the Department's recommendations and forwarded the matter to Council for its consideration.

Respectfully submitted,

PUBLIC WORKS COMMITTEE



**RPT & ORD.
ADOPTED**

MAR 05 2002

LOS ANGELES CITY COUNCIL

ATTACHMENT

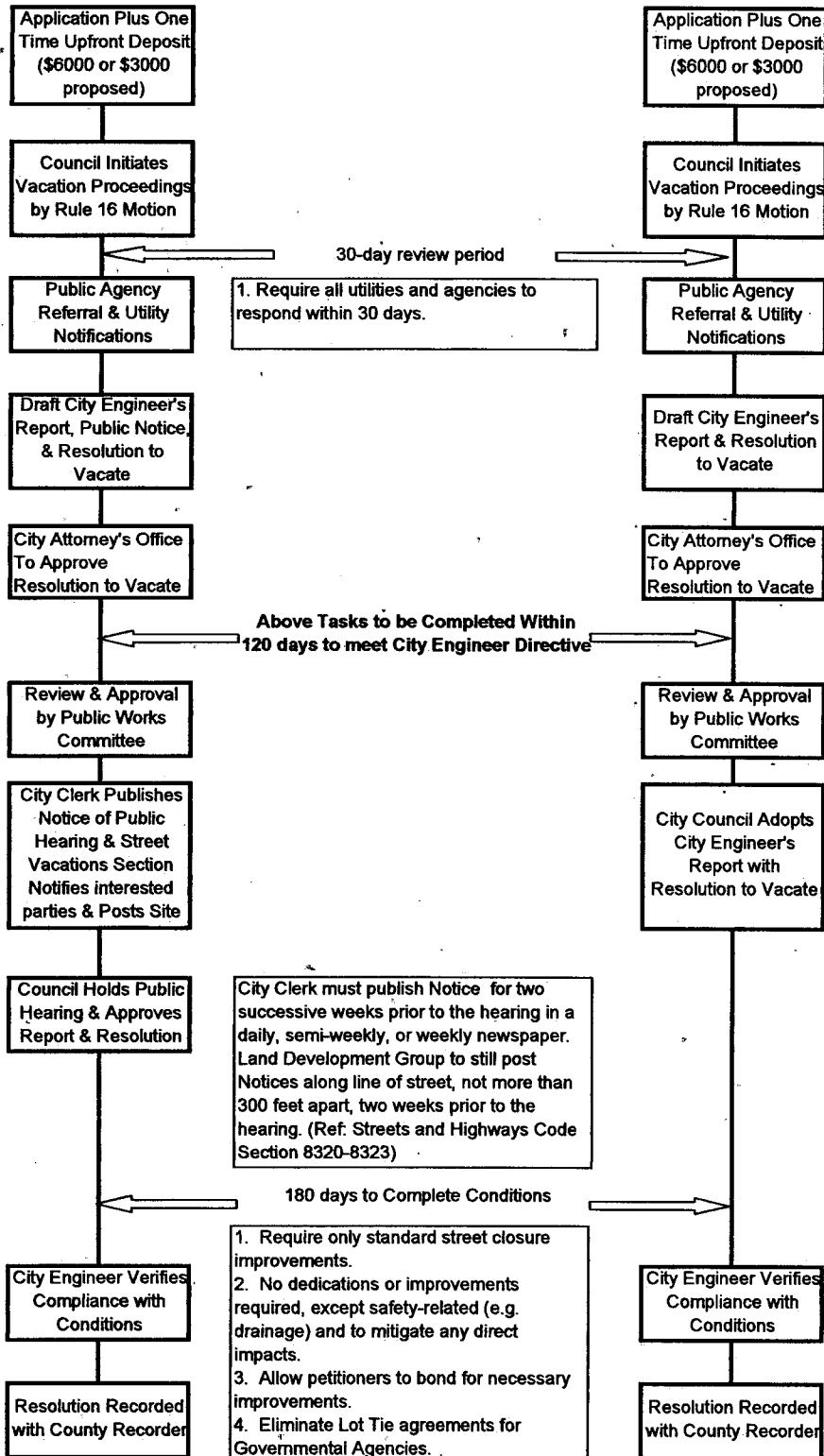
CAL
3/1/02
#011459



Serving the Present, Designing for the Future

**Revised Non-Summary (Improved Street)
Street Vacation Proceedings**

Revised Summary (Unimproved Street) Street Vacation Proceedings



COUNCIL VOTE

Mar 5, 2002 10:42:54 AM, #5

Items for Which Public Hearings Have Been Held - Items 3-12

Voting on Item(s): 7-9

Roll Call

BERNSON	Yes
GALANTER	Yes
GARCETTI	Yes
HAHN	Yes
HOLDEN	Yes
LABONGE	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PERRY	Yes
REYES	Yes
RIDLEY-THOMAS	Absent
WEISS	Yes
ZINE	Yes
*PADILLA	Yes
	Absent

Present: 13, Yes: 13 No: 0

PUBLIC WORKS COMMITTEE

SUGGESTED NOTIFICATION OF COUNCIL ACTION

Council File No. 01-1459

- Council Member(s) 9
- Petitioner/Communicant _____
- Board of Public Works (Mail Stop 465) _____
- Bureau of Accounting (Mail Stop 470) _____
- Bureau of Contract Administration (Mail Stop 480) _____
- Bureau of Engineering (Mail Stop 901) Land Development Group
- Bureau of Sanitation (Mail Stop 520) _____
- Bureau of Street Lighting (Mail Stop 545) _____
- Fire Department _____
- Police Department _____
- Controller _____
- Mayor (with/without file) _____
- Chief Legislative Analyst _____
- City Administrative Officer _____
- City Attorney with (without file)
- City Clerk main office mail H. Jenkins
- DOT, Liability Claims Management & Citywide Investigation Section (Mail Stop 725)
- _____
- _____

RECEIVED
CITY CLERK'S OFFICE

2002 MAR -4 AM 9:04

CITY CLERK
BY _____
DEPUTY



(213) 485-5410
(213) 847-0399

OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO.
February 28, 2002

REPORT RE:

REQUEST FOR CITY ATTORNEY'S ADVICE REGARDING THE
LEGALITY OF CHANGING THE NOTICE REQUIREMENT OF THE
STREET VACATION PROCESS - COUNCIL FILE NO. 01-1459

Public Works Committee
200 North Spring Street, Room 395
Los Angeles, California 90013

Honorable Members:

At your February 13, 2002 hearing, you considered a recommendation by staff of the Department of Public Works to streamline the City's process for street vacations. State law requires the City to conduct a public hearing and to provide advance notice of such hearing. Staff proposed that the City be permitted to utilize a Notice of Hearing instead of an Ordinance of Intent to provide this notice. You asked this office to advise you whether state law permits such a change.

ISSUE:

Does California state law permit the City to change its street vacation process, as requested by the Department of Public Works, so that a Notice of Hearing can replace the Ordinance of Intent currently utilized by the City?

OPINION:

Yes. State law prescribes the content and manner of providing notice of a public hearing for a proposed street vacation. The City is not required to provide such notice by means of an ordinance.

PUBLIC WORKS

MAR 5 2002



DISCUSSION:

Where a state legislature has occupied a particular field of law, the City is preempted from legislating any local regulations inconsistent with the state law. (8 Witkin Sum. Cal. Law, Const. Law, section 794; In re Farrant (1960) 181 C.A. 2d 231, 234).

California Streets and Highways (Sts. & Hy.) Code Sections 8320 et seq., set forth the statutory procedure to accomplish a street vacation. According to Sts. & Hy. Code section 8320, a legislative body may initiate a street vacation on its own initiative or upon the request of an interested person. In either case, the clerk of the legislative body is required to administratively set a hearing and cause the publishing and posting of notices. Sts. & Hy. Code section 8320 further sets forth the requisite information that must be included in the notices, including but not limited to, a description of the street proposed to be vacated, and the date, hour, and place for the hearing regarding the proposed vacation. Sts. & Hy. Code section 8322 and 8323 set forth detailed requirements for publishing and posting these notices.

The City's regulations regarding street vacations are found in the Los Angeles Administrative Code (LAAC) sections 7.42 et seq. The LAAC does not regulate the notice or hearing requirements but provides for the fee schedule, government exemption, abandonment and termination of the street vacation process only. It has been a long standing practice of the City to utilize the Ordinance of Intent.

Since state law regulates the procedural process for street vacations, including who may initiate the process, and how and when notice must be given of the public hearing, the City is not required to proceed with the vacation process by ordinance. It is the opinion of this office that as long as the Notice of Hearing contains the elements specified by state law and is published and posted in the manner prescribed by state law, that the proposed change is permissible.

Very truly yours,

ROCKARD J. DELGADILLO, City Attorney

By 
CHRISTY NUMANO-HIURA
Deputy City Attorney

Conditions and vacation proceedings. Other current exemptions will remain unaffected.

CONCLUSION

The simplified street vacation process would lead to significantly less processing time and would substantially increase City cost recovery. The City Engineer has set a goal of processing street vacations within 120 days. This proposed process would enable the Bureau of Engineering to transmit all staff work and recommendations to the City Council within 120 days. The remainder of the process would also be greatly shortened with only one Council approval required and a minimal number of Conditions for the petitioner to clear.

The development community may have some early opposition to the concept of the City rejecting vacation applications related to significant development, however, their objectives can still be achieved through the subdivision map (tract map / parcel map) process. A fully streamlined street vacation process can only be achieved by separating out these complex and time consuming projects.

Respectfully Submitted,



VITALY B. TROYAN, P.E.
City Engineer

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

01-1459

CITY OF LOS ANGELES
CALIFORNIA



JAMES K. HAHN
MAYOR

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CITY CLERK
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Los Angeles, CA 90012
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General Information - (213) 978-1133
Fax: (213) 978-1040

HELEN GINSBURG
Chief, Council and Public Services Division

February 6, 2002

PUBLIC WORKS COMMITTEE

In accordance with Council Rules, communication from the City Engineer relative to Streamlined Street Vacation Process, was referred on February 6, 2002, to the PUBLIC WORKS COMMITTEE.

J. Michael Carey

City Clerk
amm
reports\020602.ltr



PUBLIC WORKS COMMITTEE

Report/~~Communication~~ for Signature

Council File Number 01-1459

Committee Meeting Date 2-13-02

Council Date 3-5-02

COMMITTEE MEMBER	YES	NO	ABSENT
Councilmember Jan Perry, Chair	✓		
Councilmember Tom LaBonge	✓		
Councilmember Pacheco			✓

Remarks streamlined street resector procedures
policy.

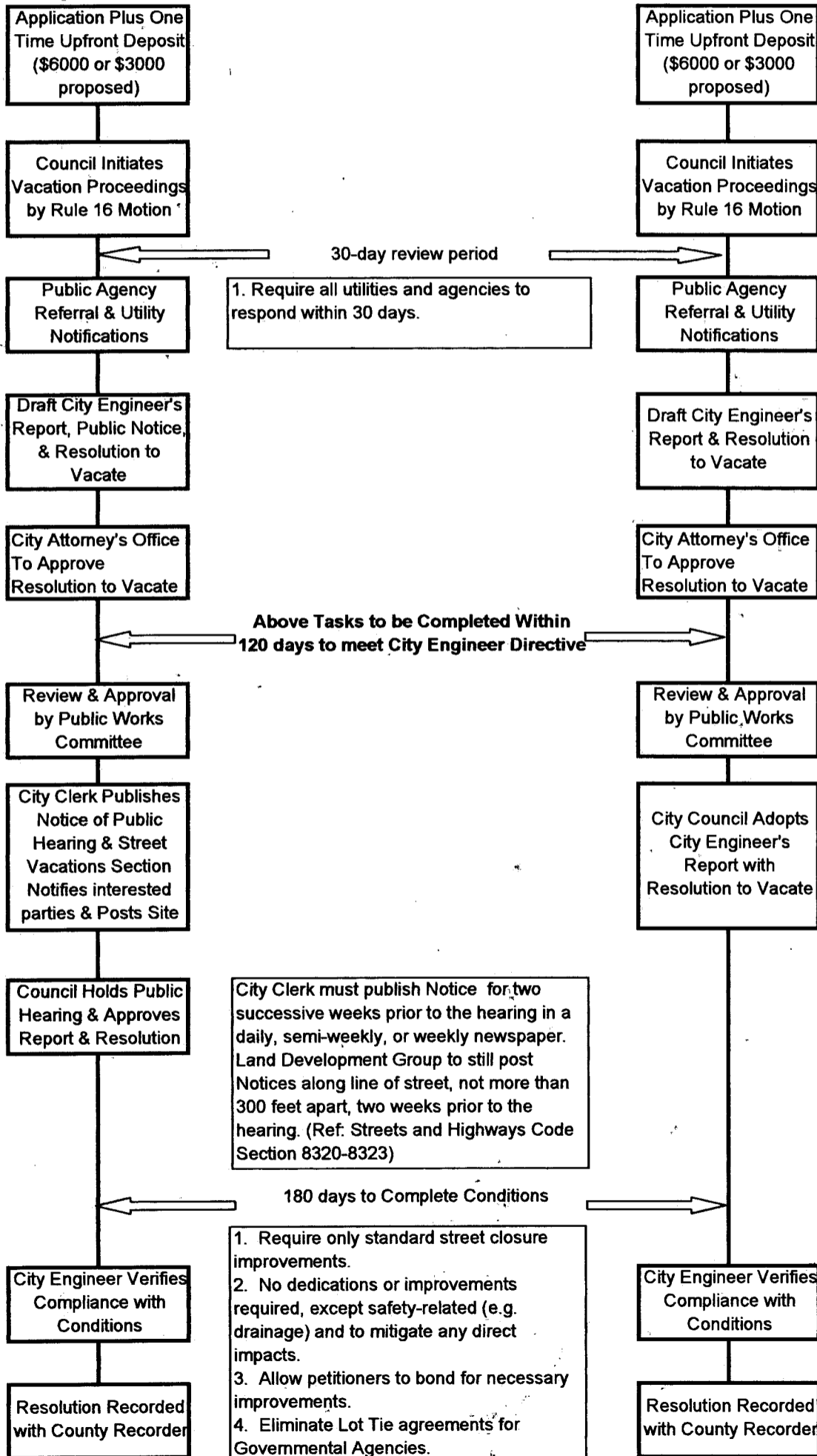
Cynthia Landis, Legislative Assistant ★★★★★ Telephone 213-978-1074

TRANSMITTAL NO. 1



**Revised Non-Summary (Improved Street)
Street Vacation Proceedings**

Revised Summary (Unimproved Street) Street Vacation Proceedings



TRANSMITTAL NO. 3

ORDINANCE NO.

An Ordinance amending Division 7, Chapter 1, Article 6, Sections 7.42, 7.43, 7.44, 7.46 and 7.48 of the Los Angeles Administrative Code, and Chapter 1, Article 6, Section 15.00D of Los Angeles Municipal Code, relating to streamlining the city street vacation proceedings.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Division 7, Chapter 1, Article 6, Section 7.42 of the Los Angeles Administrative Code is hereby deleted.

Section 2. Division 7, Chapter 1, Article 6, Section 7.43 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.43. Refund.

In the event the petition for vacation is withdrawn by petitioner or is denied by the City Council, petitioner shall be entitled to a refund of any unused deposits paid pursuant to Section 7.44 of this Code.

Section 3. Division 7, Chapter 1, Article 6, Section 7.44 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.44. Deposit to Cover Cost.

The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.

In the event that, immediately prior to the recordation of the final resolution, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.

Section 4. Division 7, Chapter 1, Article 6, Section 7.46 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.46. Government Agencies Exempted.

All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48, Termination of Vacation proceedings.

Section 5. Division 7, Chapter 1, Article 6, Section 7.48 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.48. Termination of Vacation Proceedings.

If the applicant does not satisfy all conditions required by the City Council within 180 days, together with an additional one time 180 days extension of the date for the public hearing as specified in the notice declaring the City's intention to vacate, all proceedings relating

thereto shall be terminated and any orders made after the public hearing shall be of no future force and effect. In the event the proceedings are thus terminated, the Department of Public Works, through its Bureau of Engineering, shall return the official files to the City Clerk for its appropriate action and no further action shall be required.

Section 6. Chapter 1, Article 6, Section 15.00D of the Los Angeles Municipal Code is amended as follows:

D. Time Limit.

The Commission shall make and file its report and recommendations on any petition, ordinance, order or resolution within 30 days of receipt of same. If the same be disapproved, the Director of Planning shall advise the Bureau or Department submitting the matter of its disapproval and reasons therefor within such 30-day period.

Section 7. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of Los Angeles at its meeting of _____.

J. MICHAEL CAREY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD DELGADILLO, City Attorney

By _____
Deputy

File No. _____

TRANSMITTAL NO. 2

Proposed New Procedures for Street Vacations Explanation of Steps in Processing a Vacation and Changes to Administrative Code

1. Application Plus One-Time Deposit

Require the applicant to fill out an application for the proposed vacation of a public right-of-way and, at the time of submittal, require the payment of a one-time processing deposit. This would require revising Division 7, Chapter 1, Article 6, Sections 7.42, Payment of Fees, 7.43, Refund, and 7.44, Deposit to Cover Cost. Section 7.42 provides for the payment of the present investigation fee. Section 7.43 provides for no refund of this fee when the petitioner withdraws its request for a vacation. Sections 7.42 needs to be deleted from the code. Sections 7.43 and 7.44 need to be revised as follows:

Section 7.43 Refund

“In the event the petition for vacation is withdrawn by petitioner or is denied by the City Council, no refund of any fees paid pursuant to section 7.44 of this code shall be made. petitioner shall be entitled to a refund of any unused deposits paid pursuant to Section 7.44 of this Code.”

Section 7.44 Deposit to Cover Cost

“In the event the petition for vacation is granted by the City Council and before the Bureau of Engineering performs any additional work in connection with vacation proceedings, the Department of Public Works, through the Bureau of Engineering, shall require the deposit of an additional amount, estimated by said Bureau to cover all of the estimated costs incurred and to be incurred by said Bureau incidental to said proceedings. In determining the amount of such deposit, petitioner or applicant shall be credited with fees already paid. The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.”

In the event that, immediately prior to the presentation-recordation of the final ordinance resolution to the City Council, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.”

2. Application Screening and Expedited Processing

At the time an application is submitted, the Bureau of Engineering (BOE) would make a determination whether the street vacation process is the appropriate vehicle for the project or not. The vacation process would be limited to the simpler projects such as walks, alleys, and single street vacations. Vacations of multiple streets or projects that would have significant impacts on the environment would no longer be handled through the street vacation process. These requests would be rejected and the petitioner would be instructed to file for a tract/parcel map in order to incorporate areas to be vacated into their property.

Applications would only be accepted as complete when submitted along with the processing deposit and a completed Environmental Assessment Form.

BOE would prepare a Rule 16 Motion to be presented in Council by the Chair and Vice Chair of the Public Works Committee to initiate the street vacation proceedings.

No code changes are proposed for handling the above administrative changes in policy.

3. Public Agency & Utility Referrals

BOE would send out referral letters to LADOT, Planning, BOE Districts, Fire, Bureau of Street Lighting, and Bureau of Street Services. All Agencies would be required to respond within 30 days as is for the City Planning Department. This would require revising Section 15.00 D of the Los Angeles Municipal Code. In our referral letters, agencies are notified of the 30-day time limit for a response and that the City Engineer's Report will reflect no input from non-responsive agencies.

Section 15.00D of the Los Angeles Municipal Code needs to be revised as follows:

"D. Time Limit. The Commission shall make and file its report and recommendations on any petition, ordinance, order or resolution within ~~50~~30 days of receipt of same. If the same be disapproved, the Director of Planning shall advise the Bureau or Department submitting the matter of its disapproval and reasons therefor within such ~~50~~30 -day period."

As part of the new procedure, we would not require significant conditions of the petitioner. Conditions would be limited to standard street improvements for closing off the vacated area, drainage correction and other safety-related issues. We would no longer require dedications for street widening or even for future street widening. These would be picked up during the development phase of the project, if applicable.

4. Draft City Engineer's Report along with a Notice and Resolution

After the 30-day referral period has expired, the Vacations Section would draft the City Engineer's Report. The Vacations Section would also draft a new form, "Notice of Public Hearing," to be used by the City Clerk for scheduling a Public Hearing for

the City Engineer's Report and the Resolution to Vacate. The City Engineer's Report would contain a recommendation that the City Clerk be instructed to publish notification for the hearing. This is a major departure from our present policy in which an Initial Report is taken to the Public Works Committee for approval. After a second fee is collected, an Ordinance of Intention is written and then taken back to Council along with the report for approval. After approval, the City Clerk publishes the Ordinance of Intention in the newspaper as notification for the Public Hearing. The Street and Highways Code Section 8320 requires the publishing and posting of a notice for public hearing. State Law requires the notice to have a description of the street, highway, or public service easement proposed to be vacated along with a reference map and a statement that this notice is being given per this section of the code. The notice also must state the date, time, and place for the hearing.

The new procedure assumes that the City Clerk would publish a "Notice of Public Hearing" in lieu of an Ordinance of Intention. By allowing us to omit the Ordinance of Intention, we would be able to have only one hearing in lieu of the current four trips to Council. At this hearing, the report and Resolution would be approved by the Council.

No Code changes are proposed to initiate these changes.

5. Review and Approval by the Public Works Committee

The Public Works Committee would review and approve the scheduling of a Public Hearing, the Notification for Public Hearing, the City Engineer's Report, and the Resolution to Vacate. Upon approval of these items, the City Clerk would schedule a public hearing for the proposed vacation. The report and Resolution would be forwarded to the full Council for a public hearing and approval. Under our present procedure, the Public Works Committee would only approve and forward the City Engineer's Initial Report to the full Council.

No code changes are proposed to initiate these changes in procedures.

6. Publication and Posting of Notice of Public Hearing

Upon Public Works Committee approval, the City Clerk would be instructed to publish the Notice of Public Hearing in accordance with Street and Highways Code Section 8322. The code requires the publishing of the Notice for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper. The Street Vacations Section also posts the proposed area to be vacated in accordance with Section 8323. The code requires the posting of notices "along the line" of the street for at least two weeks before the date set for the hearing. The notices also need to be posted not more than 300 feet apart with at least three notices posted. If the length of a street exceeds a mile, three notices at a minimum need to be posted, two at both ends where the street intersects with another and at the midpoint.

“Notice of Public Hearing” would be substituted for an “Ordinance of Intention.” No other changes are proposed to this procedure since it is mandated by State Law.

7. Council Holds Public Hearing and Adopts City Engineer’s Report and Resolution to Vacate

The City Council would hold a hearing to listen to any public comments. At the conclusion of the hearing, the Council would approve both the City Engineer’s Report and the Resolution to Vacate. Previously, the Council would approve, at separate times, the Engineer’s Report, Ordinance of Intention, Vacation (after the Public Hearing), and the Final Resolution (upon completion of conditions). This required three separate reports and many months of scheduling delays.

Under the revised procedure, the Resolution would be written prior to its initial presentation to the Public Works Committee and adopted at this hearing. The Council would instruct the City Engineer to have the resolution recorded with the County Recorder upon completion of the conditions.

No code changes are proposed to implement these changes in procedure.

8. City Engineer Verifies Compliance

The City Engineer would be responsible for verifying that the conditions of approval have been met by the petitioner. This does not represent a change from our present procedures.

In the past, we would allow the petitioner 5 years from the date of the hearing to complete conditions. Recently, we have cut this period to two years. We propose to cut this time to 180 days. We would accomplish this by only requiring standard street improvements for closing the vacated area (curb, gutter, and sidewalk). We would require safety-related improvements for drainage correction or to mitigate any other direct impacts of the vacation. We would allow for the bonding of necessary improvements. We would not require dedications, the planting of street trees or streetlights. The assumption is that these improvements would be picked up during the development phase, if it occurs. As for the removal of utility facilities, we would still require clearances from the responding agencies.

Section 7.48 of the City Administrative Code needs to be revised as follows:

“If the applicant does not satisfy all conditions required by the City Council within 5 years-180 days, together with an additional one time 180 days extension of the date for the public hearing as specified in the ~~ordinance~~ notice declaring the City’s intention to vacate, all proceedings relating thereto shall be terminated ~~and said ordinance~~ and any orders made after the public hearing shall be of no future force and effect. In the event the proceedings are thus terminated, the Department of Public

Works, through its Bureau of Engineering, shall return the official files to the City Clerk for ~~his~~ its appropriate action and no further action shall be required.”

9. Record Resolution

After the Bureau of Engineering verifies completion of the conditions, the Resolution to Vacate would be sent to the County Recorder for recordation. After recordation, the work order would be closed.

10. Other Changes

We would also delete from the Administrative Code the exemption of Government Agencies from the time limit to complete conditions. Many of the files that are in our backlog are requests from governmental agencies, which refuse to complete their conditions because they are supposedly exempt. A clause would be added to Section 7.46 of the Administrative Code as follows:

“All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48. Termination of Vacation Proceedings.”

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705
Fax: (213) 847-0636
Fax: (213) 485-8944

HELEN GINSBURG
Chief, Council and Public Services Division

01-1459

July 12, 2001

PUBLIC WORKS COMMITTEE

In accordance with Council Rules, communication from the City Engineer relative to streamlined street vacation process, was referred on July 12, 2001, to the PUBLIC WORKS COMMITTEE.

J. Michael Carey

City Clerk
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reports\071201.ltr



RECEIVED
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Office of the City Engineer

2002 FEB -6 AM 6:40 Los Angeles, California

CITY CLERK

BY _____
DEPUTY

To the Public Works Committee
Of the Honorable City Council
Of the City of Los Angeles

FEB 05 2002

Honorable Members:

C.D. - ALL

SUBJECT:

Streamlined Street Vacation Process

RECOMMENDATIONS:

- gf
- A. That the City Council approve the revised procedures for processing street vacations as described in this report.
 - B. That the City Engineer, with the assistance of the City Attorney, be instructed to present the enabling Ordinances to the City Council.

TRANSMITTAL:

- 1. Flowchart of Revised Street Vacation Process.
- 2. Explanation of steps in processing a street vacation under the proposed new procedures.
- 3. Draft ordinance relating to streamlining of the street vacation proceedings.

FISCAL IMPACT STATEMENT:

The streamlined street vacation process would lead to significant less processing time in various City departments and would substantially increase Bureau of Engineering cost recovery in processing a street vacation application.

DISCUSSION:

The current street vacation process is overly-complex and costly to both the petitioners and the City. There are currently 500 active files, many opened in the 1970s and 1980s. Most of these projects have stalled because outstanding fees have not been paid, the petitioner has not complied with dedication and improvement conditions, or the original applicant has moved and there has been

PUBLIC WORKS

FEB 6 2002

no follow up. The general perception is that it takes 2-3 years to complete a street vacation. However, over the past year approximately 20 vacations have been completed with a median processing time of 7-1/2 years and an average of 8-3/4 years. **This is obviously unacceptable!**

A streamlined street vacation process is proposed at this time with three main goals:

- (1) To substantially reduce the processing time involved.
- (2) To reduce the cost to the petitioner.
- (3) To maximize the City's cost recovery.

There are six areas under the current process that have been targeted for restructuring:

(1) Fees

Current Process

The petitioner is required to pay up to three different fees during the process. A non-refundable "Investigation Fee" authorized by Administrative Code Section 7.42 is required at the time the application has been accepted by the City Engineer. This fee is calculated based on the proposed vacation area, averaging \$1,000 - \$1,500. Upon receipt of this fee, a work order is established. All City time spent coordinating interagency review, conducting investigations and preparing the City Engineer's (CE) Report is charged to the project.

Upon Council's adoption of the CE Report, the petitioner is sent a request letter for a second fee, "Processing Fee", authorized by Section 7.44 of the Administration Code. The Processing Fee is calculated based on actual charges to the project and an estimate of City costs to complete the vacation. This fee typically ranges from \$5,000 - \$8,000 and can sometimes be significantly more.

The third fee, a "Deficit Fee", also authorized under Section 7.44 of the Administrative Code, is required of the petitioner at the end of the process if there are still outstanding charges. This payment is due before the final Resolution to Vacate is presented to the City Council.

Problem

The up-front Investigation Fee is relatively nominal (averaging \$1,000 - \$1,500) and does not come close to covering City costs incurred in preparing the Initial City Engineer's Report (usually \$5,000 - \$8,000). Although the petitioner is clearly informed on the application and in the up-front letter requesting the

Investigation Fee that a larger Processing Fee will be required later along with potentially expensive Conditions of approval, ***this is where many projects get stalled; waiting for the Processing Fee payment.*** Many petitioners seem to be especially surprised by the cost of conditions established during the investigation and which are first published and approved by Council in the Initial City Engineer's Report. If the petitioner decides not to pursue the project at this point, the City ends up absorbing most of the sunk cost.

Revised Process ** (Ordinance Required)

An up-front deposit is proposed in lieu of the Investigation Fee and the Processing Fee. The deposit amounts are proposed to be \$6,000, and \$3,000 for minor vacation. Any remaining amount in excess of costs would be refunded to the petitioner at the end of the process, whether the vacation is approved and recorded, denied or cancelled. If an additional amount is required to cover actual costs, a "Deficit Fee" would be requested from the petitioner. Staff has determined that a \$6,000 up-front deposit would be sufficient to cover a large majority of cases. However, this would be reviewed on an annual basis. It is requested that the Council authorize the City Engineer to adjust the deposit amount as necessary. Draft wording for the enabling Ordinance is provided in Transmittal No. 3.

(2) Expedited Application Processing

Current Process

The petitioner submits an application along with a sketch showing the proposed vacation area. The application is **not** accepted at this time. When available, a staff engineer reviews the application for feasibility, which may require a preliminary field investigation. If determined feasible, the Investigation Fee letter is sent to the petitioner requesting payment within 4 months. A work order is not opened and a preliminary map is not prepared by the Bureau of Engineering (BOE) until this fee has been received. BOE then conducts a preliminary investigation to determine the affected agencies and sends out referral letters with a map to these agencies and to adjacent property owners.

Problem

It takes several weeks (sometimes months) just to get to the point where agency referrals can be sent out. A new process is needed that will allow applications to be accepted as complete upon receipt so that agency referrals and other notifications can be sent out as soon as possible.

Revised Process

The petitioner would now be required to pay a deposit before an application will be accepted. If the vacation area is more than 10,000 square feet, a completed Environmental Assessment Form will also be required before the application is accepted. Bureau of Engineering staff would review the application upon receipt (no field investigation). If the request is found to be "potentially feasible", a vacation map would be prepared and agency referrals would be sent out within a week.

(3) Application Screening and Elimination of Most Conditions

Current Process

When an application is submitted, a limited, preliminary investigation is made to determine if the proposal is feasible without regard to the amount of the vacation area or what mitigating conditions might be imposed. Unless the project is determined clearly infeasible, the application is accepted for processing.

Dedication and improvement conditions are imposed on vacations as with other discretionary actions. Dedications are required along the petitioner's property to meet adopted street standards. Street widening may be recommended where it will be a benefit, along with planting of street trees, installation of street lights, repair of curb, gutter and sidewalk, and correction of potential drainage problems. The petitioner is given 5 years after the Public Hearing to clear the conditions of approval.

Problem

Street vacation applications currently range from petitions to abandon "paper" streets and alleys and small street easements that are clearly not needed for public use to several active public streets that are proposed to be incorporated into a large development project. Determining, implementing and clearing dedication and improvement conditions in conjunction with street vacations is a major source of delays on the petitioner's end and a drain on limited City staff resources. The street vacation process should only be used for relatively simple cases that are not intended to facilitate significant development and where substantial mitigation measures are not required.

Revised Process ** (Ordinance required)

In order to process vacations in a timely manner, it is recommended that street dedication and various improvement conditions be minimized. These would only be required when necessary to address safety-related concerns (for example, to correct drainage impacts) and as needed to mitigate any impacts that the vacation would directly create, if any. Posting of bonds to guarantee improvements would be accepted in most cases. The Administrative Code would be revised to allow the petitioner 180 days together with an one time, 180 days extension, after the Council Hearing to clear conditions of approval, in lieu of the current 5 years.

It is proposed that the street vacation process be reserved only for simple projects that are not intended to facilitate significant development and/or which would not require significant mitigation conditions. Street vacation in conjunction with development project exceeding the thresholds as set forth in Section 16.05 of the Los Angeles Municipal Code may be rejected. Applications to vacate over 10,000 square feet of improved right-of-way or to facilitate a project that would require a Negative Declaration or Environmental Impact Report would be rejected. The petitioner would be instructed to apply for a Tract or Parcel Map (Merger and Resubdivision) with City Planning if they wish to proceed.

4) Public Agency Review

Current Process

Upon receipt of the up-front Investigation Fee, referrals are sent to affected City Departments, outside governmental agencies and utility companies. The Bureau of Engineering's cover letter asks for a written response within 50 days. The LA Municipal Code Section 15.00.D requires that City Planning be given a 50 day review period.

Problem

Despite the 50-day deadline, responses from several City and outside agencies are taking longer than ever before. Some of these responses are being received 6 months or more after the original requests are sent. Utilities are often slow to respond to referrals and are also often slow to clear the petitioner's conditions related to required protection or relocation of their existing facilities.

Revised Process ** (Ordinance required)

In order to process vacation in a timely manner, it is recommended that the review period for city and outside agencies be shortened. The LA Municipal Code Section 15.00D would be revised to allow City Planning Department a 30 days review period. A firm deadline of 30 days would be enforced for agency response. This would be explained in the referral letters. If Bureau of Engineering records indicate that utility facilities exist, a condition to obtain clearance from the utility will be included in the City Engineer's Report. Otherwise, the Report would reflect "no opposition" and/or "no affected facilities" for responses not received before the deadline.

(5) Consolidate Council Approvals from 4 to 1

Current Process

The City Engineer's Report, which is transmitted to the Public Works Committee, only recommends that Council *initiate* vacation proceedings (or deny) and establish conditions of approval. The Committee's recommendations are then forwarded to the full Council for approval (1st trip to Council). Once the petitioner has paid the "Processing Fee", an Ordinance of Intention is prepared by the Bureau of Engineering, signed by the City Attorney and transmitted to the Council for approval (2nd trip to Council). A Public Hearing date is set upon adoption of the Ordinance. The Public Hearing is held at Council approximately 60 days later where protests are heard and the Council is asked to approve or disapprove the vacation (3rd trip to Council). If approved and after the Conditions of Approval have been cleared, the Bureau of Engineering transmits a final Resolution to Vacate to the Council for adoption (4th trip).

Problem

A substantial amount of processing time is currently spent writing staff reports and scheduling separate approval items for City Council meetings. A revised process is needed that enables all of the necessary Council approvals to be obtained at one time while assuring that thorough City review and full compliance with State Law regarding public notification and public input are maintained. This consolidation of approvals will mean cost savings to the petitioner and to the City.

Revised Process

When a street vacation application is submitted, the City Council initiates the vacation process by a Rule 16 motion presented by the Chair and Vice Chair of

the Public Works Committee directing the City Engineer to investigate the application and report to the Public Works Committee. Along with the City Engineer's Report, the Bureau of Engineering would transmit a "Notice of Public Hearing" and the Final Resolution to Vacate to the Public Works Committee. The City Engineer's Report would include a Recommendation that the City Clerk be instructed to set a date for a Public Hearing at Council and to publish the Public Notice. Another Recommendation would be included to adopt the Resolution to Vacate and to instruct the Bureau of Engineering to record it when all of the Conditions have been complied with. Only one trip to Council will be made. At this one meeting, Council would hear any protest, adopt recommendations to approve the City Engineer's Report, approve the vacation, and adopt the Resolution to Vacate. The Bureau of Engineering would then insure that all conditions are complied with before recording the Resolution but would not report back to Council.

This proposed new process is in compliance with California Street and Highways Code Section 8320. This law requires the publishing of a notice of public hearing and posting of the site at least two weeks in advance of the hearing. The Bureau of Engineering would still post the site as is currently done. Replacing the current process of publishing an "Ordinance of Intention" with a "Notice of Public Hearing" is consistent with State Law and is a key to being able to streamline the current process and substantially reduce processing time.

(6) Hold governmental agencies to the same time limits as other petitioners

Current Process

Section 7.46 of the Administrative Code exempts governmental agencies from certain provisions, including payment of fees and time limits to complete conditions of approval.

Problem

Many of these governmental agencies do not follow through and complete vacation proceedings. Often, after initial Council approval, they will apply for a Revocable Permit to encroach in the vacated area and will not complete the established Conditions. They claim they are exempt from the 5-year time limit, citing the exemption provided under Section 7.46 of the City Administrative Code. It is estimated that there are over 100 open files more than 10 years old that fall into this category.

Revised Process ** (Ordinance Required)

Section 7.46 of the Administrative Code would be modified to eliminate the governmental agency exemption related to the time limit for completing

CF 01-1459
Office of the City Engineer
Los Angeles, California

To the Public Works Committee
Of the Honorable City Council
Of the City of Los Angeles
Honorable Members:

JUN 27 2001

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BY C.D. DEPUTY

SUBJECT:

Streamlined Street Vacation Process

RECOMMENDATIONS:

- A. That the City Council approve the revised procedures for processing street vacations as described in this report.
- B. That the City Engineer, with the assistance of the City Attorney, be instructed to present the enabling Ordinances to the City Council.

TRANSMITTAL:

- 1. Flowchart of Revised Street Vacation Process.
- 2. Explanation of steps in processing a street vacation under the proposed new procedures.

DISCUSSION:

The current street vacation process is overly-complex and costly to both the petitioners and the City. There are currently 500 active files, many opened in the 1970s and 1980s. Most of these projects have stalled because outstanding fees have not been paid, the petitioner has not cleared dedication and improvement conditions or the original applicant has moved and there has been no follow up. The general perception is that it takes 2-3 years to complete a street vacation, however, over the past year approximately 20 vacations have been completed with a median processing time of 7-1/2 years and an average of 8-3/4 years. **This is obviously unacceptable!**

A streamlined street vacation process is proposed at this time with three main goals:

PUBLIC WORKS

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- (1) To substantially reduce the processing time involved.
- (2) To reduce the cost to the petitioner.
- (3) To maximize the City's cost recovery.

There are six areas under the current process that have been targeted for restructuring:

(1) **Fees**

Current Process

The petitioner is required to pay up to three different fees during the process. A non-refundable "Investigation Fee" authorized by Administrative Code Section 7.42 is required at the time the application has been accepted by the City Engineer. This fee is calculated based on the proposed vacation area, averaging \$1,000 - \$1,500. Upon receipt of this fee, a work order is established. All City time spent coordinating interagency review, conducting investigations and preparing the City Engineer's (CE) Report is charged to the project.

Upon Council's adoption of the CE Report, the petitioner is sent a request letter for a second fee, "Processing Fee", authorized by Section 7.44 of the Administration Code. The Processing Fee is calculated based on actual charges to the project and an estimate of City costs to complete the vacation. This fee typically ranges from \$5,000 - \$8,000 and can sometimes be significantly more.

The third fee, a "Deficit Fee", also authorized under Section 7.44 of the Administrative Code, is required of the petitioner at the end of the process if there are still outstanding charges. This payment is due before the final Resolution to Vacate is presented to the City Council.

Problem

The up-front Investigation Fee is relatively nominal (averaging \$1,000 - \$1,500) and does not come close to covering City costs incurred in preparing the Initial City Engineer's Report (usually \$5,000 - \$8,000). Although the petitioner is clearly informed on the application and in the up-front letter requesting the Investigation Fee that a larger Processing Fee will be required later along with potentially expensive Conditions of approval, ***this is where many projects get stalled; waiting for the Processing Fee payment.*** Many petitioners seem to be especially surprised by the cost of conditions established during the investigation and which are first published and approved by Council in the Initial City Engineer's Report. If the petitioner decides not to pursue the project at this point, the City could end up absorbing most of the sunk cost.

Revised Process ** (Ordinance Required)

An up-front deposit is proposed in lieu of the Investigation Fee and the Processing Fee. The deposit amount is proposed to be \$6,000. Any remaining amount in excess of costs would be refunded to the petitioner at the end of the process, whether the vacation is approved and recorded, denied or cancelled. If an additional amount is required to cover actual costs, a "Deficit Fee" would be requested from the petitioner. Staff has determined that a \$6,000 up-front deposit would be sufficient to cover a large majority of cases, however, this would be reviewed on an annual basis. It is requested that the Council authorize the City Engineer to adjust the deposit amount as necessary. Draft wording for the enabling Ordinance is provided in Transmittal No. 2.

(2) Expedited Application Processing

Current Process

The petitioner submits an application along with a sketch showing the proposed vacation area. The application is **not** accepted at this time. When available, a staff engineer reviews the application for feasibility, which may require a preliminary field investigation. If determined potentially feasible, the Investigation Fee letter is sent to the petitioner requesting payment within 4 months. A work order is not opened and a preliminary map is not prepared by the Bureau of Engineering (BOE) until this fee has been received. BOE then conducts a preliminary investigation to determine who the possibly-affected agencies are and sends out referral letters with a map to these agencies and to adjacent property owners.

Problem

It takes several weeks (sometimes months) just to get to the point where agency referrals can be sent out. A new process is needed that will allow applications to be accepted as complete upon receipt so that agency referrals and other notifications can be sent out as soon as possible.

Revised Process

The petitioner would now be required to pay a deposit before an application will be accepted. If the vacation area is more than 10,000 square feet, a completed Environmental Assessment Form will also be required before the application is accepted. Bureau of Engineering staff would review the application upon receipt (no field investigation). If the request is found to be "potentially feasible", a vacation map would be prepared and agency referrals would be sent out within a week.

(3) Application Screening and Elimination of Most Conditions

Current Process

When an application is submitted, a limited, preliminary investigation is made to determine if the proposal is feasible without regard to the amount of the vacation area or what mitigating conditions might be imposed. Unless the project is determined clearly infeasible, the application is accepted for processing.

Dedication and improvement conditions are imposed on vacations as with other discretionary actions. Dedications are required along the petitioner's property to meet adopted street standards. Street widening may be recommended where it will be a benefit along with planting of street trees, installation of street lights, repair of curb, gutter and sidewalk and correction of potential drainage problems. The petitioner is given 5 years after the Public Hearing to clear the conditions of approval.

Problem

Street vacation applications currently range from petitions to abandon "paper" streets and alleys and small street easements that are clearly not needed for public use to several active public streets that are proposed to be incorporated into a large development project. Determining, implementing and clearing dedication and improvement conditions in conjunction with street vacations is a major source of delays on the petitioner's end and a drain on limited City staff resources. The street vacation process should only be used for relatively simple cases that are not intended to facilitate significant development and where substantial mitigation measures are not required.

Revised Process ** (Ordinance required)

In order to process vacations in a timely manner, it is recommended that street dedication and various improvement conditions be minimized. These would only be required when necessary to address safety-related concerns (for example, to correct drainage impacts) and as needed to mitigate any impacts that the vacation would directly create, if any. Posting of bonds to guarantee improvements would be accepted in most cases. The Administrative Code would be revised to allow the petitioner 180 days after the Council Hearing to clear conditions of approval, in lieu of the current 5 years.

It is proposed that the street vacation process be reserved only for simple projects that are not intended to facilitate significant development and/or which would not require significant mitigation conditions. Applications to vacate over 10,000 square feet of improved right-of-way or to facilitate a project that would require a Negative Declaration or Environmental Impact Report would be

rejected. The petitioner would be instructed to apply for a Tract or Parcel Map (Merger and Resubdivision) with City Planning if they wish to proceed.

(4) Public Agency Review

Current Process

Upon receipt of the up-front Investigation Fee, referrals are sent to affected City Departments, outside governmental agencies and utility companies. The Bureau of Engineering's cover letter asks for a written response within 50 days. The LA Municipal Code Section 15.00.D requires that City Planning be given a 50 day review period.

Problem

Despite the 50-day deadline, responses from several City and outside agencies are taking longer than ever before. Some of these responses are being received 6 months or more after the original requests are sent. Utilities are often slow to respond to referrals and are also often slow to clear the petitioner's conditions related to required protection or relocation of their existing facilities.

Revised Process

A firm deadline of 50 days would be enforced for agency response. This would be explained in the referral letters. If Bureau of Engineering records indicate that utility facilities exist, a condition to obtain clearance from the utility will be included in the City Engineer's Report. Otherwise, the Report would reflect "no opposition" and/or "no affected facilities" for responses not received before the deadline.

(5) Consolidate Council Approvals from 4 to 1

Current Process

The City Engineer's Report, which is transmitted to the Public Works Committee, only recommends that Council *initiate* vacation proceedings (or deny) and establish conditions of approval. The Committee's recommendations are then forwarded to the full Council for approval (1st trip to Council). Once the petitioner has paid the "Processing Fee", an Ordinance of Intention is prepared by the Bureau of Engineering, signed by the City Attorney and transmitted to the Council for approval (2nd trip to Council). A Public Hearing date is set upon adoption of the Ordinance. The Public Hearing is held at Council approximately 60 days later where protests are heard and the Council is asked to approve or disapprove the vacation (3rd trip to Council). If approved and after the Conditions of Approval have been cleared, the Bureau of Engineering transmits a final Resolution to Vacate to the Council for adoption (4th trip).

Problem

A substantial amount of processing time is currently spent writing staff reports and scheduling separate approval items for City Council meetings. A revised process is needed that enables all of the necessary Council approvals to be obtained at one time while assuring that thorough City review and full compliance with State Law regarding public notification and public input are maintained. This consolidation of approvals will mean cost savings to the petitioner and to the City.

Revised Process

Along with the City Engineer's Report, the Bureau of Engineering would transmit a "Notice of Public Hearing" and the Final Resolution to Vacate to the Public Works Committee. The City Engineer's Report would include a Recommendation that the City Clerk be instructed to set a date for a Public Hearing at Council and to publish the Public Notice. Another Recommendation would be included to adopt the Resolution to Vacate and to instruct the Bureau of Engineering to record it when all of the Conditions have been complied with. Only one trip to Council will be made. At this one meeting, Council would hear any protests, adopt recommendations to approve the City Engineer's Report, approve the vacation, and adopt the Resolution to Vacate. The Bureau of Engineering would then insure that all conditions are complied with before recording the Resolution but would not report back to Council.

This proposed new process is in compliance with California Street and Highways Code Section 8320. This law requires the publishing of a notice of public hearing and posting of the site at least two weeks in advance of the hearing. The Bureau of Engineering would still post the site as is currently done. Replacing the current process of publishing an "Ordinance of Intention" with a "Notice of Public Hearing" is consistent with State Law and is a key to being able to streamline the current process and substantially reduce processing time.

(6) Hold governmental agencies to the same time limits as other petitioners

Current Process

Section 7.46 of the Administrative Code exempts governmental agencies from certain provisions, including payment of fees and time limits to complete conditions of approval.

Problem

Many of these governmental agencies do not follow through and complete vacation proceedings. Often, after initial Council approval, they will apply for a Revocable Permit to encroach in the vacated area and will not complete the established Conditions. They claim they are exempt from the 5-year time limit, citing the exemption provided under Section 7.46 of the City Administrative Code. It is estimated that there are over 100 open files more than 10 years old that fall into this category.

Revised Process ** (Ordinance Required)

Section 7.46 of the Administrative Code would be modified to eliminate the governmental agency exemption related to the time limit for completing Conditions and vacation proceedings. Other current exemptions will remain unaffected.

CONCLUSION

The simplified street vacation process would lead to significantly less processing time and would substantially increase City cost recovery. The City Engineer has set a goal of processing street vacations within 120 days. This proposed process would enable the Bureau of Engineering to transmit all staff work and recommendations to the City Council within 120 days. The remainder of the process would also be greatly shortened with only one Council approval required and a minimal number of Conditions for the petitioner to clear.

The development community may have some early opposition to the concept of the City rejecting vacation applications related to significant development, however, their objectives can still be achieved through the subdivision map (tract map / parcel map) process. A fully streamlined street vacation process can only be achieved by separating out these complex and time consuming projects.

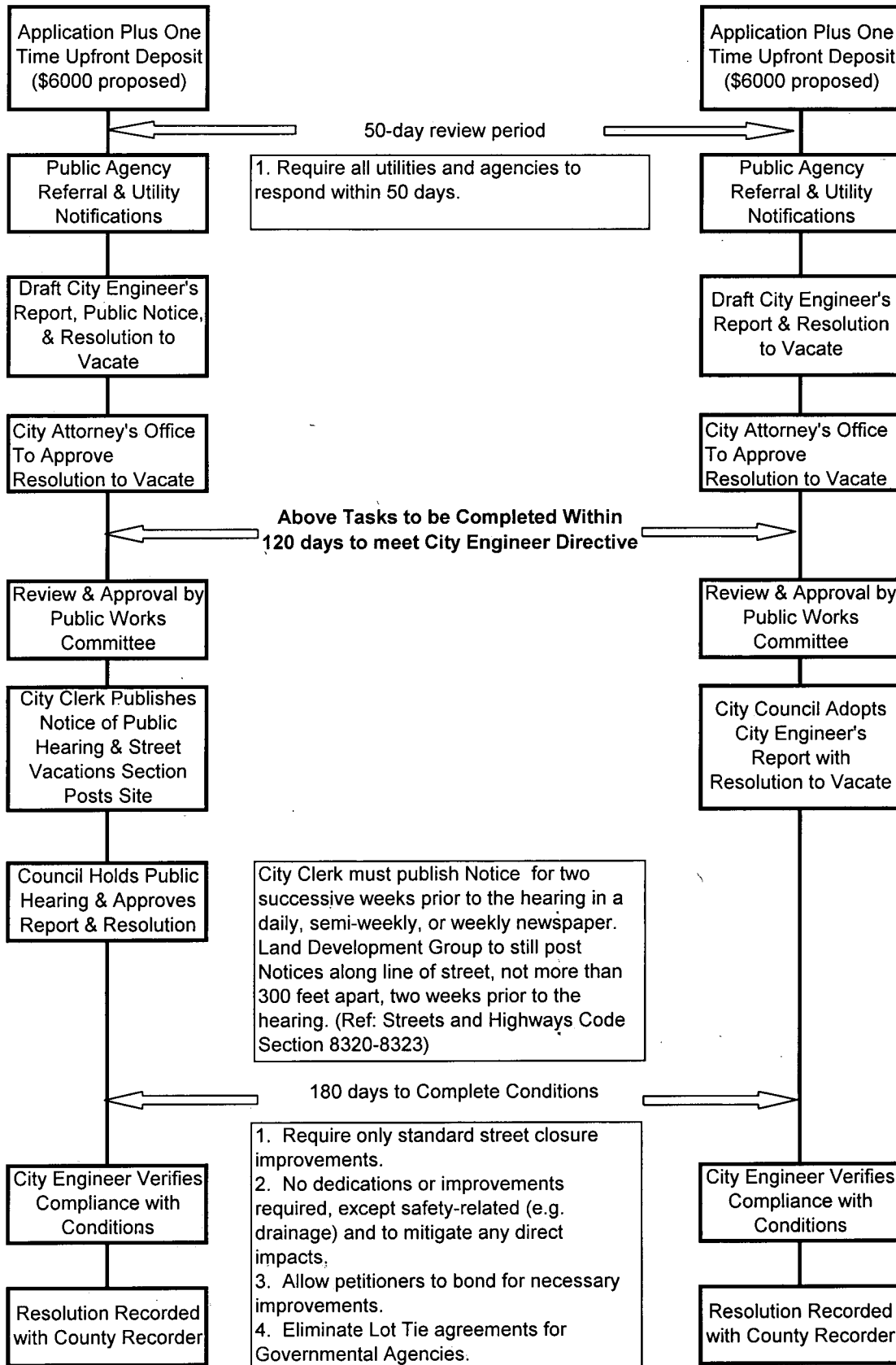
Respectfully Submitted,


VITALY B. TROYAN, P.E.
City Engineer

TRANSMITTAL NO. 1

Revised Non-Summary Street Vacation Proceedings

Revised Summary Street Vacation Proceedings



TRANSMITTAL NO. 2

Proposed New Procedures for Street Vacations

Explanation of Steps in Processing a Vacation and Changes to Administrative Code

1. Application Plus One-Time Upfront Deposit

Require the applicant to fill out an application for the proposed vacation of a public right-of-way and, at the time of submittal, require the payment of a one-time processing deposit. This would require revising Division 7, Chapter 1, Article 6, Sections 7.42, Payment of Fees, 7.43, Refund, and 7.44, Deposit to Cover Cost. Section 7.42 provides for the payment of the present investigation fee. Section 7.43 provides for no refund of this fee when the petitioner withdraws its request for a vacation. Both of these sections need to be deleted from the code. Section 7.44 needs to be revised as follows:

Section 7.44 Deposit to Cover Cost

~~“In the event the petition for vacation is granted by the City Council and before the Bureau of Engineering performs any additional work in connection with vacation proceedings, the Department of Public Works, through the Bureau of Engineering, shall require the deposit of an additional amount, estimated by said Bureau to cover all of the estimated costs incurred and to be incurred by said Bureau incidental to said proceedings. In determining the amount of such deposit, petitioner or applicant shall be credited with fees already paid. The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.”~~

In the event that, immediately prior to the presentation of the final ~~ordinance~~ resolution to the City Council, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.”

2. Application Screening and Expedited Processing

At the time an application is submitted, the Bureau of Engineering, Land Development Group, Street Vacations Section (Vacations Section) would make a determination whether the street vacation process is the appropriate vehicle for the project or not. The vacation process would be limited to the simpler projects such as walks, alleys, and single street vacations. Vacations of multiple streets or projects that would have significant impacts on the environment would no longer be handled through the street vacation process. These requests would be rejected and the

petitioner, would be instructed to file for a tract/parcel map in order to incorporate areas to be vacated into their property.

Applications would only be accepted as complete when submitted along with the processing deposit and a completed Environmental Assessment Form (where applicable). Once determined that the vacation is "potentially feasible," agency referrals would be sent out within a week.

No code changes are proposed for handling the above administrative changes in policy.

3. Public Agency & Utility Referrals

The Vacations Section would send out referral letters to LADOT, Planning, BOE Districts, Fire, Bureau of Street Lighting, and Bureau of Street Services. All Agencies would be required to respond within 50 days as is already required for Planning (Section 15 D of the Los Angeles Municipal Code). In our referral letters, agencies are notified of the 50-day time limit for a response and that the City Engineer's Report will reflect no input from non-responsive agencies.

As part of the new procedure, we would not require significant conditions of the petitioner. Conditions would be limited to standard street improvements for closing off the vacated area, drainage correction and other safety-related issues. We would no longer require dedications for street widening or even for future street widening. These would be picked up during the development phase of the project, if applicable.

No change to the City Administrative Code is proposed. This will be handled administratively.

4. Draft City Engineer's Report along with a Notice and Resolution

After the 50-day referral period has expired, the Vacations Section would draft the City Engineer's Report. The Vacations Section would also draft a new form, "Notice of Public Hearing," to be used by the City Clerk for scheduling a Public Hearing for the City Engineer's Report and the Resolution to Vacate. In the City Engineer's Report would be a recommendation that the City Clerk be instructed to publish notification for the hearing. This is a drastic departure from our present policy in which an Initial Report is taken to the Public Works Committee for approval. After a second fee is collected, an Ordinance of Intention is written and then taken back to Council along with the report for approval. After approval, the City Clerk publishes the Ordinance of Intention in the newspaper as notification for the Public Hearing. The Street and Highways Code Section 8320 requires the publishing and posting of a notice for public hearing. State Law requires the notice to have a description of the street, highway, or public service easement proposed to be vacated along with a reference map and a statement that this notice is being given per this section of the code. The notice also must state the date, time, and place for the hearing.

The new procedure assumes that the City Clerk would publish a "Notice of Public Hearing" in lieu of an Ordinance of Intention. By allowing us to omit the Ordinance of Intention, we would be able to have only one hearing in lieu of the current 4 trips to Council. At this hearing, the report and Resolution would be approved by the Council.

No Code changes are proposed to initiate these changes.

5. Review and Approval by the Public Works Committee

The Public Works Committee would review and approve the scheduling of a Public Hearing, the Notification for Public Hearing, the City Engineer's Report, and the Resolution to Vacate. Upon approval of these items, the City Clerk would schedule a public hearing for the proposed vacation. The report and Resolution would be forwarded to the full Council for a public hearing and approval. Under our present procedure, the Public Works Committee would only approve and forward the City Engineer's Initial Report to the full Council.

No code changes are proposed to initiate these changes in procedures.

6. Publication and Posting of Notice of Public Hearing

Upon Council approval, the City Clerk would be instructed to publish the Notice of Public Hearing in accordance with Street and Highways Code Section 8322. The code requires the publishing of the Notice for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper. The Street Vacations Section also posts the proposed area to be vacated in accordance with Section 8323. The code requires the posting of notices "along the line" of the street for at least two weeks before the date set for the hearing. The notices also need to be posted not more than 300 feet apart with at least three notices posted. If the length of a street exceeds a mile, three notices at a minimum need to be posted, two at both ends where the street intersects with another and at the midpoint.

"Notice of Public Hearing" would be substituted for an "Ordinance of Intention." No other changes are proposed to this procedure since mandated by State Law.

7. Council Holds Public Hearing and Adopts City Engineer's Report and Resolution to Vacate

The City Council would hold a hearing to listen to any public comments. At the conclusion of the hearing, the Council would approve both the City Engineer's Report and the Resolution to Vacate. Previously, the Council would approve, at separate times, the Engineer's Report, Ordinance of Intention, Vacation (after the Public Hearing), and the Final Resolution (upon completion of conditions). This required three separate reports and many months of scheduling delays.

Under the revised procedure, the Resolution would be written prior to its initial presentation to the Public Works Committee and adopted at this hearing. The Council would instruct the City Engineer to have the resolution recorded with the County Recorder upon completion of the conditions.

No code changes are proposed to implement these changes in procedure.

8. City Engineer Verifies Compliance

The City Engineer would be responsible for verifying that the conditions of approval have been met by the petitioner. This does not represent a change from our present procedures.

In the past, we would allow the petitioner 5 years from the date of the hearing to complete conditions. Recently, we have cut this period to two years. We propose to cut this time to 180 days. We would accomplish this by only requiring standard street improvements for closing the vacated area (curb, gutter, and sidewalk). We would require safety-related improvements for drainage correction or to mitigate any other direct impacts of the vacation. We would allow for the bonding of necessary improvements. We would not require dedications, the planting of street trees or streetlights. The assumption is that these improvements would be picked up during the development phase, if it occurs. As for the removal of utility facilities, we would still require clearances from the responding agencies.

Section 7.48 of the City Administrative Code needs to be revised as follows:

“If the applicant does not satisfy all conditions required by the City Council within ~~5 years~~ 180 days of the date for the public hearing as specified in the ~~ordinance notice~~ declaring the City’s intention to vacate, all proceedings relating thereto shall be terminated ~~and said ordinance~~ and any orders made after the public hearing shall be of no future force and effect. In the event the proceedings are thus terminated, the Department of Public Works, through its Bureau of Engineering, shall return the official files to the City Clerk for ~~his~~ its appropriate action and no further action shall be required.”

9. Record Resolution

After the Bureau of Engineering verifies completion of the conditions, the Resolution to Vacate would be sent to the County Recorder for recordation. After recordation, the work order would be closed.

10. Other Changes

We would also delete from the Administrative Code the exemption of Government Agencies from the time limit to complete conditions. Many of the files that are in our backlog are requests from governmental agencies, which refuse to complete their

conditions because they are supposedly exempt. A clause would be added to Section 7.46 of the Administrative Code as follows:

“All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48, Termination of Vacation Proceedings.

D:\data\office\word\New Procedures Proposed 3
5/24/01

TRANSMITTAL NO.3

ORDINANCE NO.

An Ordinance amending Division 7, Chapter 1, Article 6, Sections 7.42, 7.43, 7.44, 7.46 and 7.48 of the Los Angeles Administrative Code, and Chapter 1, Article 6, Section 15.00D of Los Angeles Municipal Code, relating to streamlining the city street vacation proceedings.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Division 7, Chapter 1, Article 6, Section 7.42 of the Los Angeles Administrative Code is hereby deleted.

Section 2. Division 7, Chapter 1, Article 6, Section 7.43 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.43. Refund.

In the event the petition for vacation is withdrawn by petitioner or is denied by the City Council, petitioner shall be entitled to a refund of any unused deposits paid pursuant to Section 7.44 of this Code.

Section 3. Division 7, Chapter 1, Article 6, Section 7.44 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.44. Deposit to Cover Cost.

The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.

In the event that, immediately prior to the recordation of the final resolution, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.

Section 4. Division 7, Chapter 1, Article 6, Section 7.46 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.46. Government Agencies Exempted.

All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48, Termination of Vacation proceedings.

Section 5. Division 7, Chapter 1, Article 6, Section 7.48 of the Los Angeles Administrative Code is amended as follows:

Sec. 7.48. Termination of Vacation Proceedings.

If the applicant does not satisfy all conditions required by the City Council within 180 days, together with an additional one time 180 days extension of the date for the public hearing as specified in the notice declaring the City's intention to vacate, all proceedings relating

thereto shall be terminated and any orders made after the public hearing shall be of no future force and effect. In the event the proceedings are thus terminated, the Department of Public Works, through its Bureau of Engineering, shall return the official files to the City Clerk for its appropriate action and no further action shall be required.

Section 6. Chapter 1, Article 6, Section 15.00D of the Los Angeles Municipal Code is amended as follows:

D. Time Limit.

The Commission shall make and file its report and recommendations on any petition, ordinance, order or resolution within 30 days of receipt of same. If the same be disapproved, the Director of Planning shall advise the Bureau or Department submitting the matter of its disapproval and reasons therefor within such 30-day period.

Section 7. The City Clerk shall certify to the passage of this Ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing Ordinance was passed by the Council of the City of Los Angeles at its meeting of _____.

J. MICHAEL CAREY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD DELGADILLO, City Attorney

By _____
Deputy

File No. _____

TRANSMITTAL NO. 2

Proposed New Procedures for Street Vacations

Explanation of Steps in Processing a Vacation and Changes to Administrative Code

1. Application Plus One-Time Deposit

Require the applicant to fill out an application for the proposed vacation of a public right-of-way and, at the time of submittal, require the payment of a one-time processing deposit. This would require revising Division 7, Chapter 1, Article 6, Sections 7.42, Payment of Fees, 7.43, Refund, and 7.44, Deposit to Cover Cost. Section 7.42 provides for the payment of the present investigation fee. Section 7.43 provides for no refund of this fee when the petitioner withdraws its request for a vacation. Sections 7.42 needs to be deleted from the code. Sections 7.43 and 7.44 need to be revised as follows:

Section 7.43 Refund

“In the event the petition for vacation is withdrawn by petitioner or is denied by the City Council, no refund of any fees paid pursuant to section 7.44 of this code shall be made. petitioner shall be entitled to a refund of any unused deposits paid pursuant to Section 7.44 of this Code.”

Section 7.44 Deposit to Cover Cost

“In the event the petition for vacation is granted by the City Council and before the Bureau of Engineering performs any additional work in connection with vacation proceedings, the Department of Public Works, through the Bureau of Engineering, shall require the deposit of an additional amount, estimated by said Bureau to cover all of the estimated costs incurred and to be incurred by said Bureau incidental to said proceedings. In determining the amount of such deposit, petitioner or applicant shall be credited with fees already paid. The Department of Public Works shall require the petitioner to submit, along with its application for a vacation, a deposit to cover the cost of processing the vacation proceedings. The Department of Public Works, through the Bureau of Engineering, shall estimate a deposit that will cover all of the costs incurred in the processing of these proceedings.”

In the event that, immediately prior to the ~~presentation~~ recording of the final ~~ordinance~~ resolution to the City Council, it shall appear that the accrued costs and expenses of the proceedings exceed the total amount deposited by petitioner, the Bureau of Engineering shall require additional sums to be deposited by said petitioner to cover all remaining costs.”

2. Application Screening and Expedited Processing

At the time an application is submitted, the Bureau of Engineering (BOE) would make a determination whether the street vacation process is the appropriate vehicle for the project or not. The vacation process would be limited to the simpler projects such as walks, alleys, and single street vacations. Vacations of multiple streets or projects that would have significant impacts on the environment would no longer be handled through the street vacation process. These requests would be rejected and the petitioner would be instructed to file for a tract/parcel map in order to incorporate areas to be vacated into their property.

Applications would only be accepted as complete when submitted along with the processing deposit and a completed Environmental Assessment Form.

BOE would prepare a Rule 16 Motion to be presented in Council by the Chair and Vice Chair of the Public Works Committee to initiate the street vacation proceedings.

No code changes are proposed for handling the above administrative changes in policy.

3. Public Agency & Utility Referrals

BOE would send out referral letters to LADOT, Planning, BOE Districts, Fire, Bureau of Street Lighting, and Bureau of Street Services. All Agencies would be required to respond within 30 days as is for the City Planning Department. This would require revising Section 15.00 D of the Los Angeles Municipal Code. In our referral letters, agencies are notified of the 30-day time limit for a response and that the City Engineer's Report will reflect no input from non-responsive agencies.

Section 15.00D of the Los Angeles Municipal Code needs to be revised as follows:

“D. Time Limit. The Commission shall make and file its report and recommendations on any petition, ordinance, order or resolution within ~~50~~30 days of receipt of same. If the same be disapproved, the Director of Planning shall advise the Bureau or Department submitting the matter of its disapproval and reasons therefor within such ~~50~~30 –day period.”

As part of the new procedure, we would not require significant conditions of the petitioner. Conditions would be limited to standard street improvements for closing off the vacated area, drainage correction and other safety-related issues. We would no longer require dedications for street widening or even for future street widening. These would be picked up during the development phase of the project, if applicable.

4. Draft City Engineer's Report along with a Notice and Resolution

After the 30-day referral period has expired, the Vacations Section would draft the City Engineer's Report. The Vacations Section would also draft a new form, “Notice of Public Hearing,” to be used by the City Clerk for scheduling a Public Hearing for

the City Engineer's Report and the Resolution to Vacate. The City Engineer's Report would contain a recommendation that the City Clerk be instructed to publish notification for the hearing. This is a major departure from our present policy in which an Initial Report is taken to the Public Works Committee for approval. After a second fee is collected, an Ordinance of Intention is written and then taken back to Council along with the report for approval. After approval, the City Clerk publishes the Ordinance of Intention in the newspaper as notification for the Public Hearing. The Street and Highways Code Section 8320 requires the publishing and posting of a notice for public hearing. State Law requires the notice to have a description of the street, highway, or public service easement proposed to be vacated along with a reference map and a statement that this notice is being given per this section of the code. The notice also must state the date, time, and place for the hearing.

The new procedure assumes that the City Clerk would publish a "Notice of Public Hearing" in lieu of an Ordinance of Intention. By allowing us to omit the Ordinance of Intention, we would be able to have only one hearing in lieu of the current four trips to Council. At this hearing, the report and Resolution would be approved by the Council.

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No code changes are proposed to initiate these changes in procedures.

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Upon Public Works Committee approval, the City Clerk would be instructed to publish the Notice of Public Hearing in accordance with Street and Highways Code Section 8322. The code requires the publishing of the Notice for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper. The Street Vacations Section also posts the proposed area to be vacated in accordance with Section 8323. The code requires the posting of notices "along the line" of the street for at least two weeks before the date set for the hearing. The notices also need to be posted not more than 300 feet apart with at least three notices posted. If the length of a street exceeds a mile, three notices at a minimum need to be posted, two at both ends where the street intersects with another and at the midpoint.

“Notice of Public Hearing” would be substituted for an “Ordinance of Intention.” No other changes are proposed to this procedure since it is mandated by State Law.

7. Council Holds Public Hearing and Adopts City Engineer’s Report and Resolution to Vacate

The City Council would hold a hearing to listen to any public comments. At the conclusion of the hearing, the Council would approve both the City Engineer’s Report and the Resolution to Vacate. Previously, the Council would approve, at separate times, the Engineer’s Report, Ordinance of Intention, Vacation (after the Public Hearing), and the Final Resolution (upon completion of conditions). This required three separate reports and many months of scheduling delays.

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Section 7.48 of the City Administrative Code needs to be revised as follows:

“If the applicant does not satisfy all conditions required by the City Council within ~~5 years~~ 180 days, together with an additional one time 180 days extension of the date for the public hearing as specified in the ~~ordinance~~ notice declaring the City’s intention to vacate, all proceedings relating thereto shall be terminated ~~and said ordinance~~ and any orders made after the public hearing shall be of no future force and effect. In the event the proceedings are thus terminated, the Department of Public

Works, through its Bureau of Engineering, shall return the official files to the City Clerk for his its appropriate action and no further action shall be required.”

9. Record Resolution

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10. Other Changes

We would also delete from the Administrative Code the exemption of Government Agencies from the time limit to complete conditions. Many of the files that are in our backlog are requests from governmental agencies, which refuse to complete their conditions because they are supposedly exempt. A clause would be added to Section 7.46 of the Administrative Code as follows:

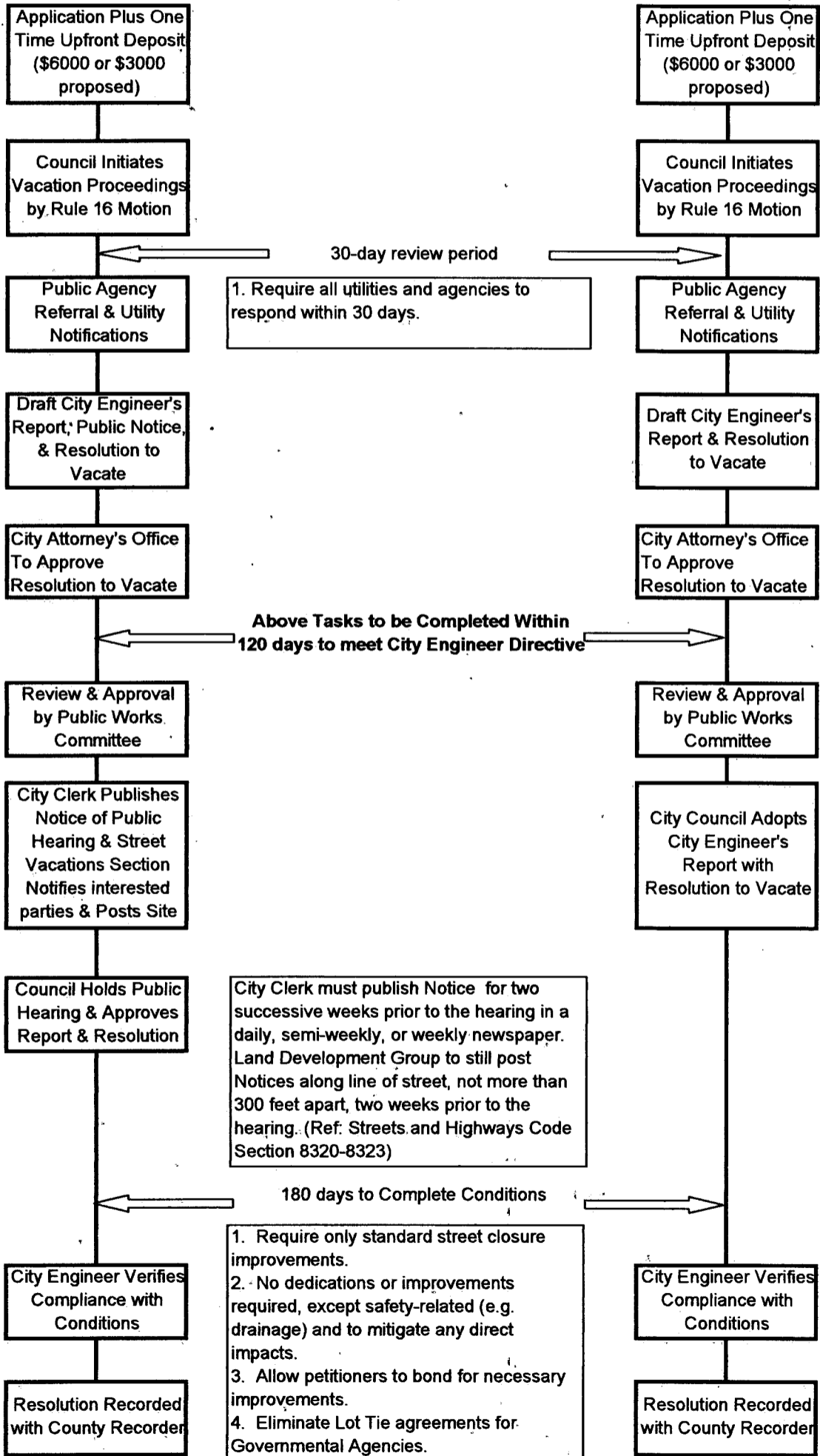
“All governmental agencies shall be exempted from the provisions of this article, except for Section 7.48, Termination of Vacation Proceedings.”

TRANSMITTAL NO. 1



**Revised Non-Summary (Improved Street)
Street Vacation Proceedings**

Revised Summary (Unimproved Street) Street Vacation Proceedings





(213) 485-5410
(213) 847-0399

OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO.
February 28, 2002

REPORT RE:

**REQUEST FOR CITY ATTORNEY'S ADVICE REGARDING THE
LEGALITY OF CHANGING THE NOTICE REQUIREMENT OF THE
STREET VACATION PROCESS - COUNCIL FILE NO. 01-1459**

Public Works Committee
200 North Spring Street, Room 395
Los Angeles, California 90013

Honorable Members:

At your February 13, 2002 hearing, you considered a recommendation by staff of the Department of Public Works to streamline the City's process for street vacations. State law requires the City to conduct a public hearing and to provide advance notice of such hearing. Staff proposed that the City be permitted to utilize a Notice of Hearing instead of an Ordinance of Intent to provide this notice. You asked this office to advise you whether state law permits such a change.

ISSUE:

Does California state law permit the City to change its street vacation process, as requested by the Department of Public Works, so that a Notice of Hearing can replace the Ordinance of Intent currently utilized by the City?

OPINION:

Yes. State law prescribes the content and manner of providing notice of a public hearing for a proposed street vacation. The City is not required to provide such notice by means of an ordinance.

DISCUSSION:

Where a state legislature has occupied a particular field of law, the City is preempted from legislating any local regulations inconsistent with the state law. (8 Witkin Sum. Cal. Law, Const. Law, section 794; In re Farrant (1960) 181 C.A. 2d 231, 234).


California Streets and Highways (Sts. & Hy.) Code Sections 8320 et seq., set forth the statutory procedure to accomplish a street vacation. According to Sts. & Hy. Code section 8320, a legislative body may initiate a street vacation on its own initiative or upon the request of an interested person. In either case, the clerk of the legislative body is required to administratively set a hearing and cause the publishing and posting of notices. Sts. & Hy. Code section 8320 further sets forth the requisite information that must be included in the notices, including but not limited to, a description of the street proposed to be vacated, and the date, hour, and place for the hearing regarding the proposed vacation. Sts. & Hy. Code section 8322 and 8323 set forth detailed requirements for publishing and posting these notices.

The City's regulations regarding street vacations are found in the Los Angeles Administrative Code (LAAC) sections 7.42 et seq. The LAAC does not regulate the notice or hearing requirements but provides for the fee schedule, government exemption, abandonment and termination of the street vacation process only. It has been a long standing practice of the City to utilize the Ordinance of Intent.

Since state law regulates the procedural process for street vacations, including who may initiate the process, and how and when notice must be given of the public hearing, the City is not required to proceed with the vacation process by ordinance. It is the opinion of this office that as long as the Notice of Hearing contains the elements specified by state law and is published and posted in the manner prescribed by state law, that the proposed change is permissible.

Very truly yours,

ROCKARD J. DELGADILLO, City Attorney

By 
CHRISTY NUMANO-HIURA
Deputy City Attorney

FORM CC 54 (REV 9/2005)

RETURN TO:

LOS ANGELES CITY RECORDS CENTER

555 RAMIREZ STREET, SPACE 320

LOS ANGELES, CA, 90012

CITY MAIL STOP 161

(213) 485-3510

RECORDS WITHDRAWAL SLIP
DO NOT REMOVE

2

Place in Storage Location

RECORDS CHECKED OUT TO: 05/29/2012

CAROL PETERS

CITY CLERK/CPS

200 N. SPRING ST., 395

(213) 978-1047

Mail Stop: **160**

BOX INFORMATION:

Box#: 709498

/CLK/01.17.0' B-2802 O010.

From: To:

%00709498

RECORD INFORMATION: **Service Request#: 23825**

Record: 62541

Record ID: O010.001015

COUNCIL FILE 01-1459



\$00062541

SR Status: F

Returned: