

ORIGINAL

ORDINANCE 2010-06

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SUNNYSIDE, WASHINGTON, DECLARING CERTAIN RIGHTS-OF-  
WAY SURPLUS, VACATING SUCH PROPERTY SUBJECT TO CONDITIONS,  
AUTHORIZING DISPOSITION THEREOF, AND RETAINING AND RESERVING  
PUBLIC EASEMENTS  
Right-of-Way on Midvale Road**

**WHEREAS**, the City Council on September 14, 2009 adopted Resolution No. 2009-71 initiating vacation of certain rights-of-way hereafter described (Subject Property), and directed that a public hearing be set to consider such proposed vacation, declaration of surplus and value appraised; and

**WHEREAS**, pursuant to Chapter 12.24 of the Sunnyside Municipal Code, a public hearing was held on October 12, 2009 pursuant to notice duly published, and the City Council, having considered all evidence and testimony presented, finds and concludes as follows:

**Section 1 – Subject Property.** The Subject Property is described as follows: a strip of right-of-way along Midvale Road beginning approximately 1980 feet south of Emerald Road on the west side of Midvale extending south approximately 665 feet together with a 30 by 435 foot east to west strip of land on the south 30 feet of the above-described property, all as shown and described in Exhibit “A” attached hereto and incorporated herein by this reference.

**Section 2 – Value of Property.** The Subject Property has a value less than \$5,000.00, and the value to the public of vacating the property exceeds the market value of the vacated right-of-way property.

**Section 3 – Subject Property is Surplus.** The Subject Property is surplus to the current uses and needs of the City, except for the necessity to retain and reserve easements for installation, maintenance and repair of utility lines and public utilities as deemed necessary and appropriate by the City of Sunnyside, together with the right to grant easements for construction, maintenance and repair of public utilities and utility lines along, upon and within the Subject Property; and further subject to the right of the City to retain any portion of the Subject Property deemed necessary or appropriate to accommodate or facilitate designation of new public rights-of-way or public facilities.

**Section 4 – Disposition of Subject Property.** The Interim City Manager should be authorized to close such right-of-way and remove any existing improvement as deemed necessary or appropriate, and dispose of such surplus property by any means authorized by city code and state law, and may waive any sales price for any portion of the property disposed.

**Section 5 – Jurisdiction.** The City Council has jurisdiction to consider, determine and decide all issues in this matter. There being no objection to any Council member participating in such consideration, all objections thereto are deemed waived; and

**WHEREAS**, the City Council finds and determines that the declaration of such Subject Property as surplus, authorizing vacation and disposition of the Subject Property, is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON**, as follows:

**Section 1.** The City Council hereby adopts and approves the findings and conclusions set forth above, and declares the Subject Property surplus to the uses and needs of the City of Sunnyside, and vacates the Subject Property subject to the conditions stated below, and authorizes the Interim City Manager to retain or dispose of such property in accordance with applicable city codes and laws of the State of Washington; provided, however, that the Interim City Manager may retain any portion of the Subject Property deemed necessary or appropriate to facilitate public purposes and public facilities, including but not limited to, retention of sufficient property to accommodate revised public rights-of-way and access thereto within the vicinity of the Subject Property, or within the Subject Property.

**Section 2.** The minimum price for each parcel described above is hereby waived as set forth in the findings and conclusions above.

**Section 3.** The City of Sunnyside retains and reserves unto itself easements for installation, construction, maintenance, repair and relocation of public utility lines and infrastructure as deemed necessary and appropriate by the City of Sunnyside, together with the right to grant easements for installation, construction, maintenance, repair and relocation of public utility lines and infrastructure, along, across and within the Subject Property, and any conveyance of the Subject Property, and any portion thereof, shall be subject to this reservation.

**Section 4.** The vacation authorized herein shall be effective upon the effective date of this Ordinance, and the City Manager may thereafter cause such rights-of-way to be closed and improvements removed as deemed necessary or appropriate. Disposition or sale of the Subject Property or any portion thereof may occur after the effective date of this Ordinance, and each sale or conveyance shall be recorded with the Yakima County Auditor.

**Section 5.** This Ordinance shall be effective five (5) days after passage, approval and publication as required by law, and a certified copy thereof recorded with the Yakima County Auditor's Office.

**PASSED** this 22<sup>nd</sup> day of March, 2010.



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JAMES A. RESTUCCI, MAYOR

ATTEST:



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DELILAH CYR, DEPUTY CITY CLERK

APPROVED AS TO FORM:



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MENKE JACKSON BEYER EHLIS & HARPER, LLP  
Attorneys at Law

