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2005 California Streets and Highways Code Sections 8320-8325 CHAPTER 3. GENERAL VACATION PROCEDURE

STREETS AND HIGHWAYS CODE

SECTION 8320-8325

8320. (a) The legislative body of a local agency may initiate a proceeding under this chapter in either of the following ways:

(1) On its own initiative, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter.

(2) Upon a petition or request of an interested person, at the discretion of the legislative body, except as provided in subdivision (e) of Section 8321, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter.

(b) The notices required by this chapter shall contain both of the following:

(1) A description of the street, highway, or public service easement proposed to be vacated and a reference to a map or plan, that shows the portion or area to be vacated and includes a statement that the vacation proceeding is conducted under this chapter. In the case of a street or highway, the description shall include its general location, its lawful or official name or the name by which it is commonly known, and the extent to which it is to be vacated. In the case of a public service easement, the description shall identify

it with common certainty. The map or plan showing the location of the street, highway, or public easement proposed to be vacated is sufficient compliance with this paragraph.

(2) The date, hour, and place for hearing all persons interested in the proposed vacation. The date shall not be less than 15 days after the initiation of proceedings.

8321. (a) Ten or more freeholders may petition the board of supervisors to vacate a street or highway under this chapter. At least two of the petitioners shall be residents of the road district in which some part of the street or highway proposed to be vacated is situated and shall be taxable therein for street or highway purposes.

(b) Five or more freeholders may petition the board of supervisors to vacate a public service easement under this chapter. At least one of the petitioners shall be a resident of the township in which the public service easement proposed to be vacated is situated.

(c) The residence address of each petitioner shall be set forth in the petition.

(d) The board of supervisors may require the payment of a fee for filing a petition to defray the expenses of investigations, mailings, publications, and postings under this chapter.

(e) Upon the filing of a petition and the making of the deposit, if any, required under this section, the board of supervisors, by order, shall fix the date, hour, and place of the hearing on the petition. At least two weeks before the day set for the hearing, the clerk of the board shall mail a notice of the date, hour, and place of the hearing to each of the petitioners at the address set forth in the petition.

(f) Nothing in this section shall affect the right of a legislative body to initiate a proceeding under this chapter upon its own initiative, or upon petition or request of an interested person, or prevent the board of supervisors from vacating a street, highway, or public service easement without charging costs if the board determines it is in the public interest to do so.

8322. (a) Except as provided in subdivisions (b) and (c), notice of the hearing on the proposed vacation shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or

weekly newspaper published and circulated in the local agency conducting the proceeding and which is selected by the legislative body for that purpose or by the clerk or other officer responsible for the publication where the legislative body has not selected any newspaper for that purpose.

(b) If the proceeding is conducted by a city and there is no daily, semiweekly, or weekly newspaper published and circulated in the city, the notice shall be published in some newspaper published in the county in which the city is located.

(c) Notice need not be published under this section where there is no daily, semiweekly, or weekly newspaper published and circulating in the county in which the local agency conducting the proceeding is located.

8323. At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated. The notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. If the line of the street, highway, or public service easement proposed to be vacated exceeds one mile in length, the legislative body may, in lieu of posting not more than 300 feet apart, post notices at each intersection of another street or highway with the street, highway, or public service easement to be vacated and at one point approximately midway between each intersection, but at least three notices shall be posted.

8324. (a) At the hearing, the legislative body shall hear the evidence offered by persons interested.

(b) If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use, the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

8325. (a) The clerk shall cause a certified copy of the resolution

of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

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