



Legislation Details (With Text)

File #: 21-0936 **Version:** 1 **Name:** Vacation of a Portion of Bay Avenue
Type: Ordinance **Status:** Adopted
File created: 6/25/2021 **In control:** Engineering
On agenda: 9/1/2021 **Final action:** 9/15/2021
Title: AN ORDINANCE PROVIDING FOR THE VACATION OF A PORTION OF BAY AVENUE; PURSUANT TO N.J.S.A. 40:67-1 ET. SEQ. (EAST WARD)
Sponsors: Council of the Whole
Indexes:
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Date	Ver.	Action By	Action	Result
9/15/2021	1	Municipal Council	Close on Public Hearing and Adopt	Pass
9/1/2021	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE PROVIDING FOR THE VACATION OF A PORTION OF BAY AVENUE; PURSUANT TO N.J.S.A. 40:67-1 ET. SEQ. (EAST WARD)

WHEREAS, said portion of Bay Avenue is a public street right of way in the City of Newark (the "City"), as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A" and made a part of this ordinance, which has not been in use as a public street for a number of years; and

WHEREAS, the Governing Body does hereby determine that the aforementioned portion of Bay Avenue, as set forth in Exhibit "A", is no longer needed for public purposes; and

WHEREAS, pursuant to the permanent closing and termination of ingress and egress beneath the railroad underpass at Bay Avenue by Conrail and the request of the property owner located at 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark, attached as Exhibit "B", the City wishes to vacate aforementioned portion of Bay Avenue, as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A" and made a part thereof; and

WHEREAS, the matter has been referred to the Governing Body and its appropriate professionals, who has recommended that the City proceed with the vacation since the aforementioned portion of Bay Avenue, as set forth in Exhibit "A", is not needed by the City for public purposes; and

WHEREAS, by operation of law, the vacated portion of Bay Avenue, as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A", shall be conveyed to the owner of the adjoining property for nominal consideration, said property being designated as 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark; and

WHEREAS, N.J.S.A. 40:67-1, et seq. authorizes the Municipal Council of the City of Newark to vacate any public street, highway, lane or ally; and

WHEREAS, N.J.S.A. 40:67-19 authorizes a municipality by ordinance to release and extinguish the public's rights arising from a dedication of a roadway; and

WHEREAS, a Quitclaim Deed transferring ownership of the portion of Bay Avenue, as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A", being vacated shall be executed to and in favor of the adjoining property owner located at 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark, in accordance herewith.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. A portion of Bay Avenue, as laid out 66 feet in width, an approximate distance of 270 feet in a southerly direction from its intersection with South Street, 66 feet wide, to the southerly line of the Conrail railroad right of way (formerly L.V.R.R. Co.); and a portion of Bay Avenue at its southeasterly intersection with Wheeler Point Road, 45 feet wide, formerly a portion of Avenue H, as shown on the Map of the Commissioners, shall be vacated as a public street or right-of-way reserving and excepting any and all rights and privileges possessed by the City of Newark and, for so long as they continue to exist at this location, the rights of any public utilities as defined in R.S. 48:2-13 and by any cable television company as defined in the Cable Television Act P.L. 1972 c.186 with the right of entry and easement for the entire length and total width of said portion of the public street to be vacated for the purpose of accomplishing the removal, relocation, relaying, rebuilding, reconstructing, or maintaining their respective water, sewer, electric, gas, telephone and cable utilities and appurtenances, now laid or to be laid, within the above described public street to be vacated. Any and all such easement rights and privileges shall continue until such time when the easement reservation is no longer needed due to the proposed relocation, removal and/or abandonment of any and all existing utilities and said easement rights and privileges are terminated and extinguished.

Section 2. A map dated, May 20, 2020, prepared in support of the partial vacation of portion of Bay Avenue, a copy of which is attached hereto and made a part hereof, is on file in the Office of the Director, Department of Engineering.

Section 3. A portion of Bay Avenue, as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A", is hereby vacated and released from dedication of land for a public street and public rights in accordance with N.J.S.A. 40:67-1 et seq.

Section 4. By vacating the portion of Bay Avenue, as more particularly set forth in the metes and bounds description attached hereto as Exhibit "A", as a public street, the City shall convey by Quitclaim Deed any and all rights (with the exception of the rights stipulated in Section 1 above), title and interest in said vacated portion of Bay Avenue to the owner of 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark, for nominal consideration.

Section 5. The owner of 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark, shall be responsible for any and all fees associated with the consideration and/or completions of the public right-of-way vacation request. These expenses include but are not limited to engineering fees, attorney fees, survey fees, publication and mailing expenses,

advertising and recording fees and tax map revision fees.

Section 6. Within sixty (60) days after the adoption of this Ordinance, the City Clerk shall cause this Ordinance, together with a copy of the proof of publication thereof, to be filed with the Essex County Register of Deeds and Mortgages for recordation in the County's Book of "Vacations," pursuant to N.J.S.A. 40:67-21.

Section 7. All publication and notice requirements of this ordinance are subject to N.J.S.A. 40:49-6.

Section 8. This Ordinance is adopted under and by virtue of the provisions of N.J.S.A. 40:67-1 (b) and N.J.S.A. 40A:12A-10.

Section 9. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance vacates a Portion of Bay Avenue within the City of Newark, New Jersey, an approximate distance of 270 feet southerly from its intersection with South Street to the southerly line of the Conrail railroad right of way, and a portion of Bay Avenue at its southeasterly intersection with Wheeler Point Road, formerly a portion of Avenue H, and adjacent to 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark, and authorizes the conveyance by Quitclaim Deed any and all rights (with the exception of all rights and privileges now possessed by any public utility or cable television company, to maintain, repair and/or replace their existing facilities in, adjacent, over or under the vacated portion of Bay Avenue), title and interest in said vacated portion of Bay Avenue to the owner of 78-90 Wheeler Point Road, Block 5088 Lots 34 and 38, on the Official Tax Map of the City of Newark.