



Legislation Details (With Text)

File #: 17-1854 **Version:** 1 **Name:** Ordinance: Vanderpool Permanent Easement for a Water Main
Type: Ordinance **Status:** Adopted
File created: 10/18/2017 **In control:** Economic and Housing Development
On agenda: 11/13/2017 **Final action:** 12/6/2017

Title: AN ORDINANCE AMENDING ORDINANCE 6S&FE, ADOPTED SEPTEMBER 5, 1973, ORDINANCE 6S&FC, ADOPTED SEPTEMBER 5, 1973, AND ORDINANCE 6S&FD, ADOPTED MARCH 4, 1981, TO REMOVE RESERVATIONS GRANTED TO THE CITY FOR THE PURPOSE OF MAINTAINING AND OPERATING A CERTAIN WATER MAIN AND TO AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR THE RELOCATION OF THE WATER MAIN AND THE EXECUTION OF A PERMANENT EASEMENT FOR THE MAINTENANCE OF THE RELOCATED WATER MAIN.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
12/6/2017	1	Municipal Council	Close on Public Hearing and Adopt	Pass
11/13/2017	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

AN ORDINANCE AMENDING ORDINANCE 6S&FE, ADOPTED SEPTEMBER 5, 1973, ORDINANCE 6S&FC, ADOPTED SEPTEMBER 5, 1973, AND ORDINANCE 6S&FD, ADOPTED MARCH 4, 1981, TO REMOVE RESERVATIONS GRANTED TO THE CITY FOR THE PURPOSE OF MAINTAINING AND OPERATING A CERTAIN WATER MAIN AND TO AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR THE RELOCATION OF THE WATER MAIN AND THE EXECUTION OF A PERMANENT EASEMENT FOR THE MAINTENANCE OF THE RELOCATED WATER MAIN.

WHEREAS, by Ordinance 6S&FE, adopted on September 5, 1973, entitled, "An Ordinance Providing for the Vacation of Avenue B As Laid Out 75 Feet in Width on the Map of the Commissioners to Lay Out Streets, Avenues, and Squares Extending from Vanderpool Street to Poinier Street", the Municipal Council of the City of Newark authorized the vacation of that certain portion of the public street or highway known as Avenue B extending from Vanderpool Street to Poinier Street; and

WHEREAS, by Ordinance 6S&FE, adopted September 5, 1973, the Municipal Council also reserved "to the City of Newark, the Public Service Electric and Gas Company, the New Jersey Bell Telephone Company and any other public utility company having facilities therein, the right to enter upon the above described Avenue and for the purpose of relaying, rebuilding, reconstructing or maintaining the sewer, water or gas mains, electric or telephone conduits and any other public utility company's facilities, their manholes, gates or appurtenances now laid within the lines of the above described Avenue B and the right to enter upon the above described Avenue B for the purpose of laying, relaying, rebuilding, reconstructing or maintaining additional sewer water or gas mains, electric or telephone conduits and any other public utility company's facilities, their manholes, gates

or appurtenances”; and

WHEREAS, by Ordinance 6S&FE, adopted September 5, 1973, the Municipal Council also provided that the “erection, construction or placing of any building, vault or structure upon or within the above described Avenue B which will interfere with the laying, relaying, rebuilding, reconstructing or maintaining of existing or additional sewer, water or gas mains, electric or telephone conduits, and any other public utility company’s facilities, their manholes, gates and appurtenances is prohibited and contrary to this Ordinance”; and

WHEREAS, by Ordinance 6S&FC, adopted September 5, 1973, entitled, “An Ordinance Providing for the Vacation of Vanderpool Street As Laid Out 60 Feet in Width on the Map of the Commissioners to Lay Out Streets, Avenues, and Squares Extending from Avenue B to Avenue C”, the Municipal Council authorized the vacation of that certain portion of Vanderpool Street which extends from Avenue B to Avenue C; and

WHEREAS, by Ordinance 6S&FC, adopted September 5, 1973, the Municipal Council also reserved “to the City of Newark, the Public Service Electric and Gas Company, the New Jersey Bell Telephone Company and any other public utility company having facilities therein, the right to enter upon the above described Vanderpool Street for the purpose of relaying, rebuilding, reconstructions or maintaining the sewer, water or gas mains, electric or telephone conduits and any other public utility company’s facilities, their manholes, gates or appurtenances now lain within the lines of the above described Vanderpool Street and the right to enter upon the above described Vanderpool Street for the purpose of laying, relaying, rebuilding, reconstructing or maintaining additional sewer, water or gas mains, electric or telephone conduits, and any other public utility company’s facilities, their manholes, gates or appurtenances”; and

WHEREAS, by Ordinance 6S&FC, adopted September 5, 1973, the Municipal Council also provided that the “erection, construction or placing of any building, vault or structure upon or within the above described Vanderpool Street which will interfere with the laying, relaying, rebuilding, reconstructing or maintaining of existing or additional sewer, water or gas mains, electric or telephone conduits, and any other public utility company’s facilities, their manholes, gates and appurtenances is prohibited and contrary in this Ordinance”; and

WHEREAS, by Ordinance 6S&FD, adopted March 4, 1981, entitled “An Ordinance Providing for the Vacation of Avenue B As Laid Out 75 Feet in Width on the Map of the Commissioners to Lay Out Streets, Avenues, and Squares Extending from the Northerly Line of the New York Bay Railroad Property, Northerly to its Present Terminus; and Poinier Street As Laid Out 60 Feet in Width on the Map of the Commissioners to Lay Out Streets and Avenues and Squares Extending from the Westerly Line of the Aforementioned Avenue B, Westerly a Distance of 200 Feet”, the Municipal Council authorized the vacation of that certain portion of Avenue B along the New York Bay Railroad Property and of Poinier Street extending westerly from Avenue B for 200 feet; and

WHEREAS, by Ordinance 6S&FD, adopted March 4, 1981, the Municipal Council also reserved to “the City of Newark the right of entry and easement for a portion of Avenue B, extending from the described present northerly territories, southerly a distance of 60 feet and for the entire 75 foot width, and for the entire 60 foot width and 200 foot length of Poinier Street as described, for the purpose of relaying, rebuilding, reconstructing, or maintaining water mains and their and their gates and appurtenances now, or to be laid, within the lines of the said easement reservations”; and

WHEREAS, by Ordinance 6S&FD, adopted March 4, 1981, the Municipal Council also reserved to “the Public Service Gas and Electric Company the right of entry and easement for the entire 60-foot width and 200-foot length of Poinier Street to be vacated for the purpose of relaying, rebuilding, reconstructing, or maintaining utilities and appurtenances now, or to be laid, within the described reservation”; and

WHEREAS, by Ordinance 6S&FD, adopted March 4, 1981, the Municipal Council provided that the “The erection, construction, or placing of any building, vault, or structure upon or within the above described reservations which will interfere with the laying, relaying, rebuilding, reconstructing or maintaining of existing or additional City or Public Service Gas and Electric utilities and their appurtenances is prohibited and contrary to this Ordinance”; and

WHEREAS, PSIP Penford Vanderpool Street LLC, a Delaware limited liability company, (hereinafter referred to as the “Property Owner”) is the owner of the property commonly known as 233-287 Miller Street, as shown on the Tax Maps of the City of Newark as Block 1171, Lot 1, (hereinafter referred to as the “Property”); and

WHEREAS, the Property is encumbered by the reservations and restrictions imposed by the Municipal Council in Ordinances 6S&FE and 6S&FC, adopted September 5, 1973, and Ordinance 6S&FD, adopted March 4, 1981, as more fully set forth above; and

WHEREAS, in order to effectuate the approvals granted by the Central Planning Board for the construction of a new warehouse building to be built on the Property, existing water and/or sewer lines must be relocated; and

WHEREAS, the City of Newark Department of Water and Sewer Utilities has reviewed the proposed plan for the relocation of the existing water and/or sewer lines presented by the Property Owner and has approved these plans, which are annexed as Exhibit A; and

WHEREAS, the Property Owner requests that all reservations of rights to enter and the prohibition on the erection, construction, or placing of any building, vault, or structure onto the vacated portions of Avenue B and Vanderpool Street reserved by the City of Newark, be terminated; and.

WHEREAS, upon termination of the rights and reservations of the City to enter and termination of the prohibition on the erection, construction, or placing of any building, vault, or structure onto the vacated portions of Avenue B and Vanderpool Street, the Property Owner shall grant a perpetual easement (the “Easement”) in substantially the form attached as Exhibit B for the benefit of the Newark Department of Water and Sewer Utilities for the purpose of entering upon the Property for the purpose of relaying, rebuilding, reconstructing or maintaining the water and/or sewer lines to be relocated on the Property, as reflected on the diagram annexed to the Easement, and the metes and bounds description also annexed to the Easement; and

WHEREAS, the Property Owner has further agreed to relocate the existing water mains at its sole cost and expense, pursuant to a Relocation Agreement which is annexed herein as Exhibit ‘C’.

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

Section 1. All reservations of rights to enter upon, and the prohibition on the erection, construction, or placing of any building, vault, or structure the vacated portions of Avenue B and Vanderpool Street reserved by the City of Newark, are hereby terminated, expressly conditioned and contingent upon the receipt by the City of a duly executed Easement in substantially the form attached from the Property Owner.

Section 2. The Mayor and/or his designees, the Director of the Department of Water and Sewer Utilities and the Acting Deputy Mayor/Director of the Department of Economic and Housing Development, are authorized to execute the Easement, in substantially the form attached as Exhibit B, for the benefit of the Newark Department of Water and Sewer Utilities for the purpose of entering upon the Property for the purpose of relaying, rebuilding, reconstructing or maintaining the water and/or sewer lines to be relocated on the Property.

Section 3. The Mayor and/or his designees, the Director of the Department of Water and Sewer Utilities and the Acting Deputy Mayor/Director of the Department of Economic and Housing Development, are authorized to execute a Relocation Agreement providing for the relocation of any City water, sewer, or other utility lines affected in substantially the form attached as Exhibit C.

Section 4. A copy of the Ordinance and any agreements authorized herein shall be placed on file with the City Clerk's Office by the Acting Deputy Mayor/Director of the Department of Economic and Housing Development.

Section 5. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 6. This Ordinance shall take effect in accordance with the laws of the State of New Jersey after final passage, approval, and publication.

STATEMENT

This Ordinance amends Ordinances 6S&FE and 6S&FC, adopted September 5, 1973, and Ordinance 6S&FD, adopted March 4, 1981, releasing certain rights and reservations of the City of Newark to maintain and operate a water main and authorizing the execution of an agreement authorizing the relocation of the water main and the execution of a new easement for the purpose relaying, rebuilding, reconstructing or maintaining the relocated water main.