

ORDINANCE NO. 19-2019

**AN ORDINANCE VACATING A PORTION OF HAMILTON AVENUE
LOCATED IN THE TOWNSHIP OF ABERDEEN, COUNTY OF
MONMOUTH, STATE OF NEW JERSEY AND AUTHORIZING THE
CONVEYANCE OF SUCH VACATED LANDS TO THE ADJACENT
PROPERTY OWNERS**

WHEREAS, a portion of Hamilton Avenue is an unimproved, paper street (the “Paper Street”) located in the Township of Aberdeen, Monmouth County, New Jersey; and

WHEREAS, the portion of Hamilton Avenue to be vacated has been divided into four (4) parcels designated as Parcel A, Parcel B, Parcel C and Parcel D as shown on the “Sketch of a Portion of Hamilton Avenue to be Vacated” dated May 2018, prepared by CME Associates attached hereto and made a part hereof as Exhibit 1; and

WHEREAS, metes and bounds descriptions prepared by CME Associates dated May 29, 2019 for each of the parcels to be vacated are attached hereto and made a part hereof as Exhibits 1A, 1B, 1C and 1D; and

WHEREAS, the vacated portions of Hamilton Avenue are to be conveyed to the adjacent landowners pursuant to statute as follows:

1. Parcel 1A to be conveyed to the owners of adjacent parcels Block 144, Lot 1 and Block 144, Lot 2;
2. Parcel 1B to be conveyed to the owner of adjacent parcel Block 143, Lot 2;
3. Parcel 1C to be conveyed to the owner of adjacent parcels Block 144, Lot 3, Block 144, Lot 4 and Block 144, Lot 5;
4. Parcel 1D to be conveyed to the owner of adjacent parcel Block 143, Lot 1.

WHEREAS, N.J.S.A. 40:67-1(b) authorizes the governing body of every municipality to adopt an ordinance to vacate any public street or any part thereof; and

WHEREAS, pursuant to N.J.S.A. 40:67-19, a municipality may vacate a public street where there has been a dedication of lands as a public street and same has not been accepted by the municipality and it shall appear to the governing body of the municipality that the public interest will be better served by releasing those lands or a part thereof from such dedication and the lands or part thereof released from the dedication shall be effectively discharged therefrom as though the dedication had not taken place; and

WHEREAS, pursuant to N.J.S.A. 40:49-6, a municipality must publish ordinances authorizing vacations or dedications of land in the manner required by N.J.S.A. 40:49-2, except that every such ordinance, after being introduced and having passed a first reading, shall be published at least once not less than ten (10) days instead of one week prior to the time fixed for further consideration for final passage, and, at least one week prior to the time fixed for final passage, a copy of such ordinance, together with a notice of the introduction thereof and the time

and place when and where the ordinance shall be considered for final passage shall be mailed to every person whose lands may be affected by the ordinance; and

WHEREAS, pursuant to N.J.S.A. 40A:12-5, a municipality has the power to acquire or sell any real property for a public purpose through negotiated agreement; and

WHEREAS, the Township Council of the Township of Aberdeen has determined that it would fulfill a public purpose to vacate a portion of Hamilton Avenue as same is not needed nor used as a public street, and to convey the vacated lands to the adjacent landowners in accordance with law.

NOW, THEREFORE, BE IT ORDAINED, by the Township Council of the Township of Aberdeen, County of Monmouth and State of New Jersey that Hamilton Avenue, as more fully described in the attached Exhibit "A" be and is hereby vacated; and

BE IT FURTHER ORDAINED, that the portion of Hamilton Avenue to be vacated has been divided into four (4) parcels designated as Parcel A, Parcel B, Parcel C and Parcel D as shown on the "Sketch of a Portion of Hamilton Avenue to be Vacated" dated May 2018, prepared by CME Associates attached hereto and made a part hereof as Exhibit 1 as described on the metes and bounds descriptions dated May 29, 2019 for each of the parcels to be vacated are attached hereto and made a part hereof as Exhibits 1A, 1B, 1C and 1D; and

BE IT FURTHER ORDAINED, that the vacated portions of Hamilton Avenue shall be conveyed to the adjacent landowners pursuant to statute as follows:

1. Parcel 1A to be conveyed to the owners of adjacent parcels Block 144, Lot 1 and Block 144, Lot 2;
2. Parcel 1B to be conveyed to the owner of adjacent parcel Block 143, Lot 2;
3. Parcel 1C to be conveyed to the owner of adjacent parcels Block 144, Lot 3, Block 144, Lot 4 and Block 144, Lot 5;
4. Parcel 1D to be conveyed to the owner of adjacent parcel Block 143, Lot 1.

BE IT FURTHER ORDAINED, that the Mayor and Township Clerk are hereby authorized and directed to execute any documents which may be required to convey the aforesaid vacated lands; and

BE IT FURTHER ORDAINED, that the Township of Aberdeen, pursuant to the provisions of N.J.S.A. 40:67-1(b), hereby expressly reserves and excepts from vacation all rights and privileges currently possessed by public utilities (as defined in N.J.S.A. 48:2-13) and by any cable television company (as defined in the Cable Television Act, N.J.S.A. 48:5-1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, or any part thereof, to be vacated; and

BE IT FURTHER ORDAINED, that, pursuant to N.J.S.A. 40:49-6, the Township Clerk shall publish this Ordinance in the manner required by N.J.S.A. 40:49-2, except that after same has been introduced and passed a first reading, this Ordinance shall be published at least once not

less than ten (10) days prior to the time fixed for further consideration for final passage, and the Clerk shall, at least one week prior to the time fixed for final passage, mail a copy of this Ordinance, together with a notice of the introduction thereof and the time and place when and this Ordinance shall be considered for final passage to every person whose lands may be affected by this Ordinance; and

BE IT FURTHER ORDAINED, that within sixty (60) days after this Ordinance becomes effective, the Township Clerk shall file a copy thereof, certified by her, under the Seal of the Township of Aberdeen to be a true copy of such Ordinance, together with a proof of publication thereof, in the office of the Monmouth County Clerk to be recorded in a book with proper index to be provided for this purpose entitled “vacations”, in accordance with the provisions of N.J.S.A. 40:67-21; and

BE IT FURTHER ORDAINED, that 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 provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

ATTEST:

TOWNSHIP OF ABERDEEN

Karen Ventura, Township Clerk

By:

Fred Tagliarini, Mayor