

[Street Vacation - Quint Street Railroad Crossing Improvement Project - Quint Street, McKinnon Ave, and Newcomb Ave]

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Ordinance ordering the vacation of portions of Quint Street, McKinnon Avenue and Newcomb Avenue as part of the Quint Street Railroad Crossing Improvement Project; approving a quitclaim of ~~quitclaiming~~ the City’s interest in the vacation areas to the Peninsula Corridor Joint Powers Board (JPB), subject to specified conditions; reserving easement rights for the benefit of the City for its utilities and the JPB; accepting a Department of Public Works Order concerning the street vacation; affirming the Planning Department’s determination under the California Environmental Quality Act; adopting and authorizing official acts in connection with this Ordinance, making environmental findings and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1; and authorizing official acts in connection with this Ordinance.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) On May 6, 2014, the Board of Supervisors adopted Resolution No. 145-14, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 140452, being a Resolution declaring its intention to order the vacation of portions of Quint Street, McKinnon Avenue, and Newcomb Avenue (collectively, the “Vacation Area”), subject to certain

1 ~~reservations; reserving an easement for the benefit of the City for a water pipeline serving the~~
2 ~~SFPUC.~~ The location and extent of the Vacation Area is shown on the Department of Public
3 Works SUR Map No. 2013-005, dated May 5, 2014, a copy of said map is on file with the
4 Clerk of the Board of Supervisors in File No. 140452 and is incorporated herein by reference.

5 (b) The Clerk of the Board of Supervisors did transmit to the Director of Public Works a
6 certified copy of the Resolution of Intention, and the Director of the Department of Public
7 Works did cause notice of adoption of such Resolution to be posted and published in the
8 manner required by law.

9 (c) When such matter was considered as scheduled by the Board of Supervisors at its
10 regular meeting held in the City Hall, San Francisco, on June 3, 2014, at 3:00 PM, the Board
11 heard all persons interested in such vacation.

12 (d) The Peninsula Corridor Joint Powers Board (JPB), will implement the Quint Street
13 Railroad Crossing Improvement Project (the "Project"), which involves the improvement of a
14 dilapidated railroad overcrossing at Quint Street north of Newcomb Avenue. The Project will
15 construct a physical berm across Quint Street to stabilize the rail corridor crossing at that
16 location, which will result in closure of portions of streets that are the subject of this legislation.
17 ~~The vacation of the Vacation Area is part of an action to implement the Quint Street Railroad~~
18 ~~Crossing Improvement Project.~~

19 (e) The Planning Department has determined that the actions contemplated in this
20 ordinance comply with the California Environmental Quality Act (California Public Resources
21 Code Sections 21000 et seq.). The Board of Supervisors hereby affirms this determination.
22 Said determination is on file with the Clerk of the Board of Supervisors in File No. 140452 and
23 is incorporated herein by reference. ~~In accordance with the actions contemplated herein, the~~
24 ~~Board adopted Resolution No. 145-14, concerning findings pursuant to the California~~
25 ~~Environmental Quality Act (California Public Resources Code sections 21000 et seq.). A copy~~

1 of said Resolution is on file with the Clerk of the Board of Supervisors in File No. 140452 and
2 is incorporated herein by reference.

3 (f) In a letter dated June 24, 2013 (the "Planning letter"), the City Planning Department
4 determined that the proposed vacation and other actions contemplated herein are consistent
5 with the General Plan and priority policies of the Planning Code, Section 101.1. A copy of
6 said letter is on file with the Clerk of the Board of Supervisors in File No. 140452 and is
7 incorporated herein by reference as though fully set forth herein. The Board of Supervisors
8 adopts as its own the consistency findings of the Planning Letter.

9 (g) In ~~the undrafted DPW Order No. 182625, dated May 30, 2014,~~ a copy of which is
10 on file with the Clerk of the Board of Supervisors in File No. 140452 and incorporated herein
11 by reference, the Director of Public Works determined: (a 1) the Vacation Area is no longer
12 necessary for the City's present or prospective future public street and sidewalk purposes; (b
13 2) in accordance with the Streets and Highways Code, Sections 892 and 8314, the right-of-
14 way and parts thereof proposed for vacation are no longer useful as a nonmotorized non-
15 motorized transportation facility, as defined in Section 887, because the design of the Project
16 includes a new facility for bicycle and pedestrian movement that are equal to or in excess of
17 what may currently exist ~~there are multiple streets surrounding the Vacation Area that remain~~
18 ~~available for such transportation and those members of the public availing themselves of non-~~
19 ~~motorized transportation will not be inconvenienced by the proposed street vacation;~~ (3) the
20 proposed quitclaim of public right-of-way to the JPB is necessary for execution of the Project
21 and the City shall convey said quitclaim in the future once the real property title issues are
22 addressed; (c 4) the value of the public right-of-way ~~to be quitclaimed~~ that the City will convey
23 to the JPB is negligible, and of no greater value than those rights previously quitclaimed at no
24 cost to the City by the JPB in relation to an adjacent but unrelated development project; and
25 (d 5) there are no physical public utility or private ~~utility~~ facilities within the Vacation Area

1 except those of the San Francisco Public Utilities Commission (SFPUC) for SFPUC's
2 waterline purposes for which an easement shall be reserved. The Board of Supervisors
3 adopts as its own and incorporates by reference herein as if fully set forth, the
4 recommendations of the Director of the Department of Public Works as set forth in the
5 ~~undated draft~~ DPW Order No. 182625 concerning the vacation of the Vacation Area,
6 reservation of ~~an easements~~, and other related actions ~~in furtherance thereof.~~

7 (h) The vacation of the Vacation Area is being taken pursuant to California Streets and
8 Highways Code Sections 8300 et seq. and Public Works Code, Section 787(a).

9 (i) From all the evidence submitted at the public hearing noticed in the Resolution No.
10 145-14 and the associated materials on file with the Clerk of the Board in File No. 140452, the
11 Board of Supervisors finds that the Vacation Area, as described in said Resolution, is no
12 longer necessary for the City's use for public streets or as bicycle transportation facilities as
13 defined in Streets and Highways Code Sections 890, et seq., subject to the reservation of
14 temporary easement rights in favor of the JPB to construct its Project and establishment of an
15 easement SFPUC for City utilities and other conditions described in this ~~Ordinance~~ as part of
16 the City's quitclaim of its interest in the Vacation Area to the JPB.

17 (j) The public interest, convenience and necessity require that the City reserve from
18 the quitclaim ~~vacation~~ of the Vacation Area to the JPB an exclusive easement for city utilities
19 in, upon and under that certain portion of the Vacation area as described in the DPW Order, in
20 which their respective in-place and functioning utilities are located, to the extent necessary to
21 maintain, operate, repair and remove existing lines of pipe and other convenient structures,
22 equipment and fixtures for the SFPUC waterline facility, together with reasonable access to
23 the foregoing facilities for the purposes set forth above. The City also shall reserve temporary
24 easement rights for the JPB to construct and maintain the Project until the City resolves the
25 real property title issues in the Vacation Area and quitclaims the underlying property to the

1 JPB subject to the abovementioned reservation for the SFPUC. The public interest,
2 convenience and necessity does not require that the City reserve from the vacation of the
3 Vacation Area any other easements except as mentioned above.

4 (k) The public interest and convenience require that the vacation be done as declared
5 herein in the Resolution No. 145-14.

6
7 Section 2. Except as set forth in Section 3 below, the Vacation Area, as shown on
8 SUR Map No. 2013-005 is hereby ordered vacated in the manner described in this legislation
9 ~~the Resolution No. 145-14,~~ and pursuant to California Streets and Highways Code Sections
10 8300 et seq. and Public Works Code Section 787(a).

11
12 Section 3. The vacation of the Vacation Area is conditioned upon the City's reservation
13 of temporary easement rights for the JPB to construct and maintain the Project until the City
14 resolves the real property title issues in the Vacation Area and quitclaims the underlying
15 property to the JPB, subject to the reservation for the SFPUC described below. The City's
16 quitclaim of the Vacation Area to the JPB is conditioned upon the reservation of an exclusive
17 easement to SFPUC for the benefit of the City for a waterline facility in, upon and under that
18 certain portion of the Vacation Area, in which its in-place and functioning facilities are located,
19 to the extent necessary to maintain, operate, repair and remove existing lines of pipe and
20 other convenient structures, equipment and fixtures for the operation of the City's waterline,
21 together with reasonable access to the foregoing facilities for the purposes set forth above.

22
23 Section 4. The Board of Supervisors hereby authorizes the Director of Property to
24 convey a quitclaim deed to the JPB for the Vacation Area once the real property title issues
25 are resolved and include, ~~including~~ therein the reservation of the exclusive easement for the

1 benefit of the City for waterline purposes. The Board also delegates to the Director or
2 Property, in consultation with the Director of Public Works and the City Attorney, the authority
3 to prepare, finalize, and approve the temporary easement to the JPB as specified above, the
4 quitclaim deed, and the exclusive easement for the benefit of the City for waterline purposes.
5 Copies of draft versions of these documents are on file with the Clerk of the Board of
6 Supervisors in File No. 140452 and are incorporated herein by reference.

7

8 Section 5. The Board of Supervisors hereby directs the Clerk of the Board of
9 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
10 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
11 required by law. The Clerk of the Board also is hereby directed to transmit to the Director of
12 Public Works a certified copy of this Ordinance so that this Ordinance may be recorded
13 together with any other documents necessary to effectuate this Ordinance.

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15 Section 6. The Board of Supervisors hereby authorizes and directs the Clerk of the
16 Board, Director of Property, and the Director of Public Works to take any and all actions which
17 they or the City Attorney may deem necessary or advisable in order to effectuate the purpose
18 and intent of this Ordinance (including, without limitation, the filing of the ordinance in the
19 Official Records of the City and County of San Francisco and confirmation of satisfaction of
20 any of the conditions to the effectiveness of this vacation of the Vacation Area hereunder and
21 confirmation of the granting of the easements reserved hereunder pursuant to Section 3 of
22 this Ordinance and execution and delivery of any evidence of the same, which shall be
23 conclusive as to the satisfaction of such conditions upon signature by any such City official or
24 his or her designee).

25

1 Section 7. Effective Date. This Ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 Ordinance unsigned or does not sign the Ordinance within ten days of receiving it, or the
4 Board of Supervisors overrides the Mayor's veto of the Ordinance.

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6 APPROVED AS TO FORM:
7 DENNIS J. HEERRERA, City Attorney

8 By: _____
9 John D. Malamut
 Deputy City Attorney

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