

ORDINANCE NO. 2021-19-OA³

ORDINANCE OF THE TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE ACQUISITION OF BLOCK 171, LOTS 1278 & 1279 BY NEGOTIATION, PURCHASE, CONDEMNATION OR EMINENT DOMAIN

May 24, 2021

WHEREAS, N.J.S.A. 40:A12-5 and N.J.S.A. 20:3-1 et seq. authorize public entities to acquire real property or an interest in real property; and

WHEREAS, the Township Council of the Township of Berkeley has deemed it necessary to acquire the property being identified on the Official Tax Map of the Township of Berkeley as Block 171, Lots 1278 & 1279; and

WHEREAS, the Township wishes to acquire the property in connection with the preservation of Toms River Park; and

WHEREAS, an appraisal of the property was completed on or about March 2, 2021 setting forth the fair market value of the property as of \$5,000.00; and

WHEREAS, the Township hereby approves the appraisal report and the fair market value of the property as of \$5,000.00 and hereby authorizes the Township Attorney to proceed with the required steps to purchase or condemn the property; and

WHEREAS, the Township Council has determined that the public's interest will be served by the acquisition of the property in connection with the preservation of the park; and

WHEREAS, the Township Council desires to formally authorize the acquisition of the property and the institution of eminent domain proceedings if necessary in order to acquire said property; and

WHEREAS, the Mayor and Governing Body of the Municipality are authorized by the New Jersey State Constitution, N.J.S.A. 40A:12-5(a), N.J.S.A. 20:3-1 et seq., and/or any other provision of applicable law to proceed with acquiring certain property interests by condemnation/eminent domain;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Governing Body of Township of Berkeley in the County of Ocean and State of New Jersey as follows:

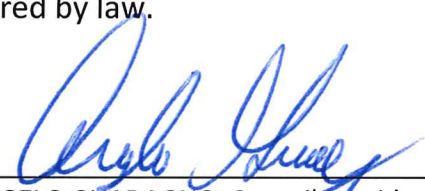
1. **RECITALS INCORPORATED:** The above recitals are incorporated into this section of the Ordinance as if specifically set forth at length herein.
2. **SPECIFIC FINDINGS:** The Mayor and Governing Body of the Municipality find that preserving the property at Toms River Park for public use are all in the furtherance of a public use and purpose.
3. **AUTHORIZE CONDEMNATION:** The Mayor and Governing Body of the Municipality specially authorize any and all necessary and appropriate actions by Municipality officials including the Mayor, Municipal Clerk, Municipal Attorney, for the taking and obtaining Block 171, Lots 1278 & 1279 through negotiation, purchase, or condemnation/ eminent domain, including, but not limited to, the hiring of any experts, engaging the services of land surveyors, title insurance companies, appraisers, and any other professional whose services are necessary or appropriate to implement the purposes of this Ordinance, the making of any offer by the Municipality to the property owner(s) in the full amount of the appraised value of the property interest that the Municipality seeks to acquire in said property, and to negotiate in good faith with the record owner(s) of the property for its voluntary acquisition in accordance with N.J.S.A. 20:3-6, and in the event that the negotiations for the voluntary acquisition of the property interest are unsuccessful for any reason to commence a condemnation action by the filing of a Verified Complaint and Declaration of Taking, depositing the estimated just compensation with the Clerk of the Superior Court, filing a Lis Pendens, and taking any and all other actions of any administrative or other nature necessary to complete the process contemplated by this Ordinance.
4. **IDENTIFICATION OF PROPERTY:** The property for which a taking of property interests is authorized by negotiation, purchase, or condemnation/ eminent domain pursuant to this Ordinance is Block 171, Lots 1278 & 1279 located in the Municipality. The property interests to be acquired are irrevocable, perpetual, permanent easements in the properties identified herein.
5. **OFFICIALS AUTHORIZED:** All appropriate officials of the Municipality, including, but not limited, to the Mayor, Municipal Clerk, Municipal Attorney, Special Condemnation Attorney, and any and all experts or others acting on behalf of the Municipality are authorized by this Ordinance to sign

any and all documentation and take any and all action necessary to effectuate the purposes and intention of this Ordinance.

6. **PURCHASE OF PROPERTY:** If a determination is made that the purchase of the property rather than the obtaining said property interest through condemnation/eminent domain, then all appropriate officials of the Municipality, including, but not limited to, the Mayor, Municipal Clerk and Municipal Attorney are authorized by this Ordinance to sign any and all documentation to effectuate the purchase of the property interests by the Municipality.
7. **REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.
8. **SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause, or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.
9. **EFFECTIVE DATE:** This Ordinance shall take effect immediately upon final adoption and publication as required by law.



CARMEN F. AMATO, JR, Mayor



ANGELO GUADAGNO, Council President
JAMES J. BYRNES, Council Vice President

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed on first reading at a regular meeting of the Township Council of the Township of Berkeley, in the County of Ocean, State of New Jersey, held on May 24, 2021, and will be considered for second reading and final passage at the regular meeting of said Governing Body to be held on the **28th** day of **June**, 2021 at 6:00 p.m., or as soon thereafter as this matter can be reached, at the meeting room of the Municipal Building located at 627 Pinewald-Keswick Road, Bayville, New Jersey, at which time all persons interested shall be given an opportunity to be heard concerning this ordinance.



BEVERLY M. CARLE, RMC
Township Clerk, Township of Berkeley