

1 [Hunters View – Street Vacation Order.]

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3 **Ordinance ordering the vacation of portions of Fairfax Avenue and West Point Road**
4 **and various public service easements; making environmental findings and findings of**
5 **consistency with the City's General Plan and the priority policies of Planning Code**
6 **Section 101.1; quitclaiming the City's interest in the vacation areas; reserving**
7 **easement rights for various utilities, including AT&T, Pacific Gas and Electric**
8 **Company, and the City; reserving temporary private access easement to adjacent**
9 **owner; accepting Department of Public Works Order No. 178,144; and authorizing**
10 **official acts in connection with this Ordinance.**

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12 Note: Additions are single-underline italics Times New Roman;
13 deletions are ~~strikethrough italics Times New Roman~~.
14 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough-normal~~.

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

16 Section 1. Findings.

17 (a) On June 23, 2009, the Board of Supervisors adopted Resolution No. 253-09, a
18 copy of which is on file with the Clerk of the Board of Supervisors in File No. 090574, being a
19 Resolution declaring its intention to order the vacation of portions of Fairfax Avenue and West
20 Point Road and various public service easements (collectively the "Vacation Area"); reserving
21 easement rights for AT&T, Pacific Gas and Electric Company, and the City on West Point
22 Road and reserving easement rights to the Spaulding Estate on Fairfax Avenue. The location
23 and extent of the Vacation Area and Reservations are shown on the Department of Public
24 Works' SUR Map Nos. 1009, 2009, 3009, 4009 and 5009, dated April 15, 2009, copies of
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1 15, 2009, copies of such maps are on file with the Clerk of the Board of Supervisors in File
2 No. 090575 and are incorporated herein by reference.

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

7 (c) When such matter was considered as scheduled by the Board of Supervisors at its
8 regular meeting held in the City Hall, San Francisco, on August 11, 2009,
9 sometime after 2:30 P.M., the Board heard all persons interested in such vacation.

10 (d) The vacation of the Vacation Area is part of an action to implement the Hunters
11 View Project. The Hunters View Project will subdivide land into 22 developable lots with new
12 public streets and will provide 354 affordable housing units.

13 (e) In accordance with the actions contemplated herein, this Board adopted
14 Resolution No. 253-09, concerning findings pursuant to the California Environmental
15 Quality Act (California Public Resources Code sections 21000 et seq.). A copy of said
16 Resolution is on file with the Clerk of the Board of Supervisors in File No. 090574 and is
17 incorporated herein by reference.

18 (f) In a letter dated December 10, 2008 (the "Planning letter"), the City Planning
19 Department determined that the proposed vacations and other actions contemplated herein
20 are consistent with the General Plan and the priority policies of Planning Code Section 101.1.
21 A copy of said letter is on file with the Clerk of the Board of Supervisors in File No. 090575
22 and is incorporated by reference as though fully set forth herein. The Board of Supervisors
23 adopts as its own the consistency findings of the Planning Letter.
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1 (g) In DPW Order No. 178,144, dated April 15, 2009, a copy of which is on file with the
2 Clerk of the Board of Supervisors in File No. 090575, the Director of the Department
3 of Public Works determined: (i) the Vacation Area is no longer necessary for the City's present
4 or prospective future public street and sidewalk purposes, (ii) in accordance with Streets and
5 Highways Code Section 892 and 8314, the right-of-ways and parts thereof proposed for
6 vacation are no longer useful as a nonmotorized transportation facility, as defined in Section
7 887, because the design of the Hunters View Project contains new facilities for bicycle and
8 pedestrian movement that are equal to or in excess of what may currently exist, (iii) the
9 proposed quitclaim of public right-of-way is consistent with the Hunters View Project and (iv)
10 the value of such exchange for future public right-of-way and other public benefits is equal or
11 in favor of the City, and (v) there are no physical public or private utility facilities within the
12 Vacation Area except for AT&T for telecommunication purposes, Pacific Gas and Electric
13 Company for gas and power transmission purposes, other City Utilities and Spaulding Estate
14 for temporary private access purposes . A copy of the DPW Order is on file with the Clerk of
15 the Board of Supervisors in File No. 090575 . The Board of Supervisors adopts as its
16 own and incorporates by reference herein as if fully set forth, the recommendations of the
17 Director of the Department of Public Works as set forth in DPW Order No. 178,144 concerning
18 the vacation of the Vacation Area, reservations of easements and other actions in furtherance
19 thereof.

20 (h) The vacation of the Vacation Area is being taken pursuant to California Streets and
21 Highways Code sections 8300 et seq. and Public Works Code section 787(a).

22 (i) From all the evidence submitted at the public hearing noticed in the Resolution No.
23 253-09 and the associated materials on file with the Clerk of the Board in File No.
24 090574 , the Board of Supervisors finds that the Vacation Area, as described in said
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1 Resolution, is no longer necessary for the City's use for public streets or as bicycle
2 transportation facilities as defined in Streets and Highways Code Sections 890, et seq.,
3 subject to the reservations and conditions described in this Ordinance.

4 (j) The public interest, convenience and necessity require that the City reserve from
5 the vacation of the Vacation Area solely the following: (i) a non-exclusive easement for the
6 benefit of AT&T (ii) a non-exclusive easement for the benefit of PG&E (iii) a non-exclusive
7 temporary private access easement for the benefit of the Spaulding Estate (iv) a non-
8 exclusive easement for other City Utilities in, upon, and over that certain portion of the
9 Vacation Area, in which their respective in-place and functioning facilities are located, to the
10 extent necessary to maintain, operate, repair and remove existing lines of pipe, conduits,
11 cables, wires, poles, and other convenient structures, equipment and fixtures for the operation
12 of AT&T for telecommunications facilities; PG&E for power and gas transmission purposes;
13 and various City utilities, together with reasonable access to the foregoing facilities for the
14 purposes set forth above. The public interest, convenience and necessity does not require
15 that the City reserve from the vacation of the Vacation Area any other easements except as
16 mentioned above; and,

17 (k) The public interest and convenience require that the vacation be done as declared
18 in the Resolution No. 253-09.

19 Section 2. Except as set forth in Section 3 below, the Vacation Area, as shown on
20 SUR Map No. 1009 is hereby ordered vacated in the manner described in the Resolution No.
21 253-09, as modified herein, and pursuant to California Streets and Highways Code
22 Sections 8300 et seq. and Public Works Code section 787(a).

23 Section 3. The vacation of the Vacation Area is conditioned upon the reservation of the
24 following (i) a non-exclusive easement for the benefit of AT&T (ii) a non-exclusive easement
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1 for the benefit of PG&E (iii) a non-exclusive temporary easement for the benefit of the
2 Spaulding Estate (iv) a non-exclusive easement for other City Utilities, in, upon, and over that
3 certain portion of the Vacation Area, in which its in-place and functioning facilities are located,
4 to the extent necessary to maintain, operate, repair and remove existing lines of pipe,
5 conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the
6 operation of AT&T for telecommunications facilities; PG&E for power and gas transmission
7 purposes; and various City utilities, together with reasonable access to the foregoing facilities
8 for the purposes set forth above and shall terminate with the dedication and acceptance of
9 replacement facilities. The temporary private access easement to the Spaulding Estate shall
10 terminate with the conveyance or acquisition of said land to the San Francisco
11 Redevelopment Agency, San Francisco Housing Authority or City and County of San
12 Francisco.

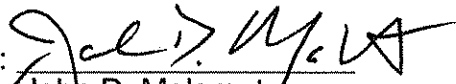
13 Section 4. Notwithstanding the provisions of Administrative Code Chapter 23, the
14 Board of Supervisors hereby authorizes the Director of Property to execute a City quitclaim
15 deed(s) to the San Francisco Housing Authority and San Francisco Redevelopment Agency
16 for the Vacation Area, including therein the reservations of the non-exclusive easements for
17 AT&T for telecommunications purposes, PG&E for gas and power transmissions purposes
18 and other City utilities on behalf of the City and the non-exclusive temporary private access
19 easement for the Spaulding Estate subject to the terms and conditions set forth herein.

20 Section 5. The Board of Supervisors hereby directs the Clerk of the Board of
21 Supervisors to transmit to the Director of Public Works a certified copy of this Ordinance, and
22 the Board of Supervisors hereby urges the Director of Public Works to proceed in the manner
23 required by law. The Clerk of the Board also is hereby directed to transmit to the Director of
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1 Public Works a certified copy of this Ordinance so that this Ordinance may be recorded
2 together with any other documents necessary to effectuate this Ordinance.

3 Section 6. The Mayor, Clerk of the Board, Director of Property, and Director of Public
4 Works are hereby authorized and directed to take any and all actions which they or the City
5 Attorney may deem necessary or advisable in order to effectuate the purpose and intent of
6 this Ordinance (including, without limitation, the filing of the Ordinance in the Official Records
7 of the City and County of San Francisco and confirmation of satisfaction of any of the
8 conditions to the effectiveness of the vacation of the Vacation Area hereunder and
9 confirmation of the granting of the easements reserved hereunder pursuant to Section 3 of
10 this Ordinance and execution and delivery of any evidence of the same, which shall be
11 conclusive as to the satisfaction of such conditions upon signature by any such City official or
12 his or her designee).

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14 APPROVED AS TO FORM:
15 DENNIS J. HERRERA, City Attorney

16 By: 
17 John D. Malamut
18 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 090575

Date Passed:

Ordinance ordering the vacation of portions of Fairfax Avenue and West Point Road and various public service easements; making environmental findings and findings of consistency with the City's General Plan and the priority policies of Planning Code Section 101.1; quitclaiming the City's interest in the vacation areas; reserving easement rights for various utilities, including AT&T, Pacific Gas and Electric Company, and the City; reserving temporary private access easement to adjacent owner; accepting Department of Public Works Order No. 178,144; and authorizing official acts in connection with this Ordinance.

August 11, 2009 Board of Supervisors — PASSED ON FIRST READING

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi
Noes: 1 - Daly

August 18, 2009 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Elsbernd, Mar, Maxwell, Mirkarimi
Noes: 1 - Daly
Excused: 1 - Dufty

File No. 090575

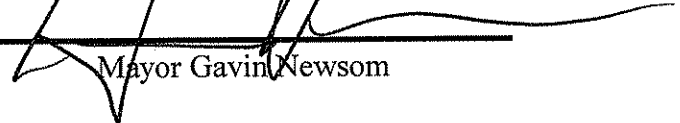
I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on August 18, 2009 by the Board of Supervisors of the City and County of San Francisco.



Angela Calvillo
Clerk of the Board

8/20/2009

Date Approved



Mayor Gavin Newsom