

**ORDINANCE NO. 2023-10**

**AN ORDINANCE OF THE TOWNSHIP OF BARNEGAT,  
COUNTY OF OCEAN AND STATE OF NEW JERSEY  
AUTHORIZING THE SALE OF BLOCK 187, LOTS 3, 4 and 5 (68,  
70 AND 72 GUNNING RIVER ROAD), OF THE TOWNSHIP OF  
BARNEGAT, COUNTY OF OCEAN AND THE STATE OF NEW  
JERSEY, PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.**

**WHEREAS**, the Township of Barnegat, is the owner of real property known as Block 187, Lots 3, 4 and 5 otherwise known as 68,70 and 72 Gunning River Road in the Township of Barnegat (the “Properties”); and

**WHEREAS**, the Properties are three contiguous 50’ x 100’ Lots in the R-20 Zone that are undersized both individually and collectively; and

**WHEREAS**, the Township Committee of the Township of Barnegat has determined that the property as delineated on the tax map of the Township of Barnegat is not needed for public use; and

**WHEREAS**, a sale of the property will return the property to the tax rolls of the Township of Barnegat and create revenues for the Township; and

**WHEREAS**, the Township Committee has determined that it is in the best interests of the Township of Barnegat to offer the property for sale, pursuant to N.J.S.A. 40A:12-1 et seq.; and

**WHEREAS**, N.J.S.A. 40A:12-13 authorizes the Township to sell municipally owned property at a private sale or a public sale to an owner of real property contiguous thereto where the Township owned property is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvements; and

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) further provides for a sale to the owner of the real property contiguous to the real property being sold; provided that that the real

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property being sold is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon.

**NOW THEREFORE BE IT ORDAINED** on this 7<sup>th</sup> day of March, 2023 by the Mayor and Township Committee of the Township of Barnegat, County of Ocean, and State of New Jersey as follows:

**SECTION 1.** The Township is the owner of land located in the Township of Barnegat known as Block 187, Lots 3, 4, 5 otherwise known as 68, 70, 72 Gunning River Road, Barnegat Township, New Jersey (the “Properties”) and are located in the R-20 Zone and subject to all easements and restrictions of record and not of record.

**SECTION 2.** The Township Committee has determined it to be in the public interest to sell said properties at a private sale to an owner of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5).

**SECTION 3.** N.J.S.A. 40A:12-13(b)(5) further provides that the sale shall not be for less than fair market value of said real properties.

**SECTION 4.** The Township Committee declares the properties to be surplus and not needed for public use.

**SECTION 5.** The following conditions for the sale of the property shall apply:

- (a) The minimum bid for the properties shall be \$18,000.00
- (b) Full payment of the purchase price shall be received within 30 days of the date of the acceptance of the bid. The successful bidder will be required to pay, either by cash or bank check, the deposit in the amount of ten percent (10%) of the minimum price of the bid at the close of bidding with the balance to be paid by either cash or bank check. The successful bidder shall pay all legal expenses including, but not limited to, Township legal fees, the pro rata cost of

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advertisement, recording fees, realty transfer fee and all other reasonable fees and costs incurred as part of the consideration on the date of closing.

- (c) The properties are being sold in an “as is” condition. The successful bidder is responsible for conducting any and all inspections and testing of the properties at its own cost and expense. The properties are sold subject to any and all conditions, including but not limited to, title issues, environmental issues, existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal, any future or present assessment for the construction of improvements benefiting the properties. A survey of the properties may be conducted by any prospective bidder at its discretion, as part of its due diligence.
- (d) The land to be sold is undersized for development under the Township zoning ordinance. Bids will be limited to contiguous landowners only. The successful bidder shall consolidate the properties purchase with other contiguous lot or lots so as to be part of a reconfigured lot in conformance with the zoning requirements. This requirement shall be incorporated into the Quit Claim Deed as a deed restriction. The contiguous landowners for the purpose of this sale shall be limited to the legal owner of record as of the date of sale. Contract purchasers and tax lien owners are not deemed contiguous for the purpose of this sale.
- (e) Should the properties be developed, it shall be done in accordance with all applicable Township ordinances as well as County and State

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laws, rules, and regulations. No representation, express or implied, is made that the successful bidder on an undersized lot will be able to secure a variance to develop, construct, or otherwise utilize any undersized lots hereby being sold.

- (f) The Deed must be recorded within 30 days of closing or title to the property shall automatically revert back to the Township of Barnegat without the necessity of entry or re-entry.
- (g) With respect to the sale of the properties herein, no real estate commission is owed.
- (h) The Deed given by the Township for the properties will be a Quit Claim Deed. No title contingencies or conditions are permitted.
- (i) The Township reserves the right to accept the highest responsive bid if equal to or greater than the minimum bid price or to reject all bids and not to award to the highest bidder. The Township reserves the right to waive any and all defects in formalities in any proposal, and to accept or reject the highest responsive bid deemed to be in the best interest of the Township.
- (j) In the event the Township cannot convey marketable title to said premises its sole liability shall be to return without interest all monies paid by the purchaser to the Township. This obligation will not survive the closing of title. It is suggested and recommended that the potential bidders perform title searches and/or last owner and lien searches on the properties they are interested in bidding upon prior to the date of bid submission so that the potential bidder may be adequately apprised of any encumbrances or restrictions of record

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effecting the use and germane of property. The Township of Barnegat shall not be responsible for the cost associates with such searches in the event the Township of Barnegat is unable to convey title and/or if a bid is rejected.

**SECTION 6.** Notice of the Township's intention to sell the properties and the minimum bid price therefore shall be sent by certified mail, return receipt requested to all property owners listed on the municipal tax records who own properties contiguous to the properties. It shall be the responsibility of the successful bidder to pay all closing costs and expenses incurred by both the Township of Barnegat and the successful bidder relating to the sale, transfer, and exchange of the properties.

**SECTION 7.** The Sale shall be advertised in the official newspaper of the Township by two insertions, at least once a week during two consecutive weeks, the last publication to be no later than seven (7) days prior to the sale.

**SECTION 8.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 9.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 10.** This ordinance shall take effect after second reading and publication as required by law.

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**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on the **7<sup>th</sup> day of March, 2023**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **4<sup>th</sup> day of April, 2023, at 10:00 AM**. at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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Donna M. Manno, RMC  
Municipal Clerk

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## CERTIFICATION

I, Donna M. Manno, Municipal Clerk of the Township of Barnegat, County of Ocean, State of New Jersey do hereby certify by my hand and seal that the foregoing Ordinance namely **Ordinance 2023-10** Authorizing the sale of Block 187, Lots 3, 4 and 5 (68, 70 and 72 Gunning River Road), of the Township of Barnegat, County of Ocean and State of New Jersey, Pursuant to N.J.S.A. 40A:12-1 et seq., was introduced and passed at a meeting of the Township Committee on the **7<sup>th</sup> day of March, 2023** and finally adopted after Public Hearing at a meeting held in the Municipal Complex, 900 West Bay Avenue, Barnegat, NJ on the **4<sup>th</sup> day of April, 2023 at 10:00 AM.**

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Donna M. Manno, RMC  
Municipal Clerk

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