



## Legislation Details (With Text)

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**On agenda:** 9/6/2012      **Final action:** 9/11/2012  
**Title:** SAVE OUR WATER ORDINANCE.  
AN INITIATIVE  
Deferred 6PSF-c 090612 - PHO

**Sponsors:**

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
9/11/2012	1	Municipal Council	Close on Public Hearing and Adopt	Pass
9/6/2012	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass

**SAVE OUR WATER ORDINANCE.  
AN INITIATIVE**

Deferred 6PSF-c 090612 - PHO

WHEREAS, life is impossible without water; and

WHEREAS, the City of Newark's water supply and water infrastructure are among its most valuable assets; and

WHEREAS, Newark's water and sewer systems must be run efficiently and effectively on behalf of Newark's residents, businesses and other customers; and

WHEREAS, since access to safe and affordable water is crucial to the life of Newark, control of the water system must remain with the people of the City of Newark and not be subordinated to irresponsible and inequitable fiscal schemes; and

WHEREAS, establishment of a municipal utility authority would result in the loss of public accountability for the water system and the significant increase of public debt without offsetting long-lasting improvements; and

WHEREAS, a municipal utility authority can engage in no essential water and sewer operations that a municipal water department cannot; and

WHEREAS, municipal utility authorities elsewhere in New Jersey have frequently engaged in irresponsible, unauthorized and illegal activities; and

WHEREAS, the City of Harrisburg in Pennsylvania has failed financially because it guaranteed the debt of its municipal utility authority; and

WHEREAS, the City of Newark has not had a professional full-time Director of the Water and Sewer Utilities for many years; and

WHEREAS, the Newark Watershed Conservation and Development Corporation has interfered, contrary to its charter, in the operations of the Department of Water and Sewer Utilities; and

WHEREAS, the Newark Watershed Conservation and Development Corporation has spent public money irresponsibly, has engaged in unauthorized activities to turn itself into a municipal utility authority, and has been determined, according to the State Director of Local Government Services, to be operating in an unlawful manner; and

WHEREAS, the Department of Water and Sewer Utilities can perform its mission effectively and efficiently only if interference from the Newark Watershed Conservation and Development Corporation is eliminated and a full-time qualified Director is appointed to the Department; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality, such as the City of Newark, is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF NEWARK IN THE COUNTY OF ESSEX IN THE STATE OF NEW JERSEY, AS FOLLOWS:

**Section 1:** Revised Ordinances of the City of Newark section 2:17-1 shall be amended to include a new section 2:17-1.4, as follows: The City will not establish a municipal utility authority under N.J.S.A. 40:62-1 et seq. or enter into any Interlocal or Services agreement with any entity established under that law, for any of the purposes enumerated under that law, without voter approval.

**Section 2:** Revised Ordinances of the City of Newark section 2:17-1 shall be amended to include a new section 2:17-1.5, as follows: Neither the Director nor any City official associated with the Department of Water and Sewer Utilities shall enter into any contract exempt from competitive bidding under N.J.S.A. 40A:11-5(1)(gg) and/or N.J.S.A. 40A:11-5.1.

**Section 3:** Revised Ordinances of the City of Newark section 2:17-1 shall be amended to include a new section 2:17-1.6, as follows: The City will not guarantee the debt issued by any non-City entity or independent government authority, public or private or any combination thereof, and will not enter into any deficiency agreement with any entity, for purposes of any activities enumerated in N.J.S.A. 40:62-1 et seq, without voter approval.

**Section 4:** Revised Ordinances of the City of Newark section 2:17-1 shall be amended to include a new section 2:17-1.7, as follows: Whenever voter approval is required under this ordinance, the Municipal Council shall call for the referendum by ordinance. The question shall be submitted at the next general election occurring not less than 40 days after the date specified in N.J.S.A. 40:69A-185 for the ordinance to take effect.

**Section 5:** Revised ordinances of the City of Newark section 2:17-1 shall be amended to include a new section 2:17-1.7, as follows: Conflicts of interest. "Conflicting agency" shall mean (a) any entity from which the Department of Water and Sewer Utilities receives water or to which it provides water or sewage, including but not limited to, the North Jersey District Water Supply Commission, the

Passaic Valley Sewerage Commissioners, and Joint Meeting of Essex and Union Counties; and (b) any municipal utility authority, municipal water or sewer department, or water company that serves any region that is contiguous to the City of Newark or to any other municipality to which the Department of Water and Sewer Utilities provides water. No legal counsel or legal firm shall be retained or employed by the Department of Water and Sewer Utilities or by the entity authorized under R.O. 2.17-3.2(c) if said legal counsel or legal firm is also employed or retained by a conflicting agency.

**Section 6:** The Newark Watershed Conservation and Development Corporation is hereby dissolved. All physical, commercial or other financial assets of the Newark Watershed Conservation and Development Corporation shall be paid to the Water Utility capital fund held by the City Treasurer. All nonfinancial assets of the Newark Watershed Conservation and Development Corporation shall become the property of the Department of Water and Sewer Utilities.

**Section 7:** Revised ordinances of the City of Newark section 2.17-1.1(b) shall be amended to read as follows: Qualifications of Director. The Director of Water and Sewer Utilities shall, prior to appointment, be qualified by education, training and/or experience, in the planning and execution of water and sewer public works operations and improvements and possess the knowledge and ability to direct and supervise revenue accounting and collection operations. The Director's compensation shall be such sum annually as shall be fixed by ordinance of the Municipal Council. The Director or Acting Director shall be a full-time employee of the Department of Water and Sewer Utilities and shall hold no other title within the City of Newark. He or she shall receive no compensation from any entity that has a contract with the City of Newark.

**Section 8:** Revised ordinances of the City of Newark section 2.17-1.1(c) shall be amended to read as follows: Duties of the Department. The Director, through the Divisions and otherwise, shall direct and supervise the functions and activities for the design, condition and performance of the City's water, sanitary and storm sewerage systems and develop and maintain methods to account for water consumption and usage and the implementation of revenue collection systems related thereto in order to maintain the self-liquidating requirements of both the water and sewer utilities. Additionally, the Director of Water/Sewer Utilities, himself or herself, or through a nominee shall authorize, direct and supervise the preparation of plans, specifications, and the letting and performance of all service, professional, and construction contracts under the Department of Water and Sewer Utilities. The Department's duties shall be carried out by the City of Newark, and not by any other entity, public or private.

**Section 9:** Revised ordinances of the City of Newark section 2.17-3.2(c) shall be amended to read as follows : In lieu of the planning, conservation, development and management of the City's Pequannock Watershed properties by regular City department, the City of Newark may enter into one (1) or more service agreement for any or all those purposes. In the event that any such agreement becomes operative, the department shall coordinate the administration of the agreement with the other water supply functions of the Division and the Director of Water and Sewer Utilities shall supervise the administration of the agreement on behalf of the City of Newark. Any such agreement shall be a cost-reimbursement contract. Any such agreement shall provide: that the entity is restricted by its charter to engaging in those activities and only those activities; that the entity shall be covered by the Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.), the Open Public Records Act (N.J.S.A 47:1A-1 et seq.), the Local Public Contract Law (N.J.S.A. 40A:11-1 et seq.), and the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.); that the entity's bylaws have been adopted and approved by ordinance. Any agreement under this section may be authorized only by

ordinance, and at least one month must elapse between final adoption of the ordinance and the beginning of the contract period. No agreement under this section may exceed one year in length.

**Section 10:** Revised ordinances of the City of Newark section 2.2-3 shall be amended to include a new section d: The Mayor, in coordination with the Director of the Department of Water and Sewer Utilities, shall annually report no later than April 1 on the state of water and sewer service and infrastructure. A copy of the report shall be posted on the city website and delivered to the main public library and every branch library located in the City of Newark..

**Section 11:** Any ordinance that conflicts with any provision of this ordinance is hereby repealed. Any authority granted by resolution that conflicts with any provision of this ordinance is hereby rescinded.

**Section 12:** If a provision of this ordinance is or becomes invalid, illegal, or unenforceable in any jurisdiction, that shall not affect either the validity or enforceability in that jurisdiction of any other provision of this ordinance, or the validity or enforceability in other jurisdictions of that or any other provision of this ordinance.

**Section 13:** This ordinance shall take effect immediately.