



## Legislation Details (With Text)

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**File created:** 10/11/2012      **In control:** Water Sewer Utility  
**On agenda:** 4/3/2013      **Final action:** 5/1/2013  
**Title:** ORDINANCE AUTHORIZING ACQUISITION OF EASEMENT RIGHTS IN PROPERTIES LOCATED AT 152 PASSAIC STREET (BLOCK 437, LOT 1), 112-150 PASSAIC STREET (BLOCK 519, LOT 2) AND 87-101 RIVERSIDE AVENUE (BLOCK 674, LOT 5) BY NEGOTIATED PURCHASE OR EMINENT DOMAIN IN ORDER TO INSTALL AND THEREAFTER MAINTAIN AND OPERATE COMBINED SEWER OVERFLOW IMPROVEMENTS ON THE PROPERTIES

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Date	Ver.	Action By	Action	Result
5/1/2013	1	Municipal Council	Close on Public Hearing and Adopt	Pass
4/17/2013	1	Municipal Council	Adopt on First Reading	Pass
4/3/2013	1	Municipal Council	Advance to First Reading	Pass

### ORDINANCE AUTHORIZING ACQUISITION OF EASEMENT RIGHTS IN PROPERTIES LOCATED AT 152 PASSAIC STREET (BLOCK 437, LOT 1), 112-150 PASSAIC STREET (BLOCK 519, LOT 2) AND 87-101 RIVERSIDE AVENUE (BLOCK 674, LOT 5) BY NEGOTIATED PURCHASE OR EMINENT DOMAIN IN ORDER TO INSTALL AND THEREAFTER MAINTAIN AND OPERATE COMBINED SEWER OVERFLOW IMPROVEMENTS ON THE PROPERTIES

WHEREAS, the City of Newark owns and operates a combined sewer system which collects both domestic wastewater and storm water runoff; and

WHEREAS, there are numerous combined sewer overflow ("CSO") points located throughout the City which service areas and convey excess wet weather flow from the combined sewer overflow system to the waters of the State; and

WHEREAS, in accordance with the New Jersey Pollutant Discharge Elimination System ("NJPDES"), the New Jersey Department of Environmental Protection has mandated that the City construct fifteen (15) new combined sewer overflow facilities (either netting or screening), of which eleven (11) have been constructed or are under construction, in order to collect floatables and solids which would otherwise enter into the waters of the State (the "CSO Improvements Project"); and

WHEREAS, the City's Department of Water and Sewer Utilities originally designed the CSO Improvements Project so that the CSO improvements would be located above-ground and, in so doing, identified the property rights within the City that had to be acquired in order to construct the CSO Improvements Project; and

WHEREAS, on January 19, 2005, the Municipal Council of the City of Newark (the "Municipal Council") adopted Ordinance 6PhS&FG 011905 authorizing the Director of the Department of Economic and Housing Development to acquire the property rights determined to be necessary for the CSO Improvements Project as identified within the ordinance by negotiated purchase or eminent domain for the amounts set forth therein; and

WHEREAS, the properties located at 152 Passaic Street (Block 437, Lot 1) and 112-150 Passaic Street (Block 519, Lot 2) were included within Ordinance 6PhS&FG 011905; and

WHEREAS, responding to the concerns of the property owners, the Department of Water and Sewer Utilities thereafter elected to redesign the CSO Improvements Project so that the CSO improvements would be located underground rather than above-ground, thereby reducing the impact of these improvements upon the use of the properties by the property owners, reducing the scope of the property rights that the City needs to acquire in each of these properties, and reducing the cost to acquire these property rights; and

WHEREAS, as a result of the redesign of the CSO Improvements Project, the rights that the City intends to acquire in 152 Passaic Street (Block 437, Lot 1) and 112-150 Passaic Street (Block 519, Lot 2) have changed from those identified within Ordinance 6PhS&FG 011905 and the City has determined that it is also necessary to obtain easement rights in a property located at 87-101 Riverside Avenue (Block 674, Lot 5); and

WHEREAS, the easement rights that the City intends to acquire in 152 Passaic Street (Block 437, Lot 1) and 112-150 Passaic Street (Block 519, Lot 2), and 87-101 Riverside Avenue (Block 674, Lot 5) are set forth in property descriptions and maps that are appended hereto as Exhibit A; and

WHEREAS, due to the New Jersey Department of Environmental Protection mandate that the CSO Improvements Project be completed and the approval of an Administrative Consent Order by the City whereby it agreed to complete the construction of these facilities or be subject to the imposition of fines and penalties, it is necessary to proceed expeditiously to acquire the property rights in the properties needed for the project; and

WHEREAS, the Municipal Council wishes to authorize the Director or Acting Director of the Department of Water and Sewer Utilities to acquire the property rights identified within Exhibit A by negotiated purchase in an amount not to exceed the appraised value plus fifteen percent (15%) of the appraised value of each individual property, and for a total aggregate amount not to exceed ninety-six thousand dollars (\$96,000.00) and, if negotiated purchase cannot be effectuated, to initiate eminent domain actions to acquire the property rights identified herein.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Director or Acting Director of the Department of Water and Sewer Utilities is hereby authorized to acquire the property rights identified within Exhibit A to the properties located at 152 Passaic Street (Block 437, Lot 1) and 112-150 Passaic Street (Block 519, Lot 2), and 87-101 Riverside Avenue (Block 674, Lot 5) in an amount not to exceed the appraised value plus fifteen percent (15%) of the appraised value of each individual property, and for a total aggregate amount not to exceed ninety-six thousand dollars (\$96,000.00) and, if negotiated purchase cannot be effectuated, to initiate eminent domain actions to acquire the property rights identified herein.

2. The Director or Acting Director of the Department of Water and Sewer Utilities is hereby authorized to execute any and all legal documents necessary to effectuate the acquisition of the property rights identified herein, including but not limited to land sale contracts, easement agreements, and deeds as well as all documents required in order to initiate and prosecute eminent domain proceedings and to take title to these property rights through eminent domain.

3. A Certification of Funds is attached hereto indicating that there are funds in the amount of \$96,000.00 available in Account No. 044 G95 S65Q471 B2001 to acquire the property rights identified herein.

4. When property rights are acquired hereunder, a copy of the applicable deed or Declaration of Taking will be filed by the Director or Acting Director of the Department of Water and Sewer Utilities with the office of the City Clerk.

5. This Ordinance shall take effect in accordance with the laws of the State of New Jersey after final passage and publication.

### **STATEMENT**

This Ordinance authorizes the Director or Acting Director of the Department of Water and Sewer Utilities to acquire the property rights as described within the ordinance to the properties located at 152 Passaic Street (Block 437, Lot 1) and 112-150 Passaic Street (Block 519, Lot 2), and 87-101 Riverside Avenue (Block 674, Lot 5) in an amount not to exceed the appraised value plus fifteen percent (15%) of the appraised value of each individual property, and for a total aggregate amount not to exceed ninety-six thousand dollars (\$96,000.00) and, if negotiated purchase cannot be effectuated, to initiate eminent domain actions to acquire the property rights identified herein.