



Legislation Details (With Text)

File #: 13-1471 **Version:** 1 **Name:** NJEIT 2014 FY Sewer Bond Ordinance
Type: Ordinance **Status:** Adopted
File created: 7/22/2013 **In control:** Finance
On agenda: 8/7/2013 **Final action:** 11/7/2013
Title: A BOND ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR SEWER UTILITY CAPITAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$17,750,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$17,750,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME.
Deferred 6PSF-k (s) 082113
Deferred 6PSF-j 090513/Public Hearing Open
Deferred 6PSF-c 091813/Public Hearing Open
No Action Taken 6PSF-a 100213/Public Hearing Open
Deferred 6PSF-a 101013/Public Hearing Open
No Action Taken 6PSF-a 102313/Public Hearing Open
Deferred 6PSF-a 102913/Public Hearing Open

Sponsors:

Indexes:

Code sections:

| Date | Ver. | Action By | Action | Result |
|------------|------|-------------------|--|--------|
| 11/7/2013 | 1 | Municipal Council | Close on Public Hearing and Adopt | Pass |
| 10/29/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 10/23/2013 | 1 | Municipal Council | no action taken | |
| 10/17/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 10/10/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 10/2/2013 | 1 | Municipal Council | no action taken | |
| 9/18/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 9/5/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 8/21/2013 | 1 | Municipal Council | maintained on public hearing and deferred to Special meeting | Pass |
| 8/7/2013 | 1 | Municipal Council | Advance and Adopt on First Reading as 6F- | Pass |

A BOND ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR SEWER UTILITY CAPITAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$17,750,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$17,750,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME.

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Deferred 6PSF-a 102913/Public Hearing Open

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The several improvements or purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the City as sewer utility capital improvements to be made or acquired by the City. For the several improvements or purposes described in Section 3 hereof, there are hereby appropriated the respective sums of money therein stated as the appropriations made for each improvement or purpose, such sums amounting in the aggregate to \$17,500,000.00. No down payment is required in connection with the authorization of bonds and notes pursuant to N.J.S.A. 40A:2-11(c) as this bond ordinance authorizes obligations in accordance with N.J.S.A. 40A:2-7(d) and N.J.S.A. 40A:2-47(b).

Section 2. In order to finance the cost of the several improvements or purposes not otherwise provided for hereunder, negotiable bonds of the City are hereby authorized to be issued in the principal amount of \$17,750,000.00 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law. Each bond anticipation note issued pursuant to this bond ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within the limitations prescribed by the Local Bond Law. Each of said notes shall be signed and shall be under the seal of said City and attested as permitted by law. The appropriate City officers are hereby authorized to execute said notes and to issue said notes in such form as they may adopt in conformity with law. The power to determine all matters in connection with this Bond Ordinance, and also the power to sell the notes, is hereby delegated to the Chief Financial Officer and/or Director of Finance of the City (the "Financial Officer"), who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law, and the Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. The Financial Officer is authorized and directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of notes pursuant to this bond ordinance is made, such report to include the principal amount, description, interest rate and maturity of the notes sold, the price obtained and the name of the purchaser.

Section 3. The improvements hereby authorized and the purposes for the financing of which said obligations are to be issued are as follows:

| Improvement | Estimated Cost | Estimated Maximum Amount of Bonds & Notes | Period of Usefulness (Years) |
|--|-----------------|---|------------------------------|
| Sewer utility improvements, including but limited to, installation of approximately 380 linear feet of precast box culvert, end-of-pipe netting facilities at the transition to the drainage ditch, and dredging of the existing drainage ditch. | \$5,250,000.00 | \$5,250,000.00 | 40 |
| Sewer utility improvements, including but limited to, rehabilitation by cured-in-place pipe of approximately 6,154 linear feet of brick combined sewers. | \$12,500,000.00 | \$12,500,000.00 | 40 |

All of said projects set forth above shall include all equipment, costs, improvements and appurtenances necessary therefore or related thereto.

Section 4. The capital budget or temporary capital budget, as applicable of the City is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget, as applicable and capital program as approved by the Director of the Division of Local Government Services is on file with the Office of the Clerk and is available there for public inspection.

Section 5. The following additional matters are hereby determined, declared, recited and stated:

(a)The several improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements or purposes the City may lawfully undertake as self-liquidating improvements of a municipal public utility, and no part of the costs thereof have been or shall be specially assessed on property specially benefitted thereby.

(b)The average period of usefulness of the several improvements or purposes, within the limitations of the Local Bond Law, computed on the basis of the respective amounts or obligations authorized for each improvement or purpose and the reasonable life thereof within the limitations of

the Local Bond Law, is 40 years.

(c)The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the Office of the Clerk, and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$17,750,000.00 that the net debt of the City determined as provided by the Local Bond Law is increased by \$17,750,000.00, but then reduced by the same amount due to the self-liquidating status of the City's sewer utility.

(d)This bond ordinance authorizes obligations of the City solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the City. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations authorized by this bond ordinance will not materially impair the credit of the City or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

(e)An aggregate amount not exceeding \$5,000,000.00 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the several improvements or purposes.

(f)The City reasonably expects to commence the acquisition and/or construction of the several improvements or purposes described in Section 3 hereof, and to advance all or a portion of the costs in respect thereof, prior to the issuance of bonds or notes hereunder. To the extent such costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of the bonds or notes authorized by this bond ordinance, in an aggregate amount not to exceed the amount of bonds or notes authorized in Section 2 hereof.

Section 6. Any grant monies received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this Bond Ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 7. The full faith and credit of the City is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this Bond Ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the City for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 8. The City hereby covenants to take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the bonds and notes authorized hereunder and issued as tax exempt obligations as is or may be required under the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder (the "Code"), including compliance with the Code with regard to the use, expenditure, investment, timely reporting and rebate of investment earnings as may be required thereunder.

Section 9. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 10. The provisions of this Bond Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this bond ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 11. This Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

STATEMENT

This Bond Ordinance authorizes sewer utility capital improvements and other related expenses and appropriates \$17,500,000.00 therefor, and provides for the issuance of \$17,500,000.00 in bonds or notes to finance the same.

NOTICE OF PENDING BOND ORDINANCE

PUBLIC NOTICE IS HEREBY GIVEN that the foregoing bond ordinance was duly introduced and passed upon first reading at a regular meeting of the Municipal Council of the City of Newark, in the County of Essex, New Jersey, held on _____, 2013. Further notice is hereby given that said bond ordinance will be considered for final passage and adoption, after public hearing thereon, at a regular meeting of said Municipal Council to be held in City Hall, 920 Broad Street, Newark, New Jersey on _____, 2013 at ____ o'clock p.m., and during the week prior to and up to and including the date of such meeting, copies of said bond ordinance will be made available at the City Clerk's office in City Hall to the members of the general public who shall request the same.

Robert P. Marasco, City Clerk

NOTICE OF ADOPTION OF BOND ORDINANCE

PUBLIC NOTICE IS HEREBY GIVEN that the bond ordinance published herewith has been finally adopted by the Municipal Council of the City of Newark, in the County of Essex, New Jersey on _____, 2013 and the 20-day period of limitation within which a suit, action or proceeding questioning the validity of such bond ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this notice.

Robert P. Marasco, City Clerk

CLERK'S CERTIFICATE

I, Robert P. Marasco, City Clerk of the City of Newark, in the County of Essex, New Jersey (the "City"), HEREBY CERTIFY as follows that:

1. The attached copy of Ordinance No. _____ of said City entitled as set forth below and finally adopted on _____, 2013, has been compared by me with the original thereof officially recorded in the Ordinance Book of the City and is a true and correct copy thereof and of the whole of said original Ordinance. The title of said Ordinance is as follows:

A BOND ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, PROVIDING FOR SEWER UTILITY CAPITAL IMPROVEMENTS AND OTHER RELATED EXPENSES IN AND FOR THE CITY OF NEWARK AND APPROPRIATING \$17,500,000.00 THEREFOR, AND PROVIDING FOR THE ISSUANCE OF \$17,500,000.00 IN BONDS OR NOTES OF THE CITY OF NEWARK TO FINANCE THE SAME.

2. Said Ordinance was introduced in writing and read and passed on first reading at a regular meeting of the Municipal Council of said City duly called and held on _____, 2013 (a true and correct copy of an extract of the minutes of the meeting is attached hereto), and was passed on second reading and finally adopted by the recorded affirmative vote of at least two-thirds of all the members of said Municipal Council, at a regular meeting thereof duly called and held on _____, 2013 (a true and correct copy of an extract of the minutes of the meeting is attached hereto), following the holding of a public hearing thereon at which all interested persons were given an opportunity to be heard.

3. Said Ordinance was published after first reading, on _____, 2013, together with the Notice of Pending Bond Ordinance, containing the date of introduction, time and place of further

consideration of said Ordinance (a true and correct copy of the affidavit of publication of said Ordinance is attached hereto).

4. On _____, 2013, said Ordinance was posted on the bulletin board in City Hall together with notice of the availability of copies of said Ordinance at the Office of the Clerk, and such copies of said Ordinance were made available to all members of the general public requesting the same.

5. After final passage, said Ordinance was duly published, together with the Notice of Adoption of Bond Ordinance, on _____, 2013 in *The Star-Ledger*, a newspaper published and circulating in the City, and no protest by any person against making the improvement or issuing the indebtedness authorized in said Ordinance, nor any petition requesting that a referendum vote be taken on the action proposed in the Ordinance has been presented to the governing body or to me or filed in my office nor has any such action or proceeding questioning the validity of such Ordinance has been commenced within 20 days after such publication (a true and correct copy of the affidavit of publication of said Ordinance is attached hereto).

6. Said Ordinance when introduced was complete in the form in which it was finally adopted and remained on file in the Office of the Municipal Clerk for public inspection from the date of introduction to the date of final adoption.

7. The attached copy of a Supplemental Debt Statement has been compared by me with the original Supplemental Debt Statement of said City, prepared as of _____, 2013, and sworn to on _____, 2013, by Susan Jacobucci, who was then the Chief Financial Officer of said City, and filed in the office of said Municipal Clerk on _____, 2013, and that the same is a true and complete copy of said original Supplemental Debt Statement.

8. A complete Supplemental Debt Statement was duly filed (before final adoption by the Municipal Council) in the Office of the Director of the Division of Local Government Services of the State of New Jersey via email pursuant to the procedures instituted by the Division. Attached is a copy of the email confirmation received from the Division.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City this ____ day of _____, 2013.

(SEAL)

Robert P. Marasco, City Clerk

ATTACHMENTS

- A) Ordinance
- B) Extract of minutes of Municipal Council meeting at which Ordinance was introduced

- C) Extract of minutes of Municipal Council meeting at which Ordinance was finally adopted
- D) Affidavit of First Publication of Ordinance after introduction
- E) Affidavit of Second Publication of Ordinance after final adoption
- F) Supplemental Debt Statement
- G) Email confirmation received from the Division