

PROCEEDINGS OF CITY COUNCIL

(OFFICIAL)

ELIZABETH, N.J.

Tuesday Evening
December 28, 2010
7:30 p.m.

A regular meeting of the City Council was held this evening in the City Council Chamber, City Hall.

Council President pro tem Keenan announced that this regular meeting is listed in the "Annual Notice", as defined by Chapter 231, P.L. 1975, and that copies of the "Annual Notice" have been mailed or delivered to the Star Ledger, Home News and Tribune, and Cablevision of Elizabeth and posted and filed in the City Clerk's Office in compliance with the terms of the Open Public Meetings Law, Chap. 231, P.L. 1975 on December 23, 2009.

PRESENT: Council Members-at-Large: Patricia Perkins-Auguste; Edward Jackus; Council Members: ██████████, Jr., 1st Ward; Nelson Gonzalez, 2nd Ward; Joseph Keenan, 3rd Ward; ██████████, 4th Ward; William Gallman, Jr., 5th Ward; Frank O. Mazza, 6th Ward; and President ██████████, Council Member-at-Large - **A6**

ABSENT: Cuesta, Grova, Cedeno - 3

ALSO PRESENT: William R. Holzapfel, City Attorney

Councilman Gonzalez delivered the opening prayer and led all present in the Pledge of Allegiance to the American Flag.

NOTE: Councilwoman Perkins-Auguste arrived at the meeting at 7:35 p.m. and assumed her seat.



Councilman Gallman announced that he would like to take this opportunity to recognize individuals who work very hard in their community and in the City of Elizabeth. He continued that it is a pleasure to work with Ms. Melinda Dower and then proceeded to read the commendation.

Ms. Dower stated that it was a pleasure working with the people of Elizabeth and thanked City Council for the recognition.

Councilmen Gallman and Gonzalez commended the Elizabeth Diesel Collaborative for all their hard work and then proceeded to read the commendation.

A representative of the Elizabeth Diesel Collaborative thanked City Council for this honor and announced that "this is only the beginning."

Council President pro tem Keenan recognized members of the McBean family, stating that they have been very active in this City.

PUBLIC SPEAKING

There being no one present who desired to be heard, Council President pro tem Keenan declared the public hearing speaking portion of the meeting closed.



PUBLIC HEARINGS

Council President pro tem Keenan announced that the next business in order would be a public hearing on **Ordinance No. 4180**, entitled:

RIPARIAN ZONE ORDINANCE

This ordinance was adopted on its first reading at the meeting of City Council held on **December 14, 2010**.

The Notice of Public Hearing was published in the Star Ledger issue of **December 20, 2010**.

The Clerk read the foregoing ordinance by title and Council President pro tem Keenan asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one else present who desired to be heard, Council President pro tem Keenan declared the public hearing portion of the meeting closed.

Council President pro tem Keenan announced that the next business in order would be a public hearing on **Ordinance No. 4181**, entitled:

STEEP SLOPE ORDINANCE

This ordinance was adopted on its first reading at the meeting of City Council held on **December 14, 2010**.

The Notice of Public Hearing was published in the Star Ledger issue of **December 20, 2010**.

Council President pro tem Keenan asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one present who desired to be heard, Council President pro tem Keenan declared the public hearing closed.

Council President pro tem Keenan announced that the next business in order would be a public hearing on **Ordinance No. 4182**, entitled:

AN ORDINANCE TO AUTHORIZE THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE FOR WALTER J. SCAVINO, 425 FIRST AVENUE, ELIZABETH, NEW JERSEY 07206.

This ordinance was adopted on its first reading at the meeting of City Council held on **December 14, 2010.**

The Notice of Public Hearing was published in the Star Ledger issue of **December 20, 2010.**

The Clerk read the foregoing ordinance by title and Council President pro tem Keenan asked if there was anyone present who wished to speak either for or against the adoption of the ordinance.

There being no one else present who desired to be heard, Council President pro tem Keenan declared the public hearing portion of the meeting closed.

PETITIONS, COMMUNICATIONS, ETC.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator recommending the award of a contract to Office Solutions, Inc., 217 Mount Horeb Road, Warren, NJ, for the purchase of Telecommunications Equipment Wired for various departments for the period December 1, 2010 through April 30, 2011, at a cost not to exceed \$50,000.00. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator recommending the award of a contract to W.B. Mason Co., Inc., 535 Secaucus Road, Secaucus, NJ, for the purchase of copy paper, under the Morris County Cooperative, for the period January 1, 2011 through December 31, 2011, in the amount not to exceed \$30,000.00. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator recommending the award of a contract to W. W. Grainger, Inc., Grainger Industrial Supply Division, 55 Jackson Drive, Cranford, NJ, for Industrial Maintenance Repair Operation Supplies & Equipment for various departments for the period December 1, 2010 through December 31, 2010, at a cost not to exceed \$10,000.00. Which was received.

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By the Clerk:

Letter dated December 16, 2010, from the Business Administrator recommending the award of a contract to Avaya Inc., 161 Cliveden Drive, Newtown, PA, for the purchase of Telecommunications Wired for various departments for the period December 1, 2010 through April 30, 2011, at a cost not to exceed \$70,000.00. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator requesting your Honorable Body to consider adopting a resolution calling on State Legislature and the Governor to exempt the Reserve for Uncollected Taxes from the 2% cap. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator requesting an amendment to the resolution adopted November 23, 2010, awarding a contract to Setcon Industries for the purchase of Ice and Snow Removal Liquids and Chemicals at a cost not to exceed \$120,000.00, specifically to reflect the correct address as 5 Mathews Avenue, Riverdale, New Jersey. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator recommending the award of a contract to Cooper Supply Company, 70 Apple Street, Tinton Falls, NJ, for the purchase of Lamps, Incandescent, HID and Fluorescent Bulbs for various departments for the period January 1, 2011 through December 31, 2011, at a cost not to exceed \$28,000.00. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator advising that being satisfied that an emergency did exist, recommends an emergency purchase for the immediate partial demolition of 217 Third Street, to the sole bidder, Doma Construction, Inc., 215 North 12th Street, Newark, NJ, in the amount of \$7,200.00. Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Business Administrator advising that being satisfied that an emergency did exist, recommends an emergency purchase for the immediate partial demolition of 218 South Street to the sole bidder, Doma Construction, Inc., 215 North 12th Street, Newark, NJ, in the amount of \$2,500.00. Which was received.

By the Clerk:

Letter dated December 20, 2010, from the Business Administrator requesting permission for the Purchasing Agent to make the necessary arrangements to auction impounded property in the possession of the Elizabeth Police Department to be held by Propertyroom.Com, State pre-approved on-line auction site; date of the sale will be set by the auction company and will be published in The Star Ledger contingent upon City Council's approval. Which was received.

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~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

By the Clerk:

Letter dated December 20, 2010, from the Business Administrator recommending the award of a contract to Cliffside Body Corp., 130 Broad Avenue, Fairview, NJ, for Snow Plow Parts, Grader and Loader Blades for the Department of Public Works for the period December 16, 2010 through January 19, 2012, at a cost not to exceed \$65,000.00.

Which was received.

By the Clerk:

Letter dated December 21, 2010, from the Chief Financial Officer advising that additional grants may be appropriated in the 2011 SFY Budget by budget amendments

Which was received.

By the Clerk:

Letter dated December 21, 2010, from the Chief Financial Officer requesting that City Council consider an amendment to the Elizabeth Senior Housing LP PILOT (ESH PILOT), specifically to grant the City a three year retro payment from Elizabeth Senior Housing PILOT of \$11,686.70 and grant Elizabeth Senior Housing PILOT deductions of 50% of the costs of utilities per year not to exceed \$50,000.00.

Which was received.

By the Clerk:

Letter dated December 16, 2010, from the Acting Director of Neighborhood Services requesting permission to have a lien placed against the property located at 155 Reid Street for the demolition of said property in the amount of \$10,950.00.

Which was received.

By the Clerk:

Letter dated December 20, 2010, from the Director of Planning and Community Development requesting an amendment to the resolution adopted September 14, 2010, authorizing Inner City Development, LLC, to be the redeveloper for 801-871 Livingston Street, specifically to reflect the change in redevelopers from Inner City Development, LLC, to East Grand & Division, LLC.

Which was received.

By the Clerk:

Letter dated December 20, 2010, from the Director of Planning and Community Development requesting authorization for East Grand & Division, LLC, 77 Cobb Road, Mountain Lakes, NJ, access to 801-871 Livingston Street to conduct investigations, surveys and site analysis to determine the suitability of the property for its intended use.

Which was received.

By the Clerk:

Letter dated December 17, 2010, from the Director of Public Works requesting an amendment to the resolution awarding a contract to Envar Services to provide for the preparation of technical specifications, design, permit applications in connection with the correction of erosion along existing walkway at Elizabeth Waterfront Park in the amount of \$32,000.00, specifically to provide marina and waterfront engineering services at an additional cost not to exceed \$5,500.00, thereby raising the cost of the contract to \$37,500.00.

Which was received.

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By the Clerk:

Letter dated December 17, 2010, from the Director of Public Works recommending the award of a contract to S & A General Contracting, 207 Shelley Avenue, Elizabeth, NJ for the maintenance and or repair services for roofing at City owned buildings for a period of two (2) years from the date of contract award in the total contract amount not to exceed \$153,820.00 for the first year and \$153,820.00 for the second year, or a combined amount of \$307,640.00. Which was received.

By the Clerk:

Letter dated December 7, 2010, from the Police Director requesting the establishment of the following handicapped parking spaces: 235 Crawford Place, 81 Elizabeth Avenue, Apt. #2, 25 Catherine Street, 884 1/2 East Jersey Street; 557 First Avenue, 326 Amity Street, 2nd Floor (personalized), 280 Westfield Avenue, 148 Inslee Place #3F (personalized), 1043 Louisa Street, #4; the disapproval of a handicapped parking space at: 233 John Street, 334 Washington Avenue; and the deletion of the following handicapped parking spaces: 541 Franklin Street, 308 South Street, 332-338 Niles Street, 50 Marshall Street, 531 Marshall Street. Which was received.

REPORTS OF CITY OFFICERS

By the Clerk:

Letter December 28, 2010, from the Finance Department submitting a list of all bills, claims and vouchers which have been paid as of the close of business on Friday, December 24, 2010. Which was received.

ORDINANCES ON FIRST READING

Council President pro tem Keenan announced that the next business in order would be the introduction of **Ordinance No. 4183**, which was seconded by Councilman Gonzalez, entitled:

AN ORDINANCE TO AUTHORIZE THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE FOR LORETTA GWALDIS, 148 INSLEE PLACE, ELIZABETH, NEW JERSEY.

The Clerk read the foregoing ordinance.

The ordinance was then adopted on its first reading by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ~~Keenan~~, Gonzalez, ~~Keenan~~, Gallman, Mazza, and President pro tem Keenan, - **X 6**

NEGATIVE: None

Council President pro tem Keenan announced that public notice will be published fixing Tuesday, January 11, 2011, at 7:30 p.m., City Council Chambers, City Hall, Elizabeth, N.J., as the time and place that City Council will conduct public hearings and further consider the foregoing Ordinance No. 4183, adopted on first reading.

ORDINANCES ON FINAL PASSAGE

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Council President pro tem Keenan announced that the next business in order would be the adoption of **Ordinance No. 4180**, which was seconded by Councilman Gonzalez.

RIPARIAN ZONE ORDINANCE

- I. Purpose and Authority
- II. Definitions
- III. Establishment and Protection of Riparian Zones
- IV. Variances
- V. Exceptions
- VI. Appeals, Conflicts, and Severability
- VII. Enforcement
- VIII. Effective Date

I. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to designate riparian zones, and to provide for land use regulation therein in order to protect the streams, lakes, and other surface water bodies of the City of Elizabeth and to comply with N.J.A.C. 7:15-5.25(g)3, which requires municipalities to adopt an ordinance that prevents new disturbance for projects or activities in riparian zones as described herein. Compliance with the riparian zone requirements of this Ordinance does not constitute compliance with the riparian zone or buffer requirements imposed under any other Federal, State or local statute, regulation or ordinance.

II. DEFINITIONS

Acid producing soils means soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower.

Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

Applicant means a person, corporation, government body or other legal entity applying to the Planning Board, Board of Adjustment or the Construction Office proposing to engage in an activity that is regulated by the provisions of this ordinance, and that would be located in whole or in part within a regulated Riparian Zone.

Category One waters or C1 waters shall have the meaning ascribed to this term by the Surface Water Quality Standards, N.J.A.C. 7:9B, for purposes of implementing the antidegradation policies set forth in those standards, for protection from measurable changes in water quality characteristics because of their clarity, color, scenic setting, and other characteristics of aesthetic value, exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources.

Disturbance means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

Intermittent Stream means a surface water body with definite bed and banks in which there is not a permanent flow of water and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water

Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Lake, pond, or reservoir means any surface water body shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys; that is an impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water. This excludes sedimentation control and stormwater retention/detention basins and ponds designed for treatment of wastewater.

Perennial stream means a surface water body that flows continuously throughout the year in most years and shown on the New Jersey Department of Environmental Protection Geographic Information System (GIS) hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys.

Riparian zone means the land and vegetation within and directly adjacent to all surface water bodies including, but not limited to lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown on the New Jersey Department of Environmental Protection's GIS hydrography coverages or, in the case of a Special Water Resource Protection Area (SWRPA) pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h), C1 waters as shown on the USGS quadrangle map or in the County Soil Surveys. There is no riparian zone along the Atlantic Ocean nor along any manmade lagoon or oceanfront barrier island, spit or peninsula.

Special Water Resource Protection Area or SWRPA means a 300 foot area provided on each side of a surface water body designated as a C1 water or tributary to a C1 water that is a perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein and shown on the USGS quadrangle map or in the County Soil Surveys within the associated HUC 14 drainage, pursuant to the Stormwater Management rules at N.J.A.C. 7:8-5.5(h).

Surface water body(ies) means any perennial stream, intermittent stream, lake, pond, or reservoir, as defined herein. In addition, any regulated water under the Flood Hazard Area Control Act rules at N.J.A.C. 7:13-2.2, or State open waters identified in a Letter of Interpretation issued under the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A3 by the New Jersey Department of Environmental Protection Division of Land Use Regulation shall also be considered surface water bodies.

Threatened or endangered species means a species identified pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Endangered Species Act of 1973, 16 U.S.C. §§1531 et seq. or the Endangered Plant Species List, N.J.A.C. 7:5C-5.1, and any subsequent amendments thereto.

Trout maintenance water means a section of water designated as trout maintenance in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

Trout production water means a section of water identified as trout production in the New Jersey Department of Environmental Protection's Surface Water Quality Standards at N.J.A.C. 7:9B.

III. ESTABLISHMENT AND PROTECTION OF RIPARIAN ZONES

A. Except as provided in Sections IV. and V. below, riparian zones adjacent to all surface water bodies shall be protected from avoidable disturbance and shall be delineated as follows:

1. The riparian zone shall be 300 feet wide along both sides of any Category One water (C1 water), and all upstream tributaries situated within the same HUC 14 watershed.
 2. The riparian zone shall be 150 feet wide along both sides of the following waters not designated as C1 waters:
 - a. Any trout production water and all upstream waters (including tributaries);
 - b. Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;
 - c. Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the surface water body for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and
 - d. Any segment of a water flowing through an area that contains acid producing soils.
 3. For all other surface water bodies, a riparian zone of 50 feet wide shall be maintained along both sides of the water.
- B. If a discernible bank is not present along a surface water body, the portion of the riparian zone outside the surface water body is measured landward as follows:
1. Along a linear fluvial or tidal water, such as a stream, the riparian zone is measured landward of the feature's centerline;
 2. Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;
 3. Along a non-linear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water line; and
 4. Along an amorphously-shaped feature such as a wetland complex, through which water flows but which lacks a discernible channel, the riparian zone is measured landward of the feature's centerline.
- C. The applicant or designated representative shall be responsible for the initial determination of the presence of a riparian zone on a site, and for identifying the area of the riparian zone on any plan submitted to the City of Elizabeth in conjunction with an application for a construction permit, subdivision, land development, or other improvement that requires plan submissions or permits. This initial determination shall be subject to review and approval by the municipal engineer, governing body, or its appointed representative, and, where required by State regulation, the New Jersey Department of Environmental Protection.

IV. VARIANCES

To the extent allowed by the Stormwater Management Rules (N.J.A.C. 7:8), the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), and the Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38), new disturbances for projects or activities in the riparian zone established by this Ordinance may be allowed through the Zoning Board of Adjustment review and approval of a variance, provided the disturbance is proposed to be located on a pre-existing lot (existing as of the effective date of this ordinance) when there is insufficient room outside the riparian zone for the proposed use otherwise permitted by the underlying zoning; there is no other reasonable or prudent alternative to

placement in the riparian zone, including obtaining variances from setback or other requirements that would allow conformance with the riparian zone requirements; and upon proof by virtue of submission of appropriate maps, drawings, reports and testimony, that the disturbance is:

- A. Necessary to protect public health, safety or welfare;
- B. To provide an environmental benefit;
- C. To prevent extraordinary hardship on the property owner peculiar to the property; or
- D. To prevent extraordinary hardship, provided the hardship was not created by the property owner, by not allowing a minimum economically viable use of the property based upon reasonable investment.

V. EXCEPTIONS

To the extent allowed under the Stormwater Management Rules (N.J.A.C. 7:8), the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13), and the Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) and subject to review and approval by the New Jersey Department of Environmental Protection to the extent required by those rules, the following disturbances for projects or activities in the riparian zone established by this Ordinance are allowed:

- A. Redevelopment within the limits of existing impervious surfaces;
- B. Linear development with no feasible alternative route;
- C. Disturbance that is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the New Jersey Department of Environmental Protection;
- D. Disturbance necessary to provide for public pedestrian access or water dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A, the Flood Hazard Area Control Act rules, N.J.A.C. 7:13, or the Coastal Zone Management rules, N.J.A.C. 7:7E; or
- E. Disturbance with no feasible alternative required for the remediation of hazardous substances performed with New Jersey Department of Environmental Protection or Federal oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§9601 et seq.

VI. APPEALS, CONFLICTS, AND SEVERABILITY

- A. Any party aggrieved by the location of the riparian zone boundary determination under this Ordinance may appeal to the City Planner under the provisions of this Ordinance. The party contesting the location of the riparian zone boundary shall have the burden of proof in case of any such appeal.
- B. Any party aggrieved by any determination or decision of the City Planner under this Ordinance may appeal to the City Council of the City of Elizabeth. The party contesting the determination or decision shall have the burden of proof in case of any such appeal.

- C. **Conflicts:** All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance shall apply.
- D. **Severability:**

1. Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
2. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
3. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

VII. ENFORCEMENT

A prompt investigation shall be made by Construction Department, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the City of Elizabeth, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

VIII. EFFECTIVE DATE

The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law and upon filing with the County Planning Board.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held

December 14, 2010.

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **December 20, 2010.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [redacted], Gonzalez, [redacted], Gallman, Mazza, President pro tem Keenan - **26**

NEGATIVE: None

Council President pro tem Keenan announced that the next business in order would be the adoption of **Ordinance No. 4181**, which was seconded by Councilman Gonzalez:

STEEP SLOPE ORDINANCE

I. PURPOSE

The purpose of this ordinance is to regulate the intensity of use in areas of steeply sloping terrain in order to limit soil loss, erosion, excessive stormwater runoff, the degradation of surface water and to maintain the natural topography and drainage patterns of land.

II. BACKGROUND

Disturbance of steep slopes results in accelerated erosion processes from stormwater runoff and the subsequent sedimentation of waterbodies with the associated degradation of water quality and loss of aquatic life support. Related effects include soil loss, changes in natural topography and drainage patterns, increased flooding potential, further fragmentation of forest and habitat areas, and compromised aesthetic values. It has become widely recognized that disturbance of steep slopes should be restricted or prevented based on the impact disturbance of steep slopes can have on water quality and quantity, and the environmental integrity of landscapes.

III. APPLICABILITY

This ordinance shall be applicable to new development or land disturbance on a steep slope within the City of Elizabeth.

IV. DEFINITIONS

"Disturbance" means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

"Impervious surface" means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

"Redevelopment" means the construction of structures or improvements on areas which previously contained structures or other improvements.

"Steep Slopes" means any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.

V. DESIGNATION OF AREAS

The percent of slope (rise in feet per horizontal distance) shall be established by measurement of distance perpendicular to the contour of the slope. The percent of slope shall be calculated for each two-foot contour interval. For example, any location on the site where there is a one-foot rise over a 10-foot horizontal run constitutes a 10 percent slope; a 1.5 foot rise over a 10-foot horizontal run constitutes a 15 percent slope; a two-foot rise over a 10-foot horizontal run constitutes a 20 percent slope.

VI. STEEP SLOPE LIMITS

For steep slopes any disturbance shall be prohibited except as provided below:

1. Redevelopment within the limits of existing impervious surfaces; and
2. New disturbance necessary to protect public health, safety or welfare, such as necessary linear development with no feasible alternative; to provide an environmental benefit, such as remediation of a contaminated site; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment. For example, redevelopment, within the footprint of existing impervious cover should be allowed to support efforts to revitalize development that has fallen into disrepair.

The applicant shall demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a 20 percent or greater slope.

VII. CONFLICTS AND SEVERABILITY

- A. Conflicts: All other ordinances, parts of ordinances, or other local requirements that are inconsistent or in conflict with this ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this ordinance apply.
- B. Severability:
 1. Interpretation: This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal law.
 2. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.
 3. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

VIII. ENFORCEMENT, VIOLATION AND PENALTIES

A prompt investigation shall be made by the appropriate personnel of the City of Elizabeth, of any person or entity believed to be in violation hereof. If, upon inspection, a condition which is in violation of this Ordinance is discovered, a civil action in the Special Part of the Superior Court, or in the Superior Court, if the primary relief sought is injunctive or if penalties may exceed the jurisdictional limit of the Special Civil Part, by the filing and serving of appropriate process. Nothing in this Ordinance shall be construed to preclude the right of the City of Elizabeth, pursuant to N.J.S.A 26:3A2-25, to initiate legal proceedings hereunder in Municipal Court. The violation of any section or subsection of this Ordinance shall constitute a separate and distinct offense independent of the violation of any other section or subsection, or of any order issued pursuant to this Ordinance. Each day a violation continues shall be considered a separate offense.

IX. EFFECTIVE DATE

The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law and upon filing with the County Planning Board.

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held .

December 14, 2010.

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **December 20, 2010.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████, Gallman, Mazza, President pro tem Keenan - **8 6**

NEGATIVE: None

Council President pro tem Keenan announced that the next business in order would be the adoption of **Ordinance No. 4183** , which was seconded by Councilman Gonzalez:

AN ORDINANCE TO AUTHORIZE THE ESTABLISHMENT OF A PERSONALIZED HANDICAPPED PARKING SPACE FOR LORETTA GWALDIS, 148 INSLEE PLACE, ELIZABETH, NEW JERSEY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. - A personalized handicapped parking space for **Loretta Gwaldis**, is established in front of **148 Inslee Place, Elizabeth, New Jersey** as follows pursuant to the recommendation of the Elizabeth Police Director: along the South curb line of Inslee Place beginning at a point 187' East of Second Street and continuing 22' East thereof.

SECTION 2. - The administrative and enforcement aspects of this Ordinance shall be under the jurisdiction of the Police Department of the City of Elizabeth.

SECTION 3. - All Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance be and the same are hereby repealed.

SECTION 4 - If any portion or clause of this Ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this Ordinance.

SECTION 5 - The effective date of this Ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law

The Clerk read the foregoing ordinance by title.

This ordinance was adopted on its first reading at the City Council meeting held .
December 14, 2010.

Annexed to the ordinance was an affidavit from the publisher of the Star Ledger certifying the publication of the ordinance and notice of public hearing thereon in its issue of **December 20, 2010.**

The ordinance was then adopted on its final passage by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████, Gallman, Mazza, President pro tem Keenan - **16**

NEGATIVE: None

NEW BUSINESS

16

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **COOPER SUPPLY COMPANY, 70 Apple Street, Tinton Falls, New Jersey 07724** for the purchase of Lamps, Incandescent, HID, and Fluorescent Bulbs for various departments for the period of January 1, 2010 through December 31, 2011 at a cost not to exceed \$28,000.00 under State Contract No. 73139 ; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 73139, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2; now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **COOPER SUPPLY COMPANY, 70 Apple Street, Tinton Falls, New Jersey 07724** for the purchase of Lamps, Incandescent, HID, and Fluorescent Bulbs for various departments for the period of January 1, 2010 through December 31, 2011 at a cost not to exceed \$28,000.00 under State Contract No. 73139.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [redacted], Gonzalez, [redacted],
Gallman, Mazza, President pro tem Keenan - 8 6

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, this Municipality is authorized to dispose of surplus personal property in the possession of the Elizabeth Police Department P.L. 2001,C.30 by sale at public auction in accordance with the provisions of N.J.S.A.40A:14-157; and

WHEREAS, certain tangible property has come into the possession of the Elizabeth Police Department, which includes but is not limited to electronics, home goods, clothing, jewelry, shoes and power tools; and

WHEREAS, the said property has been in the possession of the Elizabeth Police Department for more than six months; and

WHEREAS, the surplus personal property are no longer needed for public use; and

WHEREAS, the sale is being conducted pursuant to Local Finance Notice 2008-9; and

WHEREAS, the auction will conform to all State and Municipal regulations and can be disposed of in accordance with N.J.S.A. 40-157 and P.L.2001, c.30. **The auction is being requested to be held by Property Room.com, State preapproved on-line auction site.** The date of the sale will be set by the auction company and will be published in the "Newark Star Ledger"; and

WHEREAS, the terms of the agreement entered into with Property Room.com are available on its website and are available in the Office of the Purchasing Agent; now, therefore, be it

RESOLVED that City Council of the City of Elizabeth hereby authorizes the sale of the surplus personal property in possession of the Elizabeth Police Department set forth hereinabove by PropertyRoom.com State preapproved online auction site; and be it

FURTHER RESOLVED that viewing of the surplus personal property may be reviewed on the web-site of Property Room.com, State pre-approved on-line auction site; and be it

FURTHER RESOLVED that the net proceeds from the within sale shall be paid into the general municipal treasury of the City of Elizabeth.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████
Gallman, Mazza, President pro tem Keenan - 86

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **CLIFFSIDE BODY, 130 Broad Avenue, Fairview, New Jersey 07022** for a Snow Plow Parts, Grader and Loader Blades for the Department of Public Works for the period of December 16, 2010 through January 19, 2012 at a cost of \$65,000.00 under State Contract No. 75724; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 75724, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2; now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **CLIFFSIDE BODY, 130 Broad Avenue, Fairview, New Jersey 07022** for a Snow Plow Parts, Grader and Loader Blades for the Department of Public Works for the period of December 16, 2010 through January 19, 2012 at a cost of \$65,000.00 under State Contract No. 75724.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████, Gallman, Mazza, President pro tem Keenan - **16**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **Office Solutions, Inc., 217 Mount Horeb Road, Warren, New Jersey 07059** for the purchase of Telecommunications Equipment Wired for various departments for the period of December 1, 2010 to April 30, 2011 at a cost not to exceed \$50,000.00 under State Contract No. 42285 ; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 42285, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2; now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **Office Solutions, Inc., 217 Mount Horeb Road, Warren, New Jersey 07059** for the purchase of Telecommunications Equipment Wired for various departments for the period of December 1, 2010 to April 30, 2011 at a cost not to exceed \$50,000.00 under State Contract No. 42285.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████, Gallman, Mazza, President pro tem Keenan - **6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **W. B. MASON COMPANY, INC., 535 Secaucus Road, Secaucus, New Jersey 07094** for the purchase of copy paper under the Morris County Cooperative Purchasing Contract #30 for the period of January 1, 2011 through December 31, 2011 in the amount not to exceed \$30,000.00; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 72605, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2; now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **W. B. MASON COMPANY, INC., 535 Secaucus Road, Secaucus, New Jersey 07094** for the purchase of copy paper under the Morris County Cooperative Purchasing Contract #30 for the period of January 1, 2011 through December 31, 2011 in the amount not to exceed \$30,000.00

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [redacted], Gonzalez, [redacted],
Gallman, Mazza, President pro tem Keenan - **6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **W. W. Grainger, Inc., Grainger Industrial Supply Division, 55 Jackson Drive, Cranford, New Jersey 07016-3582** for Industrial Maintenance Repair Operation Supplies & Equipment for various departments for the period of December 1, 2010 through December 31, 2010 at a cost not to exceed \$10,000.00 under State Contract No A72605; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 72605, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2; now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **W. W. Grainger, Inc., Grainger Industrial Supply Division, 55 Jackson Drive, Cranford, New Jersey 07016-3582** for Industrial Maintenance Repair Operation Supplies & Equipment for various departments for the period of December 1, 2010 through December 31, 2010 at a cost not to exceed \$10,000.00 under State Contract No. A72605.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████, Gallman, Mazza, President pro tem Keenan - 86

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator and the Purchasing Agent have recommended the award of a contract be made to **AVAYA, INC., 161 Cliveden Drive, Newtown, PA 18940** for the purchase of Telecommunications Wired for various departments for the period of December 1, 2010 through April 30, 2011 at a cost not to exceed \$70,000.00 under State Contract No. 42285 ; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; and

WHEREAS, the Business Administrator and the Purchasing Agent have advised that the contract in question is a purchase through a State of New Jersey Contract No. 42285, requiring approval by this Governing Body in accordance with the provisions of N.J.A.C. 5:34-1.2;now, therefore, be it

RESOLVED, that City Council of the City of Elizabeth hereby awards a contract to **AVAYA, INC., 161 Cliveden Drive, Newtown, PA 18940** for the purchase of Telecommunications Wired for various departments for the period of December 1, 2010 through April 30, 2011 at a cost not to exceed \$70,000.00 under State Contract No. 42285.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████
Gallman, Mazza, President pro tem Keenan - **6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Business Administrator has advised that on November 23, 2010 the City Council of the City of Elizabeth authorized the award of a contract to **SETCON INDUSTRIES, 5 Matthews Avenue, Riverdale, New York 07457** for the purchase of Ice and Snow Removal Liquids and Chemicals for the period of November 3, 2010 through October 31, 2012 at a cost not to exceed \$120,000.00 under their State Contract No. 77881 and has requested an amendment to the November 23, 2010 resolution to reflect the following correct address for **SETCON INDUSTRIES, 5 Matthews Avenue, Riverdale, New Jersey 07457**; now, therefore, be it

RESOLVED that the resolution adopted November 23, 2010 awarding a contract to **SETCON INDUSTRIES, 5 Matthews Avenue, Riverdale, New York 07457** for the purchase of Ice and Snow Removal Liquids and Chemicals for the period of November 3, 2010 through October 31, 2012 at a cost not to exceed \$120,000.00 under their State Contract No. 77881 be amended to reflect the following correct address for **SETCON INDUSTRIES, 5 Matthews Avenue, Riverdale, New Jersey 07457**.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ~~Ortiz~~, Gonzalez, ~~Seidens~~, Gallman, Mazza, President pro tem Keenan - **X 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS the Director of the Department of Public Works has requested the award of a contract to the lowest responsible bidder, **S & A GENERAL CONTRACTING, 207 Shelley Avenue, Elizabeth, New Jersey 07208**, for the maintenance and/or repair services for roofing at City owned buildings, for a two year service contract. The man-hour rates of \$53.82 for the first year and \$53.82 for the second year. Materials required during performance of the contract are billed at ten (10) percent above list price. The current contract is at a rate of \$50.57 per man-hour for the first year and \$50.57 for the second year; and

WHEREAS, the amount of the contract in question exceeds \$50,000.00 and the provisions of **Chapter 2.92** of the Code of the City of Elizabeth have been complied with by **S & A GENERAL CONTRACTING**; and

WHEREAS, the contract in question is determined to fall within the Open-end Contract Rule 5:30-14.4 as promulgated by the State of New Jersey, Department of Community Affairs, Division of Local Government Services; and

WHEREAS, the Chief Financial Officer shall execute the Certificate of Availability of Funds at each time an order is placed, and covering the amount of the order, and said execution is to be made just before this City incurs a contractual liability on its part; now, therefore, be it

RESOLVED that City Council of the City of Elizabeth hereby awards a contract to the lowest responsible bidder to, **S & A GENERAL CONTRACTING, 207 Shelley Avenue, Elizabeth, New Jersey 07208**, for the maintenance and/or repair services for roofing at City owned buildings, for a two year service contract. The man-hour rates of \$53.82 for the first year and \$53.82 for the second year. Materials required during performance of the contract is billed at tent (10) percent above list price. The current contract is at a rate of \$50.57 per man-hour for the first year and \$50.57 for the second year.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████, Gallman, Mazza, President pro tem Keenan - **86**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Director of the Department of Planning & Community Development has advised that on September 14, 2010, your Honorable Body adopted a resolution authorizing **Inner City Development, LLC, 716 Main Street, Boonton, New Jersey 07005** to be the redeveloper for **801-871 Livingston Street, Elizabeth, New Jersey, Tax Account No. 8-1123**; and

WHEREAS, **Inner City Development, LLC** principals have since created a new entity, known as **East Grand & Division, LLC, 77 Cobb Road, Mountain Lakes, New Jersey 07046**, in order to expedite the redevelopment of **801-871 Livingston Street**; and

WHEREAS, **East Grand & Division, LLC** will continue with original plans of developing a supermarket anchored shopping center on the corner of East Grand Street and Division Street; a use consistent with the Trumbull Street Redevelopment Plan; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth authorizes an amendment to the resolution adopted September 14, 2010, which authorized **Inner City Development, LLC**, to be the redeveloper for **801-871 Livingston Street**, specifically to reflect the change in redevelopers from **Inner City Development, LLC**, to **East Grand and Division, LLC, 77 Cobb Road, Mountain Lakes, New Jersey 07046**.

Councilwoman Perkins-Auguste questioned if the developers are being changed.

Councilman Gallman responded that it is his understanding that it is just a name change.

The City Attorney stated that there are no changes in personnel.

Councilwoman Perkins-Auguste MOVED to amend the resolution to include "name change only."

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████ Gonzalez, ██████
Gallman, Mazza, President pro tem Keenan - X

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Director of the Department of Planning and Community Development has requested authorization for the proper City officials to enter into an Access Agreement with **East Grand and Division, LLC, 77 Cobb Road, Mountain Lakes, New Jersey 07046** for access to **801-871 Livingston Street** to conduct investigations, surveys and site analysis to determine the suitability of the property for its intended use; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth authorizes the proper City officials to enter into an Access Agreement with **East Grand and Division, LLC, 77 Cobb Road, Mountain Lakes, New Jersey 07046** for access to **801-871 Livingston Street** to conduct investigations, surveys and site analysis to determine the suitability of the property for its intended use.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████
Gallman, Mazza, President pro tem Keenan - **6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the City of Elizabeth ("the City") and the Elizabeth Senior Housing LP, a limited partnership of the State of New Jersey ("the Sponsor"), having its principal office at 122 Seventh Street, Elizabeth, New Jersey; wish to amend the Agreement for Payment in Lieu of Taxes (PILOT) dated March, 2006 between the City and the Sponsor regarding the items to be included in Project Revenues; and

WHEREAS, the Chief Financial Officer recommends that the amended Project Revenues means the total annual gross rental and other income of the Sponsor from the Project, less any rental subsidy, vacancies, bad debts and Fifty Percent (50%) of the cost of utilities furnished by the Project, which shall include the cost of gas, electricity, heating fuel, water supplied, and sewage charges, not to exceed an annual deduction of the cost of utilities of Fifty Thousand Dollars (\$50,000); and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Elizabeth authorizes the proper City officials to amend the Agreement for Payment in Lieu of Taxes (PILOT) dated March, 2006 between the City and the Sponsor regarding the items to be included in Project Revenues whereby the amended Project Revenues means the total annual gross rental and other income of the Sponsor from the Project, less any rental subsidy, vacancies, bad debt and Fifty Percent (50%) of the costs of utilities furnished by the Project, which shall include the cost of gas, electricity, heating fuel, water supplied, and sewage charges, not to exceed an annual deduction of the cost of utilities of Fifty Thousand Dollars (\$50,000).

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████,
Gallman, Mazza, President pro tem Keenan - **X 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, on June 10, 2008 your Honorable Body authorized the City of Elizabeth to award a contract in the amount of \$32,000.00 to **Envar Services, Inc., 505 Milltown Road, New Brunswick, New Jersey 08902**, to provide for the preparation of technical specifications, design, permit applications to NJDEP and US Army Corps of Engineers and construction observation in connection with the correction of erosion along existing walkway at Elizabeth Waterfront; and

WHEREAS, during the execution of the work severe erosion was discovered under the boardwalk ramp that required installation of steel sheet piles and placement of concrete to stabilize the area. Additionally, significant interference between the new pile jackets under the Recreation Per required the installation of new batter piles. The NJDEP Division of Land Use Regulation requires the City to submit an application for a modification to the Waterfront Development Permit No. 2004-05-0006.3 WFD 090001 for this work. These changes require modification of design drawings, preparation of supporting documents and completion of NJDEP, DLUR permit forms; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available and appropriated for this purpose and Certification No. 11-04965, charging the amount of \$5,500.00 to Account No.X-04-55-999-X26-001, of the Municipal Budget is on file in the Office of the City Clerk; and

RESOLVED that the City Council authorizes an amendment to the resolution adopted June 10, 2008 awarding a contract to **Envar Services, Inc., 505 Milltown Road, New Brunswick, New Jersey 08902** be amended to provide Marina and Waterfront Engineering services at an additional cost not to exceed \$5,500.00 for a total contract amount of \$37,500.00.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████, Gallman, Mazza, President pro tem Keenan - **8 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, under the provisions of N.J.S.A. 52:27D-119 et seq. as amended known as the "State Uniform Construction Code Act", and of N.J.A.C. 5:23.1 et seq., known as the "Regulations for the New Jersey Uniform Construction Code", emergent powers are granted to municipal construction officials to demolish or make safe and secure buildings or structures that have become unsafe, or unsanitary, or which contain deficient or blocked exitway facilities, or which constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or which, by reason of illegal or improper use or occupancy, have become unsafe; and

WHEREAS, certain structures on premises located at **155 Reid Street, Elizabeth, New Jersey 07202, Tax Account No. 7-1094** meet one or more of the criteria hereinabove mentioned; and

WHEREAS, the Bureau of Construction has caused to be demolished the said structure located at **155 Reid Street, Elizabeth, New Jersey 07202, Tax Account No. 7-1094** after due and proper notice to the owner thereof, as required, and the owner thereof having been notified of the cost to the City in the sum of \$10,950.00 and said costs not having been paid to the City of Elizabeth, and the Construction Official of the Bureau of Construction having so advised City Council that said costs have been incurred by the City in the sum of \$10,950.00; and

WHEREAS, the City Council having examined the communication to it from the Construction Official of the Bureau of Construction and having found same to be correct; now, therefore, be it

RESOLVED by City Council of the City of Elizabeth that the cost as shown on the communication of the Construction Official of the Bureau of Construction of the City of Elizabeth for demolition of a structure at **155 Reid Street, Elizabeth, New Jersey 07202, Tax Account No. 7-1094** is hereby established as a lien upon said lands in the amount of \$10,950.00, which said lien shall hereafter form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as taxes and to be collected and enforced by the same officers and in the same manner as taxes, in accordance with the provisions of N.J.S.A. 40:48-2.14 and the provisions of the Code of the City of Elizabeth

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████, Gallman, Mazza, President pro tem Keenan - **8 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby establishes a handicapped parking space in front of **235 Crawford Place, Elizabeth, New Jersey** as follows, pursuant to the recommendation of the Elizabeth Police Director:

along the East curb line of Cranford Place
beginning at a point 164' North of Wyoming Avenue
and continuing 22' thereof;

and be it

FURTHER RESOLVED that said handicapped parking area be posted with proper signs, type R-7-8.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [redacted], Gonzalez, [redacted], Gallman, Mazza, President pro tem Keenan - **8 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby establishes a handicapped parking space in front of **557 First Avenue, Elizabeth, New Jersey** as follows, pursuant to the recommendation of the Elizabeth Police Director:

along the North curb line of First Avenue
beginning at a point 70' East of Sixth Street
and continuing 22' East thereof;

and be it

FURTHER RESOLVED that said handicapped parking area be posted with proper signs, type R-7-8.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ~~Ortiz~~, Gonzalez, ~~Ortiz~~
Gallman, Mazza, President pro tem Keenan - **X 6**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby establishes a handicapped parking space in front of **280 Westfield Avenue, Elizabeth, New Jersey 07208** as follows, pursuant to the recommendation of the Elizabeth Police Director:

along the South curb line of Westfield Avenue
beginning at a point 411' East of Grove Street
and continuing 22' East thereof;

and be it

FURTHER RESOLVED that said handicapped parking area be posted with proper signs, type R-7-8.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [redacted] Gonzalez, [redacted]
Gallman, Mazza, President pro tem Keenan - **86**

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby establishes a handicapped parking space in front of **1043 Louisa Street, Elizabeth, New Jersey 07201** as follows, pursuant to the recommendation of the Elizabeth Police Director:

along the North curb line of Louisa Street
beginning at a point 70' West of Jackson Avenue
and continuing 22' West thereof;

and be it

FURTHER RESOLVED that said handicapped parking area be posted with proper signs, type R-7-8.

Which was adopted by the following vote:

- AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████
Gallman, Mazza, President pro tem Keenan - **X 6**
- NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby establishes a handicapped parking space in front of **334 Washington Avenue, Elizabeth, New Jersey 07202** as follows, pursuant to the recommendation of the Elizabeth Police Director:

along the East curb line of Washington Avenue
beginning at a point 309' North of Grove Street
and continuing 20' North thereof;

and be it

FURTHER RESOLVED that said handicapped parking area be posted with proper signs, type R-7-8.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████
Gallman, Mazza, President pro tem Keenan - 26

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

RESOLVED that City Council of the City of Elizabeth hereby amends Chapter 10.44.020 of the Code of the City of Elizabeth to delete the handicapped parking space at premises commonly known as **541 Franklin Street; 308 South Street; 332-338 Niles Street; 50 Marshall Street and 531 Marshall Street, Elizabeth, New Jersey** in accordance with the recommendation of the Police Director.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, [REDACTED], Gonzalez, [REDACTED],
Gallman, Mazza, President pro tem Keenan - **86**

NEGATIVE: None

RESOLUTION CALLING ON THE STATE LEGISLATURE AND THE GOVERNOR TO EXEMPT THE RESERVE FOR UNCOLLECTED TAXES FROM THE 2% CAP

WHEREAS, on July 13, 2010, Governor Christie signed into law P.L. 2010, c. 44, which reduced the cap on the property tax levy from 4% to 2% and limited the number of exemptions; and

WHEREAS, when the property tax levy was reduced, the exemption for the Reserve for Uncollected Taxes was removed; and

WHEREAS, in addition to collecting property taxes for its own operations, the municipality also serves as the collection agent for the county, school districts, fire districts and other special local entities; and

WHEREAS, the municipality must provide those entities with the full amount they deem necessary for their operations, regardless of the actual collection rate; and

WHEREAS, due to myriad factors beyond local control, the actual collection rate never equals the total local levy, especially during an economic downturn, when unemployment soars and property values plummet, causing an increase in tax appeals, which the municipality must defend and which subject the municipal budget to further losses, when successful; and

WHEREAS, to account for the shortfall and potential losses, State law requires the municipality to budget an appropriation in a line item known as the Reserve for Uncollected Taxes, which is generally determined through a formula driven calculation in which the variables change year to year; and

WHEREAS, without a levy cap exemption, municipalities will be forced to further cut their own operations, in order to meet the 2% tax levy cap to provide the county, school districts, fire districts and other special local entities the full amount they deem necessary for their operations; and

WHEREAS, those other local entities, which do not have to budget for collection rate short-falls or the impact of declining property values, have been granted levy cap exceptions to address factors beyond their control; and

WHEREAS, Assemblymen McKeon and Burzichelli has recently introduced A-3603, which excludes increases in appropriations to the Reserve for Uncollected Taxes in excess of two percent, from calculations of the municipal adjusted tax levy;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Elizabeth hereby urge the swift passage and signing of A-3603;

BE IT FURTHER RESOLVED, that consideration also be given to providing a levy cap exception to account for the impact of tax appeals on local operations; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to New Jersey Governor Christopher Christie, to Senate President Stephen Sweeney, to Assembly Speaker Sheila Oliver, to our State Senator, to our two Representatives in the General Assembly, and to the New Jersey League of Municipalities.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████
Gallman, Mazza, President pro tem Keenan - **X 6**

NEGATIVE: None

RESOLVED that City Council of the City of Elizabeth hereby confirms and approves the payment of all utility bills for the City of Elizabeth as indicated hereinbelow; and be it

FURTHER RESOLVED that the foregoing payments are excepted from the requirement of bidding by the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(f); and be it

FURTHER RESOLVED that the following certifications of availability of funds are on file in the office of the City Clerk:

ELIZABETH TOWN GAS	1-01-31-446	\$ 12,509.79
FLEETCOR TECHNOLOGIES SERVICE	1-01-31-460	\$ 84,818.08
HESS CORP.	1-01-31-430	\$ 22,196.84
NATIONAL FUEL OIL, INC.	1-01-31-447	\$ 4,949.20
NEXTEL COMMUNICATIONS	1-01-31-440	\$ 3,161.83
PEPCO ENERGY SERVICES	1-01-31-446	\$ 2,765.55
SPRINT	1-01-31-440	\$ 1,625.63
VERIZON	1-01-31-440	\$ 41,400.32
VERIZON WIRELESS	1-01-31-440	\$ 602.26
VERIZON COMMUNICATIONS, INC.	1-01-31-440	\$ 507.50
VERIZON WIRELESS	1-01-31-440	\$ 14,581.94

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, , Gonzalez, ,
Gallman, Mazza, President pro tem Keenan - 86

NEGATIVE: None

December 28, 2010

BY COUNCIL AS A WHOLE:

RESOLVED that the following bingo and raffle licenses issued by the City Clerk are here by approved:

<u>ORGANIZATION</u>	<u>AG</u>	<u>B.L.</u>	<u>R.L.</u>	<u>DATE</u>
St. Mary's of Assumption		1323		12-23-10
St. Mary Rosary Confraternity		1324		12-23-10

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████████, Gonzalez, ██████████
Gallman, Mazza, President pro tem Keenan - 6

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the Senior Citizens' Awareness Committee was established in 2003 following the dream of the late Deacon Stephen Sampson. Deacon Sampson was a pioneer in bringing about an awareness of African American History in the City of Elizabeth; and

WHEREAS, the Senior Citizen's Awareness Committee follows in the legacy of Deacon Sampson's mission by providing educational, cultural and social services to senior citizens and youth. The Committee strives to identify community needs, resource information, coordinate local programming, provide charitable services and give charitable donations; and

WHEREAS, the Senior Citizens Awareness Committee, Dream Keepers Award, is being presented to individuals in the community who keep the life and legacy of Reverend Dr. Martin Luther King, Jr. alive by educating and enriching and serving our community; and

WHEREAS, the 2011 Senior Citizens Awareness Committee, Dream Keepers Award recipients are:

- Reverend Lenton R. Buffalo, Jr.
- Reverend Dr. Larry E. Dixon
- Manny Grova, Jr., Councilman, First Ward
- Sister Jacinta Fernandes, OSB
- BT and Diane Mathis
- James and Cerise Simmons, Lay Missionaries
- Willie C. Singley

;now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth congratulates the 2011 recipients of the Senior Citizens Awareness, Dream Keepers Award, and commend them for keeping the life and legacy of Reverend Dr. Martin Luther King, Jr. alive by educating and enriching and serving our community and wish them continued success in all of their future endeavors.

Which was adopted by the following vote:

AFFIRMATIVE: Perkins-Auguste, Jackus, ██████, Gonzalez, ██████
Gallman, Mazza, President pro tem Keenan - 86

NEGATIVE: None

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the City Council of the City of Elizabeth has learned of the recent death of Daniel Vincent Byrne, 56; and

WHEREAS, Mr. Byrne was a lifelong resident of Elizabeth; and

WHEREAS, he was a captain with the Elizabeth Fire Department. He became a firefighter in 1982 and was promoted to captain in 1996; and

WHEREAS, Mr. Byrne was the state representative and past president of Elizabeth Firefighters, Local 777 and current president since 2005 of Elizabeth Fire Officers Local 2040; and

WHEREAS, he was an Army veteran of the Vietnam War; and

WHEREAS, Mr. Byrne is survived by his daughter, Amberly Kelly; his three sons, Damien Vincent Byrne, John Vincent Byrne and Thomas Vincent Byrne; his granddaughter, Lia Riotte; his brother, John Byrne, and his sisters, Mary Griffith and Frances Byrne; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth hereby expresses its condolences at the passing of Daniel Vincent Byrne and wishes to express sympathy to his family, relatives and friends at this time of their loss; and be it

FURTHER RESOLVED that this expression of our sympathy be recorded in full upon the minutes of City Council and a certified copy be sent to his family.

Which was adopted unanimously by a standing vote and minute of silent prayer.

40a

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the City Council of the City of Elizabeth has recently learned of the recent death of Rev. Dr. Willie Wells, Jr; and

WHEREAS, after graduating from high school, he entered the U.S. Army during the Korean War, he served for seven years and received an honorable discharge; and

WHEREAS, for over thirty-five years, Rev. Dr. Wells was a faithful employee of Sears until his retirement; and

WHEREAS, he was the past mater of Enoch Lodge 18, Westfield, New Jersey, King Hiram Grand Lodge, Ancient Free and Accepted Masons; and

WHEREAS, In April, 1972, Rev. Dr. Wells pastored the Second Macedonia Baptist Church, 1251 Fairmount Avenue, Elizabeth, New Jersey. Under his leadership, the church grew spiritually and financially. He was a faithful member of the New Hope Baptist Association for many years and involved the Second Baptist Church in many of its functions. Dr. Wells organized and guided the project of the new church being built at 1251 Fairmount Avenue. In May, 1996, the pastor and members marched into the church. On November 30, 2002, Dr. Wells, retired to South Carolina after thirty-one years of pastoring; and

WHEREAS, his memory will be cherished by his wife, Alice; a daughter, Daisy Mae Wells; a son, Willie Wells, III; his sisters, Reva Mae Brisbon, Ida Monroe (Lacy), and Edna Bishop (Monroe); one brother, Henry (Bernice) wells; his sisters-in-law, Millie Rice, Alena Fowler and Bessie Chapman; three brothers –in, John Chapman, Levan (Debra) Chapman and Richard (Frances) Chapman, and a host of nieces, nephews, cousins, church family and friends; now, therefore, be it

RESOLVED that the City Council of the City of Elizabeth hereby expresses its condolences at the passing of Rev. Dr. Willie Wells, Jr. and wishes to express sympathy to his family, relatives and friends at this time of their loss; and be it

FURTHER RESOLVED that this expression of our sympathy be recorded in full upon the minutes of the City Council and a certified copy be sent to his family.

Which was adopted unanimously by a standing vote and minute of silent prayer.

BY CITY COUNCIL AS A WHOLE:

WHEREAS, the City Council of the City of Elizabeth has learned with profound regret of the death of Honorable Thomas J. Deverin, former State Assemblyman of the 20th District covering Union County from 1970 to 1992, therefore, be it

RESOLVED, that we, the members of City Council of the City of Elizabeth, hereby express our sincere sorrow at his death and to his family over their great loss; and be it

FURTHER RESOLVED that this expression of our sympathy be recorded in full upon the minutes of City Council and an acknowledgement thereof be sent to his family.

Which was adopted unanimously by a standing vote and minute of silent prayer.

Councilwoman Perkins-Auguste thanked the Public Works Director for the snow removal. She continued that the City of Elizabeth has been on all of the news channels because Elizabeth received the most snow.

Council President pro tem Keenan stated that this was an unprecedented snow storm.

Councilman Mazza thanked the residents for being so patient. He continued that he received only seven complaints and congratulated the Public Works Director and most of all to the taxpayers of Elizabeth for being so patient.

Councilwoman Perkins-Auguste stated that she received only three phone calls.

Councilman Gonzalez thanked the Public Works Department and the residents for being patient. He announced to the residents that when you should do not throw the snow into the street.

Councilman Gallman stated that he received seven or eight calls and the main complaint was that people were leaving their cars in the middle of the street when their cars were stuck in the snow. He continued that this made the Public Works' job a little more difficult.

Councilman Gallman thanked the Public Works Department for a great job.

Councilman Gallman wished everyone a "Happy New Year."

Councilman Gonzalez moved that City Council do now adjourn,
Which was carried unanimously.

Whereupon Council President pro tem Keenan declared City Council adjourned at
8:05 p.m.

APPROVED

JOSEPH KEENAN
President pro tem of City Council

YOLANDA M. ROBERTS, R.M.C.
City Clerk