

AUG 23 2016

No. G.F.B. 1st Reading

# Ordinance

Date to Mayor DEC 21 2016

No. .... Public Hearing

of the

Date Returned DEC 23 2016

No. 6PSFA DEC 21 2016 2nd Rdg. and Final Passage

## City of Newark, N.J.

Date Resubmitted To Council .....

No. .... Reconsidered

Date Advertised 1st Reading .....

Approved as to Form and Legality on Basis of Facts Set Forth

Final Reading .....

Factual contents certified to by

Corporation Counsel

Title

Council Member Council of the whole presents the following Ordinance:

*Jubalen BA*

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**AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE CITY OF NEWARK TO AUTHORIZE THE CREATION OF A SPECIAL IMPROVEMENT DISTRICT IN A CERTAIN AREA OF THE WEST WARD OF THE CITY TO BE KNOWN AS THE WEST WARD SPECIAL IMPROVEMENT DISTRICT.**

**WHEREAS**, the Mayor and the Municipal Council have previously created and established Special Improvement Districts ("SIDS") in certain areas of the City of Newark ("City"); and

**WHEREAS**, such SIDS have been able to create and implement self-help programs carried out by designated non-profit corporations to manage the services and programs of the SIDS; and

**WHEREAS**, the creation of such SIDS has proven to be enormously successful in revitalizing several areas throughout the City and has been a crucial component in the City's efforts to reverse and remedy economic and social deterioration seen in the City, expand and facilitate successful commercial activities, provide better commercial and residential environments for the various communities throughout the City, and create unique and distinctive downtown areas and environments that have significantly benefited the property owners and businesses in such SIDS and the City generally; and

**WHEREAS**, the City believes that a certain area of the West Ward of the City (the "West Ward Special Improvement District" or the "District"), will likely realize similar benefits to those realized in other SIDS; and

**WHEREAS**, the City proposes the creation and establishment of the West Ward Special Improvement District in the above areas as more particularly described in detail in Schedules A & B, attached hereto and made a part of this Ordinance; and

**WHEREAS**, the properties listed in Schedule A will be part of the West Ward Special Improvement District upon final passage; and

**WHEREAS**, the properties listed in Schedule B will be "phased" into the West Ward Special Improvement District in approximately eighteen (18) months; and

**WHEREAS**, a Steering Committee, comprised of the City, the Newark Community Economic Development Corporation staff, property owners, business owners, and residents within the District, was formed to evaluate and discuss the potential for the creation of the West Ward Special Improvement District; and

**WHEREAS**, the Steering Committee held two public meetings on December 16, 2015 and April 13, 2016, to which all property and business owners and residents located within the District were invited to discuss the details of a proposed West Ward Special Improvement District, including an estimated budget, estimated assessments needed to operate such Special Improvement District, the programs and benefits and the corporate governance and operation of such a District; and **WHEREAS**, the property and business owners and residents in attendance at the two public meetings expressed strong support for the proposed creation of the West Ward Special Improvement District; and

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**WHEREAS**, the Mayor and the Municipal Council believe that the proposed Special Improvement District will successfully enhance the attractiveness, commercial viability and success of the businesses within the proposed expanded area and will promote employment and economic growth and stability within the proposed expanded area, and facilitate and promote better residential property maintenance and living conditions.

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

**Section 1. Definitions.**

- a. "Special Improvement District (sometimes also referred to as the "District") means areas within the City of Newark designated by this Ordinance as areas in which a special assessment on property within the District shall be imposed for the purposes of promoting the economic and general welfare of the District and the Municipality.
- b. "District Management Corporation" means the "PARTNERSHIP WEST: BUSINESS IMPROVEMENT DISTRICT MANAGEMENT CORPORATION"(also referred to as "Management Corporation"), an entity to be incorporated pursuant to N.J.S.A. 15A:1-1 et seq.,of designated by this Municipal Ordinance to receive funds collected by a special assessment within the Special Improvement District as authorized by N.J.S.A. 40:56-65, et seq..

**Section 2. Findings.** Pursuant to N.J.S.A. 40:56-65, et seq. , the Governing Body of the City of Newark hereby determines the following:

- a. That the area within the City of Newark as described by block and lot numbers and by street address as set forth in Schedules A & B of this ordinance, from being designated as a Special Improvement District; and
- b. That a district management corporation would provide administrative and other services to benefit the businesses, employees, residents, and consumers in the West Ward, F, and will also assist the City of Newark in promoting economic growth and employment; and
- c. A special assessment shall be imposed and collected by the City of Newark either with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the District Management Corporation to effectuate the purpose of N.J.S.A. 40:56-65 et seq, and;
- d. It is in the best interests of the City of Newark and its inhabitants to create a Special Improvement District in the West Ward and to designate a nonprofit District Management Corporation to manage the Special Improvement District; and
- e) That the business community should be encouraged to provide self-help and self-financing programs to meet local needs, goals and objectives and should be encouraged to supplement any of the authorized services and improvements through formation of a non-profit District Management Corporation formed under N.J.S.A. 15A:1-1 et seq.

**Section 3. Establishment of the District.**

- a. There is hereby created and designated within the City of Newark a Special Improvement District authorized pursuant to N.J.S.A. Title 40:56-65 et seq., to be known as the West Ward Special Improvement District ("District") and is hereby established consisting of the properties designated and listed on Schedules A

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(Phase One) & B (Phase Two), annexed hereto by tax block and lot numbers and street addresses. The Special Improvement District will be governed by a District Management Corporation.

b. Schedules A & B of this ordinance may be amended by an ordinance to add and delete particular properties which have a change in use affecting the appropriateness of including them as part of the Special Improvement District. Any change in the schedules of properties to be considered part of the Special Improvement District will require an amendment of the ordinance.

c. Phasing implies that one part of the Special Improvement District will be assessed and provided services before the other, and represent distinct areas within the Special Improvement District. Schedule A represents Phase One and Schedule B represents Phase Two. Phases will be assessed as separate budget items at the request and discretion of the district management corporation. The phases are as follows:

**Phase One - Schedule A:**

- South Orange Avenue** from Dover St. to Bergen St.
- Sanford Avenue** from the Irvington Border to East Orange border.
- 18th Avenue** from Sanford Avenue to Myrtle St.
- Mt. Vernon Place** from Eder Terrace to Sanford Avenue

**Phase Two - Schedule B** {will consist of all or part, which may be added in whole or in parts}:

- West Market Street** from East Orange border to Bergen Street
- Central Avenue** from East Orange border (15th St.) to 3rd St.
- Orange Street** from East Orange border to 3rd St.
- Roseville Avenue** from West Market Street to 3rd. Ave. (into Central Ward)
- Bergen Street** from West Market Street to So. Orange Ave.
- Park Avenue** from East Orange border to 3rd. Street

d. The District is comprised of all zoned commercial and industrial properties and applicable commercial vacant land as described by lot and block numbers in Schedules A & B as follows: All commercial properties (zoned 4A, 4B, 4C, and commercial 1) as a Ward-wide Special Improvement District. Non-conforming properties, which are not used as commercial properties, and vacant land that is non-commercial shall be excluded. Residential properties of 4 units or less are considered residential. Residential properties in the commercial areas are in the District, but are excluded from the District assessment.

**Section 4. License Fee Assessments.**

a. All costs of improvements and maintenance, other than the costs of improvements and maintenance ordinarily incurred by the City of Newark out of general funds, shall be determined and approved pursuant to N.J.S.A. 40:56-80 or N.J.S.A. 40:56-85 as determined by the District Management Corporation. The formula for the assessment is as follows: each property's current assessed value, as determined by City of Newark Tax Assessor for real estate tax purposes, will be multiplied by the

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appropriate factored amount to sustain the approved annual budget to determine the amount of the Special Improvement District assessment based on ad valorem property tax values. The foregoing assessment shall be collected as a special assessment against the properties that are within the district as defined in Schedules "A & B".

b. Exemption from special assessment of the Special Improvement District are:

- i) Any property owned and operated by the municipal, county and state governments, and,
  - ii) Residential property structures consisting of 4 units or less units;
- c.

**Section 5. Designation of the District Management Corporation.**

a. The nonprofit Corporation created pursuant to N.J.S.A. 15A:1-1, known as PARTNERSHIP WEST, INC: A BUSINESS IMPROVEMENT DISTRICT MANAGEMENT CORPORATION a non-profit corporation of the State of New Jersey, is hereby designated as hereby designates ("district management corporation"), as the District Management Corporation for the District.

b. The District Management Corporation, in addition to acting as an advisory board to the Governing Body, shall also have all powers necessary and requisite to effectuate the purposes of this ordinance, as specified in N.J.S.A. 40-56-65 et seq., including but not limited to:

- 1. Adoption of by-laws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations and policies for the performance of its functions and duties;
- 2. Employ such persons as may be required, and fix and pay their compensation from funds available to the Corporation;
- 3. Apply for, accept, administer and comply with requirements respecting an appropriation of funds or a gift, grant or donation of property or money;
- 4. Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the Corporation including contract with any person, firm, corporation, government agency or entity;
- 5. Administer and manage its own funds and accounts and pay its own obligations;
- 6. Fund the improvement of exterior appearance of properties in the district through grants and loans;
- 7. Fund rehabilitation of properties in the district;
- 8. Enforce the conditions of any loan, grant, sale or lease made by the corporation;
- 9. Provide security, sanitation, and other services in the district, supplemental to those normally supplied by the City of Newark;

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10. Undertake improvements designed to increase safety, attractiveness of the district to businesses which may locate there or visitors to the districts, including, but not limited to parking, litter clean-up and control, landscaping, signage, and those improvements generally permitted for pedestrian malls under N.J.S.A. 40:56-66 pursuant to pertinent regulations of the governing body;
11. Publicize, promote, and plan for the district and the businesses included within the district boundaries.
12. Recruit new businesses to fill vacancies in, and to balance the business mix of, the district;
13. Organize special events in the district;
14. Provide special parking arrangements for the district;
15. Design and enforce environmental and building design criteria;
16. Regulate vending;
17. Provide temporary decorative lighting in the district; and,
18. Effectuate the purposes and intents of N.J.S.A. 40:56-66 as amended.

c. The District Management Corporation will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, or sex.

e. By ordinance the City of Newark may delegate to the District Management Corporation the contracting of work to be done on any street, or on other municipal property, included in the Special Improvement District. In that event, the Corporation shall be a "contracting unit" within the "Local Public Contracts Law" P.L. 1971, c.198 (N.J.S.A. 40A:11-1 et seq.). The plans and specifications shall be approved by the Municipal Engineer prior to initiation of any action for the award of a contract under the act.

f. The District Management Corporation shall have the following minimum representation to its Board of Directors:

- Each of the five neighborhoods (Roseville, West Side Park, Fairmount, Vailsburg, and Ivy Hill) will get two seats.
- South Orange Avenue will have three seats.
- One representative each from Unified Vailsburg Service Organization (UVSO) and WestCorp, The Urban League, and Newark Community Economic Development Corporation (NCEDC).
- One member of the Governing Body from the City of Newark pursuant to N.J.S.A.:56-68(b)(4)

g. The Management Corporation shall utilize affirmative action goals and guidelines in its hiring and expenditures whenever possible. Pursuant to N.J.A.C. 17:27-5.2, the Management Corporation will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. The Management Corporation will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status or sex.

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**Section 6. Annual Budgets; Reports.**

a. The Management Corporation shall operate on a calendar year basis, January 1 through December 31, inclusive.

b. Not later than December 1 of each year, the Management Corporation shall submit a detailed business plan and budget for the upcoming year, for approval by the City of Newark Municipal Council pursuant to N.J.S.A. 40:56-84. The budget shall be accompanied by a report explaining how the budget contributes to the goals and objectives for the District.

c. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the City of Newark Municipal Council.

d. The Management Corporation shall cause an annual audit of its books, accounts and financial sections to be made and filed with the Governing Body. Such audit shall be completed and delivered to the Governing Body within four months after the close of the fiscal year. A certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the State Department of Community Affairs within five days of the filing with the City. The Management Corporation shall employ a Certified Public Accountant licensed by and practicing within the State of New Jersey to perform the required audit.

e. The Management Corporation shall submit an annual report to the City of Newark Municipal Council pursuant to N.J.S.A. 40:56-80 within 30 days of the close of the fiscal year. The report shall consist of a narrative covering the previous year's operation and detailed financial statements.

**Section 7. Amendments.**

Nothing contained herein shall prevent the City Municipal Council at any time subsequent to the adoption of this article, by ordinance, from abandoning the operation of the Special Improvement District, changing the extent of the Special Improvement District, supplementing or amending the description of the district to be specifically assessed or taxed for annual costs of the Special Improvement District or rescinding the designation of or re-designating a District Management Corporation.

**Section 8. Municipal Powers Retained.**

Notwithstanding the creation of the Special Improvement District, the City of Newark expressly reserves and retains all its police powers and other rights and powers related to the area within the District.

**Section 9. Notice.**

a. The Department of Economic and Housing Development shall at least ten (10) days prior to the date fixed for a public hearing for this Ordinance, a copy of the proposed ordinance and notice of the date, time and place of the hearing shall be mailed to the owners of all the lots and parcels of land abutting or directly affected by any proposed Special Improvement District proposed by this Ordinance, as the case may be in accordance to N.J.S.A 40:56-71.

b. Within ten (10) days of the adoption of this Ordinance the City Clerk shall forward a copy of this Ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs.

