

City Clerk File No. Ord. 09-067

Agenda No. 3.D 1st Reading

Agenda No. 4.D. 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE
offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-067

TITLE: **ORDINANCE TO AUTHORIZING THE IMPOSITION OF A CONSERVATION EASEMENT AND DEED RESTRICTIONS ON THE "GATEWAY SITES" AS REQUIRED UNDER THE HONEYWELL SETTLEMENT CONSENT ORDER**

COUNCIL offered and moved adoption of the following Ordinance:

WHEREAS, on December 23, 2005, the Jersey City Municipal Utilities Authority [JCMUA] filed a lawsuit in federal court entitled Jersey City Municipal Utilities Authority v. Honeywell International Inc. (D. N.J. Civ. No. 05-955 DMC) seeking remediation of chromium contamination on property owned by JCMUA; and

WHEREAS, on December 28, 2005, the Jersey City Incinerator Authority [JCIA] filed a lawsuit in federal court entitled Jersey City Incinerator Authority v. Honeywell International Inc. (D. N.J. Civ. No. 05-5993 DMC) seeking remediation of chromium contamination on property owned by JCIA and other relief; and

WHEREAS, on January 4, 2006 the Hackensack Riverkeeper, Inc. [Riverkeeper] filed a lawsuit in federal court entitled Hackensack Riverkeeper, Inc. v. Honeywell International Inc. (D. N.J. Civ. No. 06-022 DMC) filed a lawsuit against Honeywell under the Resource and Conservation Recovery Act and seeking remediation of chromium contamination on various properties collectively designated by the New Jersey Department of Environmental Protection [NJDEP] as Study Areas 5, 6 North, and 6 South; and

WHEREAS, the three federal lawsuits, JCMUA v. Honeywell, JCIA v. Honeywell and Riverkeeper v. Honeywell were consolidated in the United States District Court of New Jersey [the Consolidated Litigation] under Docket No. 05-955 (DMC-PS); and

WHEREAS, in May 2005, Jersey City filed a lawsuit in State Court entitled Jersey City v. Honeywell International Inc. (Superior Court Law Division, Docket No. HUD-L-2295-05) seeking to recover lost property tax revenue for the property designated by the NJDEP as Study Area 7; and

WHEREAS, in May 2005, the NJDEP also filed a lawsuit in State Court entitled NJDEP v. Honeywell International Inc. (Superior Court Chancery Division, Docket No. HUD-C-77-05) seeking injunctive and other relief with respect to numerous sites in Essex and Hudson County contaminated with COPR produced by Honeywell and the other defendants [the Orphan Site Litigation]; and

WHEREAS, after extensive negotiations among the parties, on November 12, 2008, the City of Jersey City adopted a resolution that authorized the execution of a Settlement Consent Order which, among other things, required the City of Jersey City to subject certain property it owns, the "Gateway Sites", to certain statutory and regulatory controls to restrict the future use of the property to recreational purposes and to protect and preserve the environmental remediation actions taken on the property; and

ORDINANCE TO AUTHORIZING THE IMPOSITION OF A CONSERVATION EASEMENT AND DEED RESTRICTIONS ON THE "GATEWAY SITES" AS REQUIRED UNDER THE HONEYWELL SETTLEMENT CONSENT ORDER

WHEREAS, in order to implement the agreed upon statutory and regulatory controls, and to insure their perpetual endurance, the City of Jersey City is required to execute and record a Deed Notice; and

WHEREAS, it is in the best interests of the City to implement the Settlement Consent Order and authorize the execution and recordation of the Deed Notice.

NOW, THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

- 1. The Mayor or Business Administrator is authorized to execute and record a deed to impose certain environmental controls and use restrictions on the following properties, known as the Gateway Sites:
 - i. Site 68 (Clendenny Outfall);
 - ii. Site 69 (Clendenny Avenue);
 - iii. Site 70 (Colony Drive); and
 - iv. Site 130 (Communipaw Avenue);

These properties are known on the official tax assessor's map as Block 1746, Lots B1, B3, C4, C5 and E1, and depicted on the map attached hereto as Exhibit A.

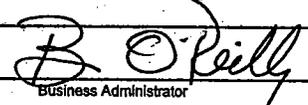
- 2. The Deed Notice shall be in substantially the form attached hereto as Schedule B, subject to such modification as the Business Administrator or the Corporation Counsel deems appropriate or necessary.
- 3. The Mayor or Business Administrator is also authorized to execute any other documents appropriate or necessary to effectuate the purposes of the within ordinance.
 - A. All Ordinances and parts of Ordinances inconsistent herewith, are hereby repealed.
 - B. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Jersey City Code.
 - C. This Ordinance shall take effect at the time and in the manner as provided by law.
 - D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing code, in order to avoid confusion and possible accidental repealers of existing provisions.

NOTE: All material is new; therefore, underlining has been omitted. For purposes of advertising only, new matter is indicated by **bold face** and repealed matter by *italic*.

JM/he
5/14/09

APPROVED AS TO LEGAL FORM


Joanne Meehan
Corporation Counsel

APPROVED: _____
APPROVED: 

Business Administrator

Certification Required
Not Required

Ordinance of the City of Jersey City, N.J.

Ord. 09-067

ORDINANCE NO.

3.D. MAY 20 2009 4.D. JUN 03 2009

TITLE:

Ordinance to authorize the imposition of a conservation easement and deed restrictions on the "Gateway Sites" as required under the Honeywell settlement consent order.



RECORD OF COUNCIL VOTE ON INTRODUCTION											
MAY 20 2009 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
KENNY	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Councilperson LIPSKI moved, seconded by Councilperson BRENNAN to close P.H.

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
JUN 03 2009 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
KENNY	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
KENNY				FULOP				FLOOD			
LIPSKI				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE											
JUN 03 2009 9-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	✓		
KENNY	✓			FULOP	✓			FLOOD	✓		
LIPSKI	✓			RICHARDSON	✓			VEGA, PRES.	✓		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on MAY 20 2009

Adopted on second and final reading after hearing on JUN 03 2009

This is to certify that the foregoing Ordinance was adopted by the Municipal Council at its meeting on JUN 03 2009

Robert Byrne
Robert Byrne, City Clerk

APPROVED:
Mariano Vega, Jr.
Mariano Vega, Jr., Council President

Date: JUN 03 2009

APPROVED:
Jerramiah T. Healy
Jerramiah T. Healy, Mayor

Date: JUN 11 2009

Date to Mayor: JUN - 4 2009

*Amendment(s):