

ORDINANCE NUMBER 10-2017

FIRST READING/INTRODUCTION

ORDINANCE

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**AN ORDINANCE AUTHORIZING THE BOROUGH, TO ACQUIRE BLOCK 8, LOTS
24, 25, 26 AND 27, IN THE BOROUGH OF EAST NEWARK, INCLUDING THE
EXERCISE OF EMINENT DOMAIN, IF ADVISABLE”**

WHEREAS, certain properties, to wit: Block 8, Lots 24, 25, 26 and 27, in the Borough of East Newark, are vacant parcels of land; and

WHEREAS, the Borough is interested in acquiring said properties, for public purposes, specifically development of a public parking lot.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of East Newark, County of Hudson, and State of New Jersey that it hereby authorizes studies and proceedings to be commenced in order to evaluate the advisability of exercising the power of eminent domain and ultimately to exercise such power, if deemed advisable, in order to acquire Block 8, Lots 24, 25, 26 and 27, also known as 441, 443, 445 and 447 John Street, in the Borough of East Newark, for an amount initially to be determined by way of appraisal and ultimately by voluntary agreement or determination made pursuant to the Eminent Domain Act.

BE IT FURTHER ORDAINED that it is the intent of this ordinance to allow but not require the exercise of eminent domain to acquire the aforesaid properties.

BE IT FURTHER ORDAINED that the Borough Clerk, Borough Engineer, Borough Assessor, Borough Attorney and such other municipal officials as are appropriate are hereby authorized to execute such documents and undertake such action as is necessary to carry out the purpose of this ordinance.

This Ordinance shall take effect upon adoption and publication according to law.

Ordinance Number 05-17

SECOND READING/PUBLIC HEARING

BOROUGH OF EAST NEWARK

COUNTY OF HUDSON

NEW JERSEY

POLICE SALARIES, 2017

***AN ORDINANCE OF THE BOROUGH OF EAST NEWARK, COUNTY OF HUDSON, STATE OF NEW JERSEY TO
FIX THE SALARIES FOR MEMBERS OF THE EAST NEWARK POLICE DEPARTMENT***

BE IT ORDAINED, by the Mayor and Council of the Borough of East Newark, County of Hudson, State of New Jersey, as follows:

SECTION I: There is hereby established a new salary schedule for the members of the East Newark Police Department, effective January 1, 2017, as set forth:

Chief of Police:

January 1, 2017 2%

SECTION III: The above percentages shall be applied to an employee's base salary.

SCHEDULE A

Year	2017
% Raised	2.00%

ACADEMY PAY	29,000
FIRST	44,950
SECOND	49,581
THIRD	54,251
FOURTH	58,921
FIFTH	63,595
SIXTH	68,264
SEVENTH	73,034
EIGHTH	77,606
NINTH	82,275
TENTH	87,593
SGT 1	89,820
LT 1	97,005
CAPT 1	103,292

Any Officer Hired Prior to January 1, 2010

SCHEDULE B

<i>Year</i>	2017
<i>% Raised</i>	2.00%

ACADEMY PAY	25,000
FIRST	29,226
SECOND	31,932
THIRD	35,720
FOURTH	41,133

FIFTH	45,462
SIXTH	54,121
SEVENTH	59,533
EIGHTH	64,945
NINTH	70,359
TENTH	75,771
SGT 1	77,955
LT 1	85,138
CAPT 1	91,427

Any Officer Hired After May 1, 2012

FIRST READING/INTRODUCTION AS AMENDED

**BOROUGH OF EAST NEWARK
HUDSON COUNTY, NEW JERSEY**

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER II Section 19, “Police Department, OF THE MUNICIPAL
CODE OF THE BOROUGH EAST NEWARK**

BE IT ORDAINED, by the Council of the Borough of East Newark that Chapter II, Section 19, of the Borough’s Ordinances, is hereby supplemented by adding a section to provide regulations concerning the employment of police officers for “Extra-Duty” Details, as follows:

WHEREAS, it is recognized that there are times when police officers are sought by private employers or other public entities to provide security and/or traffic control services that are outside the scope of their regularly scheduled duties and responsibilities for public safety interests and concerns of the Borough: and,

WHEREAS, while allowing police officers to work off-duty outside work assignments within the Borough may be advantageous to the residents of the Borough by deferring costs that might otherwise have to be paid with taxpayer funds, it also exposes the Borough to potential liability that would not be in the best interests of the Borough, and

WHEREAS, while the Borough of East Newark is desirous of allowing its police officers the opportunity to earn additional compensation by working off-duty outside work assignments, the Borough must insulate itself from potential third party complaints and/or liabilities arising from injuries or accidents which may be sustained as the result of Borough police officers working off-duty, outside work assignments:

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

Section 1. Findings.

A. N.J.S.A. 40A:14-118 provides that the governing body of any municipality may, by ordinance, create and establish a police force and provide for the regulation and control thereof; provide for the adoption and promulgation of rules and regulations of the police force; provide for the appointment of officers and personnel as shall be deemed necessary, and prescribe their powers functions and duties.

B. There are numerous occasions where retail businesses in the Borough of East Newark (“Borough”), contractors performing work in the Borough, and other public entities, private persons or businesses (within or outside of the jurisdictional Boundaries of East Newark) require

police-related services, including police vehicles, for added security, traffic control, and other public safety reasons.

C. The Attorney General of the State of New Jersey and the Department of Community Affairs, Division of Local Government Services, have determined that members of a municipal police department may, during their off-duty hours, engage in police-related activities for private persons or entities. Pursuant to the laws of the State of New Jersey, a municipality must agree to implement a system whereby the extra-duty assignment of police officers is arranged through a contract between the municipality and the private person or entity.

D. The contract between the municipality and a private person or entity must include a plan whereby the compensation for extra-duty police related services is paid to the municipality, and that said payment is placed in a special trust fund to be established by the municipality, and that the proceeds of said fund will be disbursed through the finance office to the individual police officers performing such services.

E. It is in the best interest of the Borough's citizens, including the business community, to establish a procedure for extra-duty police assignments which will allow for the greater protection of the citizens of the Borough.

F. The Borough has adopted extra-duty fee schedules in the past, and there is a need to consolidate and update these schedules and simplify the fees the Borough charges to such persons requiring extra duty police services, and reset the allocation of the fees as between the Borough and the police officers. The Borough may contract with a third party provider to manage and oversee extra-duty assignments on behalf of the Borough's administration. Any such arrangement shall be consummated through a contract to be approved by the Borough.

Section 2. Definitions

A. "Administrative Fee" or "Administration Fee" shall be that portion of the fees paid by the private persons or entities for Extra-Duty Police Services, which shall be allocated to the Borough to offset the costs associated with administering the Extra-Duty Police Services.

B. "Extra-Duty Police Services" shall mean police officer providing security, traffic control, or other police-related functions for private business or persons where the actual or potential use of law enforcement powers may be required. Extra-Duty Police Services may be provided at the request of a private business or person, or the Chief of Police may mandate, for reasons of public safety, that a private business or person secure Extra-Duty Police Services.

Section 3. Assignment

A. The Chief of Police, or his designee, shall be responsible for the assignment of all Extra-Duty Police Services. The Chief of Police shall be authorized to designate other members of the police department as needed to assist him in the assignment and processing of Extra-Duty Police Services. The procedure for assignment of Extra-Duty Police Services shall be as follows:

1. The Chief of Police, or his designee, shall create and maintain a list whereby police officers may volunteer for Extra-Duty Police Services; and

2. The Chief of Police, or his designee, shall assign all Extra-Duty Police Services from the aforementioned list of officers desiring said assignment; said assignments to be made on a rotating basis as the assignment becomes available.

Section 4. Contracts with Private Persons/Entities

Any private person or entity desiring to retain Extra-Duty Police Services shall be required to enter into a written contract with the Borough. Said contract shall include, but not be limited to, the nature of duties to be performed, the location of said duties, the number of officers, proof of adequate insurance (including Workers' Compensation), the equipment involved, the date and hours of service, and the rate of payment for services and equipment. The contract will also provide for payment in advance by the private person or entity for services to be performed.

Section 5. Payment Procedures

The person or entity requesting Extra-Duty Police Services shall pay the Borough in advance, based on the Chief of Police's, or his designee's discretion, up to two hundred percent (200%) of the estimated amount due for the requested services. The Borough shall deposit the monies collected from said private person or entities, earmarked for payment to the officers performing Extra-Duty Police Services, into a special trust fund to be established to receive such monies. All members of the police department shall be paid for Extra-Duty Police Services performed on the next regular pay date after submission of a pay slip approved by the Police Chief or his designee and properly authorized by the private person or entity. All police officers shall be paid at the rates set forth herein for Extra-Duty Police Services.

Section 6. Third Party Administrator

1. In the event that the Borough retains or secures a third party vendor to provide management and oversight of extra-duty services, private persons or entities shall be required to comply with any additional requirements specified by the third party vendor, in addition to those requirements set forth herein. In the event that there are any conflicts between the requirements of the third party vendor and this Ordinance, the terms and conditions of this Ordinance shall govern.

Section 7. Insurance & Indemnification

A. Each private person or entity that shall retain officers for Extra-Duty Police Services pursuant to this Ordinance shall be responsible for maintaining their own insurance coverage. No private person or entity shall employ a Borough of East Newark Police Officer for "extra duty" without having first filed with the Borough of East Newark Clerk's Office a Certificate of Insurance. Said insurance coverage shall include but not be limited to the following insurance coverage and amounts:

1. Commercial general liability coverage with a minimum of \$1,000,000 per occurrence. \$2,000,000 products/completed operations, and \$2,000,000 in the aggregate.
2. Comprehensive automobile liability insurance coverage with \$1,000,000 combined single limit.
3. Worker's Compensation with "Statutory Limits" in accordance with New Jersey Statutes, with respect to injuries and/or damages suffered or caused by Police Officers (or its other employees) while performing "extra duty" work for the private person or entity.
4. Employers liability insurance limits shall be bodily injury by accident of \$1,000,000 each accident, bodily injury by disease \$1,000,000 each employee, bodily injury by disease \$1,000,000 policy limit.

B. Proof of said insurance coverage shall be provided to the Borough prior to the assignment of any police officers for Extra-Duty Police Services.

C. The Borough shall be named as an additional insured on the general liability, automobile liability and Workers' Compensation policies referenced in Section 7.A.

D. Although the private employer's Worker's Compensation policy shall be the primary coverage for Police Officers working Extra-Duty Police Services who are injured during the provision of such services, the Borough's Worker's Compensation insurance shall cover its Police Officers for injuries resulting from providing Extra-Duty Police Services within the jurisdictional boundaries of the Borough for any gaps in Worker's Compensation coverage or a declination of such coverage by the private employer's Worker's Compensation carrier (the Borough shall also abide by its existing practice of paying the difference between Worker's Compensation benefits and the Police Officer's salary). The provisions of this subparagraph shall not apply to any Extra-Duty Police Services worked outside of the jurisdictional boundaries of the Borough of East Newark. The Borough's Worker's Compensation policy shall not be applicable to cover Police Officers injured during the course of providing Extra-Duty Police Services outside of the jurisdictional boundaries of the Borough and such Police Officers sole recourse shall be the Worker's Compensation policies of the private employer; nor will the Borough's practice of paying the difference between Worker's Compensation benefits and the Police Officer's salary be applicable in such circumstances.

E. Any private person or entity requesting the Extra-Duty Police Services shall defend and indemnify the Borough and hold it, its officials, officers, agents, representatives and employees, harmless from any and all losses, claims, liabilities or damages of any kind, including attorney's fees and costs, for personal injury, damage to property or other liabilities of any kind resulting from, or arising out of Extra-Duty Police Services.

Section 8. Availability of Officers & Equipment; Police Emergencies

A. The assignment of officers and equipment for Extra-Duty Police Services shall be subject to the Chief of Police's, or his designee's, sole discretion. The assignment of such services shall also be subject to availability considering the Police Department's limited resources.

B. The Chief of Police, or his designee, shall have the authority to order any police officer, engaged in Extra-Duty Police Services, to respond to an emergency situation. The Chief of Police, or his designee, shall also have the right to order any Extra-Duty Police Services assignment to be terminated whenever said assignment creates an unacceptable risk to the health, safety and welfare of the officer and/or the citizens of the Borough. In the event a police officer is assigned to an emergency, the Chief of Police, or his designee, shall make note of said emergency, as well as the time said officer was removed from said Extra-Duty Police Services assignment. In any situation where an Extra-Duty police officer is called to an emergency situation, said private person or entity shall not be responsible for the payment of fees related to the time the officer was called away from the Extra-Duty Police Services assignment.

Section 9. Extra-Duty Police Service Rates

A. The following rates shall apply for Extra-Duty Police Services:

1. General Rate: Except as set forth in Section 11, the Extra-Duty Police Services rate shall be \$100.00 per hour, per police officer. In the event the Borough appoints a third party vendor, in accordance with Section 6, the private person or entity shall pay the costs of the third party vendor, directly.

2. Rate for Police Vehicles: The rate for the use of a police vehicle (marked or unmarked) shall be \$25 per vehicle, for up to a maximum eight (8) hours. The determination of whether a police vehicle is required shall be in the sole discretion of the Chief of Police, or his designee.

Section 10. Minimum Hours

A. The minimum number of hours for an Extra-Duty Police Services assignment shall be four (4) hours. In the event the person or entity requesting the Extra-Duty Police Services utilizes such services for less than four (4) hours, it will be required to render payment to the Borough as if each officer utilized had worked a full four (4) hours.

Section 11. Allocation of Fee

A. The fees collected by the Borough shall be allocated as follows:

1. The Borough will keep \$20 per hour, per police officer assigned as the Administrative Fee.

2. The remaining hourly rate shall be payable to the police officer that worked the assignment.

3. In the event a third party vendor administers the Extra-Duty Police Services, the police officer shall receive the full amount of payment, minus any applicable administrative fee of the third party vendor, if any.

4. The Borough will keep the entire fee related to the use of the police vehicles (\$25 per hour) for Extra-Duty Police Services.

Section 12. Repealer

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed as to the inconsistency thereof.

Section 13. Severability

If any article, section, sub-section, sentence, clause or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

Section 14. Effective Date

This Ordinance shall take effect upon adoption and publication as required by law.

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**RESOLUTION: BOROUGH OF EAST NEWARK RECOGNIZES OCTOBER 2017 AS
NATIONAL BREAST CANCER AWARENESS MONTH**

INTRODUCED BY COUNCILMEMBER: _____

SECONDED BY COUNCILMEMBER: _____

WHEREAS, the Borough of East Newark values the health and well-being of all of its residents; and

WHEREAS, the Borough of East Newark supports awareness of certain diseases, such as breast cancer and prostate/colon cancer, which affects the lives of its residents; and

WHEREAS, October is National Breast Cancer Awareness Month; and

WHEREAS, National Breast Cancer Awareness Month promotes awareness of this horrid disease as well as remembrance for those who have been touched by this disease; and

WHEREAS, it is the goal of the Borough of East Newark to raise awareness and reach the residents of the Borough in this awareness involving early detection and treatment; and

WHEREAS, the Mayor and Borough Council of the Borough of East Newark encourages all residents to take advantage of all programs involving early detection of this disease;

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF EAST NEWARK within the County of Hudson, State of New Jersey that October, 2017 is hereby proclaimed National Breast Cancer Awareness Month and the Borough officials will participate in all efforts to encourage the residents to participate in the early detection and screening programs.

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

**RESOLUTION: AUTHORIZING EXECUTION OF REDEVELOPMENT AGREEMENT WITH EAST NEWARK
TOWN CENTER, LLC**

INTRODUCED BY COUNCILMEMBER: _____

SECONDED BY COUNCILMEMBER: _____

WHEREAS, pursuant to the Local Redevelopment and Housing Law ("Redevelopment Law"), N.J.S.A. 40A:12A-6(a), the Borough Council of the Borough ("Council" or "Governing Body") adopted a Resolution dated November 30, 2006, determining that the area within the Borough of East Newark ("Borough") comprised of Block 12, Lot 1, and Block 17, Lot 1 and Block 2, Lots 1, and 7 through 9 (Areas I & II), evidenced criteria set forth in N.J.S.A. 40A:12A-5 and was on that basis, a redevelopment area; and

WHEREAS, by Ordinance dated March 14, 2007, the Governing Body adopted the East Newark Redevelopment Plan for that redevelopment area and an unrelated area in need of rehabilitation; and

WHEREAS, the Governing Body, acting as the redevelopment entity, proceeded to issue a request for proposal ("RFP") to solicit a redeveloper with whom it would enter into a redevelopment agreement, pursuant to N.J.S.A. 40A:12A-8(f), for the construction and undertaking of the rehabilitation of the complex of buildings described in the Redevelopment Plan as the Thread Mill District, and based on that RFP, the Governing Body adopted a Resolution on May 9, 2007 conditionally designating East Newark Towne Center, LLC ("ENTC") as the redeveloper to undertake the rehabilitation of the Thread Mill District ("Project"); and

WHEREAS, ENTC proposed amendments to the Redevelopment Plan, including substantially decreasing the minimum average size of the residences to be constructed in the Project and increasing the number of units; after negotiation among the parties, the Council adopted a Resolution dated February 8, 2017 indicating its intent to approve the minor amendment to the Redevelopment Plan to reduce the average size of the units, but not increase the number of units, and on that basis and other agreed upon terms and conditions, provided for execution of a redevelopment agreement, and resolved litigation that had been pending between the Borough of ENTC, all subject to amendment of the Redevelopment Plan; and

WHEREAS, the Council and the Redeveloper reviewed in detail the terms of the Redevelopment Plan and agreed upon a number of additional amendments to the Redevelopment Plan, and specifically identified in bold and italics in the

copy of the Redevelopment Plan dated as of July 27, 2017 that is on file with the Borough Clerk; and

WHEREAS, pursuant to N.J.S.A. 40A:12A:-7(e), the Council referred the proposed amendments to the Planning Board, and the Planning Board recommended their approval; and

WHEREAS, on August 9 the Council introduced on first reading an Ordinance to approve the Redevelopment Plan dated as of July 27, 2017, and after publication, on August 23 the Council held a second reading and conducted a public hearing on that Ordinance, and voted to approve the Ordinance; and

WHEREAS, in furtherance of the February 8, 2017 Resolution, the Borough and ENTC used the 12/16/09 draft of the redevelopment agreement as a starting point for the finalization of the agreement, and reviewed in detail the terms of that version of the agreement and agreed upon a number of additional language changes which are generally described in the memorandum attached hereto, and the pages with substantial changes to the agreement which were specifically identified in blacklined changes provided to Council (the summary and pages with blacklined changes were provided for convenience of Council's review; the copy of the Redevelopment Agreement dated August 23 on file with the City Clerk shall control "Redevelopment Agreement"); and

WHEREAS, in considering the Redevelopment Agreement, for the reasons set forth in more detail in the Resolution dated February 8, 2017 (which Resolution is incorporated herein by reference), the Council has determined that, in order to err on the side of caution, the Rule of Necessity be invoked as this Resolution is being submitted to the Governing Body; and

WHEREAS, the Rule of Necessity provides that: 1) when the matter at hand affects the items that have significant importance to the financial and developmental aspects of the municipality, and 2) without the involvement by the parties who are have an "interest," the municipality will not be able to sustain a quorum to act upon the matter, and 3) where there is no other avenue to address this matter, all Council Members can vote upon the matter; and

WHEREAS, 1) the present matter is one of great significance to the Borough, 2) without the Council Members who own property within 200 feet have an interest, there will be no quorum, and 3) only the Governing Body can act to approve the redevelopment agreement in recognition of the fact that the Governing Body is acting as the redevelopment entity pursuant to the Redevelopment Law, and therefore it is appropriate to invoke the Rule of Necessity to allow all Council Members to vote on this Resolution.

NOW, THEREFORE, BE IT RESOLVED THAT by the Mayor and Council that the Mayor is hereby directed to execute the Redevelopment Agreement substantially in the form on file with the Borough Clerk, dated as of September 11, 2017, and incorporated herein by reference, subject to the Borough's professionals' final review of the insurance certificates, specimen policy of insurance, and the redevelopment agreement and exhibits, and confirmation that escrow for professional fees is sufficient to cover fees incurred to date and/or has been refunded if necessary.

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

RESOLUTION: APPROVAL OF MINUTES

INTRODUCED BY COUNCILMEMBER: _____

SECONDED BY COUNCILMEMBER: _____

WHEREAS, copies of the minutes of the following meetings of the Mayor and Council of the Borough of East Newark have been provided to the members of the council and reviewed;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of East Newark, County of Hudson, State of New Jersey that the minutes of the Regular Meeting of August 9, 2017 and Special Meeting of August 23, 2017 be and are hereby approved.

RESOLUTION NUMBER: 98-17

**BOROUGH OF EAST NEWARK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

RESOLUTION: APPROVAL OF THE PAYMENT OF BILLS

INTRODUCED BY COUNCILMEMBER: _____

SECONDED BY COUNCILMEMBER: _____

BE IT RESOLVED, by the Mayor and Council of the Borough of East Newark in the County of Hudson, State of New Jersey that the below listed Purchase Orders, properly completed and approved by the proper Department Chairpersons and by the Financial Chairperson, and as submitted by the Chief Financial Officer of the Borough of East Newark or her designated representative, and as in full compliance with all purchasing Policies and Procedures of the Borough of East Newark, and as listed below in the total amount of \$293,104.75 be and is hereby approved for payment and checks are authorized to be drawn on the Borough Treasury for the payment thereof: