

City Clerk File No. _____ Ord. 09-096 _____

Agenda No. _____ 3.E _____ 1st Reading

Agenda No. _____ 4.E _____ 2nd Reading & Final Passage



ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 09-096

REDEVELOPMENT PAY-TO-PLAY REFORM ORDINANCE

TITLE:

COUNCIL

offered and moved adoption of the following Ordinance:

WHEREAS, it has become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them; and

WHEREAS, the local government officials are, once elected, responsible for deciding the terms of a redevelopment agreement; and

WHEREAS, political contributions from developers entering into agreements for redevelopment projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, re-planning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality; and

WHEREAS, both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b and N.J.S.A. 40A:12A-8, provide that negotiations for such agreements can be conducted in executive session, provided the full terms of any such agreements are discussed and approved in open session; and

WHEREAS, the City of Jersey City has previously or may declare certain areas of Jersey City to be Areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has or may adopt a Redevelopment Plan; and

WHEREAS, given the potential of negotiating with private parties or redevelopers and the entering into agreements with such redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort; and

WHEREAS, the restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such redevelopers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing; and

THEREFORE, be it ordained by the Council of the City of Jersey City, in the County of Hudson and State of New Jersey, that the policy of the City of Jersey City will be to create such a regulation which states that any entity or individual seeking to enter into a redevelopment agreement or amendment thereto, or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement, who makes political contributions to Jersey City City elected officials and local and county political committees, will be ineligible to receive such agreements, or rights from the City of Jersey City.

SECTION 1 - PROHIBITION OF ENTERING INTO OR AMENDING REDEVELOPMENT AGREEMENTS WITH CERTAIN CONTRIBUTORS

(a) Any other provision of law to the contrary notwithstanding, the City of Jersey City or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement, amend an agreement, or otherwise contract with any redeveloper, as defined in section (c) below, for the planning, re-planning, construction or undertaking of any redevelopment project, including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the City of Jersey City pursuant to the Local Redevelopment and Housing Law, if that redeveloper has made any "contribution" (as such term is defined at N.J.A.C. 19:25-1.7, which definition includes loans, pledges and in-kind contributions) (hereinafter "contribution"), to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City or a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Jersey City, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Jersey City municipal or Hudson County elections and/or Jersey City municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), during the applicable time period which, for purposes of this section, shall be defined as *three (3) * months prior to applying to enter* into the redevelopment agreement, amended agreement, or contract (hereinafter "agreement").

(b) All redevelopment agreements or amendments thereto entered into by the City of Jersey City shall contain a provision prohibiting redevelopers, as defined in section (c) below, to solicit or make any contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City or a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Jersey City, or (ii) to any Jersey City or Hudson County political committee or political party committee, or (iii) to any "PAC", between *application to enter into* a redevelopment project and the later of * the termination of negotiations or rejection of any proposal, or the completion of all matters or time period specified in the redevelopment agreement.

(c) As defined in N.J.S.A. 40A:12A-3, a "redeveloper" means any person, firm, corporation, partnership, limited liability company, organization, association, or public body that shall enter into or propose to enter into an agreement with a municipality or other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project. For the purposes of this ordinance the definition of redeveloper also includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust as well as partners and officers of the redeveloper and any affiliates or subsidiaries directly controlled by the redeveloper. Spouses and any child/children shall also be included.

(d) For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the redevelopment agreement under the Act shall be (i) the Jersey City City Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Council, or (ii) the Mayor of Jersey City if the redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor, or (iii) a designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.

SECTION 2 - CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE

No contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

SECTION 3 - CONTRIBUTION STATEMENT OF REDEVELOPER; NOTICE GIVEN BY MUNICIPALITY

(a) Prior to arranging and entering into the redevelopment agreement with any redeveloper, the City of Jersey City or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the redeveloper (i) that the redeveloper has not made any contribution in violation of Section 1(a) above and (ii) that all persons or entities representing or in the employ or acting as an agent of the redeveloper have agreed to be bound by the terms of this Ordinance. The City of Jersey City, through any appropriate redevelopment agent, agency, officer, authority, or department, shall be responsible for informing the City Council that the aforementioned sworn statement has been received and that the

redeveloper is not in violation of this ordinance, prior to awarding the agreement. Furthermore, the redeveloper shall have a continuing duty to report any violations of this ordinance that may occur while arranging and entering into the redevelopment agreement, and until all specified terms or time period of the agreement have been completed. The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.

(b) It shall be the municipality's continuing responsibility to give notice of this Section when the municipality gives notice of redevelopment pursuant to 40A:12A-6 and when the municipality adopts a resolution directing the planning board to prepare a redevelopment plan and at the time that the municipality adopts the ordinance to implement the redevelopment plan.

SECTION 4 - DISCLOSURE REQUIREMENT APPLICABILITY TO CONSULTANTS

(a) The contribution and disclosure requirements in this Ordinance shall apply to all redevelopers as well as professionals, consultants or lobbyists contracted or employed by the business entity ultimately designated as the redeveloper to provide services related to the: (i) lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan; (ii) obtaining the designation or appointment as redeveloper; (iii) negotiating the terms of a redevelopment agreement or any amendments or modifications thereto; and (iv) performing the terms of a redevelopment agreement.

(b) It shall be a breach of the consultant's contract, and shall require immediate termination, for a consultant to violate the contribution limits and disclosure requirements in this Ordinance.

(c) A redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through consultants, professionals or agents shall be deemed to be in breach.

SECTION 5 - RETURN OF EXCESS CONTRIBUTIONS

A redeveloper or municipal candidate or officeholder or municipal or county party committee or "PAC" referenced in this ordinance may cure a violation of Section 1 of this Act, if, within 30 days after the date on which the applicable ELEC report is published, the redeveloper notifies the Municipal Council in writing and seeks and receives reimbursement of a contribution from the recipient of such contribution.

SECTION 6 - PENALTY

(a) It shall be a breach of the terms of the Jersey City redevelopment agreement for a redeveloper to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Jersey City, or a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Jersey City, or any Jersey City or Hudson County political committee or political party committee, or any "PAC"; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the redeveloper itself, would subject that entity to the restrictions of this Ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Ordinance.

(b) Furthermore, any redeveloper who violates (a) ii-viii shall be disqualified from eligibility for future Jersey City redevelopment agreements for a period of four calendar years from the date of the violation.

SECTION 7 - SEVERABILITY

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable. The drafters of this Ordinance, the persons signing the petition in support of this Ordinance, and the persons who cast votes in favor of the Ordinance, declare that they would have supported the Ordinance and each section, subsection, sentence, clause, phrase, or provision or application thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

*

SECTION 8 - REPEALER

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

SECTION 9 - EFFECTIVE DATE

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Municipal Council of the City of Jersey City.

APPROVED AS TO LEGAL FORM

APPROVED: _____

Corporation Counsel

APPROVED: _____
Business Administrator

Certification Required
Not Required

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

ORDINANCE NO. Ord. 09-096
 TITLE: 3.E. AUG 12 2009 4.E.



Redevelopment Pay-to Play Reform Ordinance.

RECORD OF COUNCIL VOTE ON INTRODUCTION											
AUG 12 2009 7-0											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO	✓			GAUGHAN	✓			BRENNAN	ABSENT		
KENNY	✓			FULOP	✓			FLOOD	✓		
LOPEZ	✓			RICHARDSON	✓			VEGA, PRES.	ABSENT		

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING											
Councilperson _____				moved, seconded by Councilperson _____				to close PH.			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
KENNY				FULOP				FLOOD			
LOPEZ				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY											
Councilperson _____				moved to amend* Ordinance, seconded by Councilperson _____				& adopted			
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
KENNY				FULOP				FLOOD			
LOPEZ				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

RECORD OF FINAL COUNCIL VOTE											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
SOTTOLANO				GAUGHAN				BRENNAN			
KENNY				FULOP				FLOOD			
LOPEZ				RICHARDSON				VEGA, PRES.			

✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted on first reading of the Council of Jersey City, N.J. on AUG 12 2009

Adopted on second and final reading after hearing on _____

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

APPROVED:

Robert Byrne, City Clerk

Mariano Vega, Jr., Council President

*Amendment(s):

Date: _____

APPROVED: _____

Jerramiah T. Healy, Mayor

Date _____

Date to Mayor _____