

**COUNTY OF BERGEN  
BOROUGH OF PARAMUS  
ORDINANCE 2020-18**

**AN ORDINANCE AUTHORIZING THE ACQUISITION BY PURCHASE  
OF FEE TITLE TO A PORTION OF THE REAL PROPERTY COMMONLY KNOWN  
AS, AND LOCATED AT, 286 PARAMUS ROAD  
AND DESIGNATED ON THE OFFICIAL TAX MAP  
OF THE BOROUGH OF PARAMUS AS BLOCK 2203, LOT 1**

**STATEMENT OF PURPOSE:** This ordinance is being proposed to authorize the acquisition of a permanent easement interest along the frontage of property running along Midland Avenue in the Borough of Paramus (the "Borough") in order to construct roadway safety improvements, including installation of new left turn lanes, new traffic signals and new pedestrian crosswalks, at the intersection of Forest Avenue and Midland Avenue in the Borough.

**WHEREAS,** pursuant to N.J.S.A. 40:61-1 et seq., the Borough may acquire lands for public purposes; and

**WHEREAS,** in accordance with N.J.S.A. 40A:12-5(a)(1), "any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property: (1) by purchase, gift, devise, lease, exchange, or condemnation"; and

**WHEREAS,** pursuant to the New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the New Jersey Department of Environmental Protection ("NJDEP") directs a permit system to allocate waters of the State, and issues permits regulating diverters of more than 100,000 gallons of water per day; and

**WHEREAS,** the Paramus Golf and Country Club ("PGCC"), located at 314 Paramus Road, has historically diverted water for irrigation under a water allocation permit issued to it by the NJDEP; and

**WHEREAS,** a prior permit issued by the NJDEP allowed a maximum diversion of water from a well, and an existing on-site pond fed by the well, on the PGCC's property totaling 4.2 million gallons of water per month and 15 million gallons of water per year; and

**WHEREAS,** the Borough of Paramus (the "Borough"), upon the advice of PGCC's director and the Borough Engineer, had continuously extended and/or renewed the Permit for the amounts set forth above; and

**WHEREAS,** the NJDEP asserted that PGCC violated its permit by diverting water in excess of PGCC's yearly limits for 2013 through 2016, and exceeded its monthly limits in August 2014, August 2015, and September 2015; and

**WHEREAS,** in 2018 the NJDEP threatened enforcement action against the Borough alleging various violations by PGCC of its permit by virtue of the exceedances enumerated above; and

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**WHEREAS**, as a result of PGCC's alleged violations, the NJDEP assessed penalties against the Borough for a total of \$118,500.00, calculated at \$500.00 for each day water exceedances occurred; and

**WHEREAS**, in lieu of litigation, the NJDEP provided to the Borough, and the Borough in November, 2019, accepted through resolution of the Governing Body (No. 19-09-611), a settlement agreement for a fifty percent (50%) reduction of the assessed penalties against the Borough, totaling \$59,250.00; and

**WHEREAS**, the Borough had previously applied for a renewal of its permit with an increase in the allocation at the PGCC; and

**WHEREAS**, the NJDEP advised that it would not decide on the 2017 renewal application of the permit until the enforcement action was concluded; and

**WHEREAS**, the NJDEP has indicated that a request for a greater allocation of water under the permit must proceed pursuant to the regulations for seeking a "major modification" of the permit, which may require, among other things, a hydrogeological analysis of the groundwater in and around the PGCC's property; and

**WHEREAS**, upon the advice of the Borough Engineer, expansion and modification of the PGCC's existing on-site pond fed by the well (the "Project") will facilitate PGCC's future compliance with NJDEP's water allocation rules and permits by allowing the pond to retain a greater amount of water for future irrigation need; and

**WHEREAS**, property abutting the PGCC's property owned by the Paterson Branch of the New Apostolic Church of North America, commonly known as and located at 286 Paramus Road and designated on the Official Tax Map of the Borough as Block 2203, Lot 1 (the "Property") was identified as suitable to meet the Borough's need for the undertaking and completion of the Project; and

**WHEREAS**, in order to undertake and complete the Project the Borough must acquire a portion of the Property consisting of approximately 13,997 square feet (0.32 acres) of land (the "Project Parcel"); and

**WHEREAS**, the Paterson Branch of the New Apostolic Church of North America (the "Owner") is the owner of the Property; and

**WHEREAS**, the Borough has obtained an appraisal issued by McNerney & Associates, Inc. dated June 23, 2020 assigning an appraised market value to the Project Parcel which is necessary to be acquired by the Borough for the Project; and

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**WHEREAS**, the Governing Body of the Borough has determined that it would serve the purposes and be in the best interests of the Borough for it to acquire fee title to the Project Parcel identified above for the completion of the Project as identified above; and

**WHEREAS**, the Borough has or will enter into discussions with the Owner for the acquiring of the necessary ownership interests in the Project Parcel and the Borough has or will make good-faith efforts to acquire the necessary ownership interests in the Project Parcel though such negotiations and without the need of condemnation proceedings.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Paramus, County of Bergen, State of New Jersey, as follows:

**Section 1.** The aforementioned recitals are incorporated herein by reference as though fully set forth at length.

**Section 2.** The Governing Body of the Borough has determined that the acquisition of fee title interest in the Project Parcel as authorized by the within Ordinance is in the best interests of the Borough and is needed by the Borough in order to complete the Project.

**Section 3.** The written appraisal of the fee title interest to be acquired in approximately 13,997 square feet (0.32 acres) of land that being a portion of the real property commonly known as and located at 286 Paramus Road in the Borough of Paramus and designated on the Official Tax Map of the Borough as Block 2203, Lot 1 prepared by McNerney & Associates, Inc. dated June 23, 2020 shall be and is hereby accepted and approved in its entirety, including but not limited to the appraised value of \$232,500.00.

**Section 4.** In accordance with the provisions of N.J.S.A. 40A:12-1 et seq., the Governing Body of the Borough shall and hereby does authorize the acquisition of fee title interest in approximately 13,997 square feet (0.32 acres) of land that being a portion of the real property commonly known as and located at 286 Paramus Road in the Borough of Paramus and designated on the Official Tax Map of the Borough as Block 2203, Lot 1 for the sum of \$232,500.00 on the basis of the written appraisal issued by McNerney & Associates, Inc. The Governing Body shall and hereby does further authorize Kaufman, Semeraro & Leibman, LLP, special counsel to the Borough of Paramus, to take any and all actions and prepare any and all documents necessary to memorialize the agreement with the Owner of the Property for the acquisition of fee title to the described portion of the Property by the Borough.

**Section 5.** Kaufman, Semeraro & Leibman, LLP, special counsel to the Borough of Paramus, shall be and is hereby further authorized and directed to prepare the required deed and all relevant Borough officials shall be and are hereby authorized to execute any and all documents necessary in furtherance of the intentions of the within Ordinance, so long as said documents are in a form satisfactory to special counsel to the Borough.

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**Section 6.** All prior ordinances or parts of ordinances inconsistent with the provisions of this Ordinance shall be and the same are hereby repealed to the extent of such inconsistencies.

**Section 7.** Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

**Section 8.** This Ordinance shall take effect following adoption and approval in a time and manner prescribed by law.

**ATTEST:**

**Approved:**



Annemarie Krusznis  
Borough Clerk



Richard A. LaBarbiera  
Mayor

Introduced: June 23, 2020

Adopted: July 22, 2020