

**BOROUGH OF PROSPECT PARK
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1354

AN ORDINANCE OF THE BOROUGH OF PROSPECT PARK, DELAWARE COUNTY, PENNSYLVANIA AUTHORIZING THE CONDEMNATION, THROUGH THE USE OF EMINENT DOMAIN, OF STORM SEWER EASEMENTS ACROSS AND THROUGH CERTAIN PROPERTIES, SITUATE IN THE BOROUGH OF PROSPECT PARK FOR THE PURPOSES OF CONSTRUCTING A STORM SEWER; AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER BOROUGH OFFICERS TO TAKE SUCH ACTION AS NECESSARY TO EFFECTUATE THE ACQUISITION OF EASEMENT INTERESTS IN SUCH PROPERTIES, INCLUDING BUT NOT LIMITED TO THE PAYMENT OF JUST COMPENSATION TO CONDEMNEES AND THE FILING OF AN APPROPRIATE DECLARATION OF TAKING.

WHEREAS, the Borough of Prospect Park has been awarded a certain grant and loan from PENNVEST, Project No. 23099021810-CF, to finance, in whole or in part, certain storm water sewer construction projects to include the installation of a storm water sewer pipe across and through certain properties in the area of Summit Avenue, Eighth Avenue and Pennsylvania Avenue in the Borough of Prospect Park (the "Project"); and,

WHEREAS, a condition for the receipt of the PENNVEST grant and loan is that the Borough have sufficient property interest in the properties where the storm sewer pipe will be installed; and,

WHEREAS, the sites and descriptions of where the storm sewer pipe is necessary and will be installed for the Project, as well as the identification of the owners of such property, is more particularly depicted in the site plan identified as Exhibit "A", attached hereto and herein incorporated; and,

WHEREAS, the legal descriptions of the property necessary to acquire the easement interests for the Project are attached hereto and incorporated herein as Exhibit "B"; and,

WHEREAS, the Pennsylvania Borough Code authorizes boroughs in the Commonwealth of Pennsylvania to appropriate private lands or, lands previously granted or dedicated to public use that are no longer used for the purpose for which the lands were granted, for the erection or extension of sewerage systems, 8 Pa.C.S.A. §1501; and, may condemn property as may be necessary for the improvement and maintenance of storm sewers, 8 Pa.C.S.A. §2201; and, the Eminent Domain Code of Pennsylvania, 26 P.S. §1-101 *et seq.*; and,

WHEREFORE, the Borough Council of the Borough of Prospect Park hereby finds that it would be in the best interests of the health, safety and welfare of its citizenry to acquire the property interests described in Exhibits "A" and "B" by the use of eminent domain in order to accomplish the Project as described above;

NOW, THEREFORE, with the foregoing recitals made part hereof and incorporated herein, the Borough Council of the Borough of Prospect Park does hereby Ordain and Enact that:

SECTION 1. Exercise of Eminent Domain

(A) Property to be acquired. The properties depicted in Exhibit "A" attached hereto and incorporated herein and described in Exhibit "B" attached hereto and incorporated herein, shall be acquired by the Borough of Prospect Park for the purposes of said project.

(B) Condemnation/Filing of Declaration of Taking. The Declaration of Taking ~~as attached hereto and incorporated herein as Exhibit "C"~~ is hereby approved and the Borough Solicitor is hereby authorized to file same with the required offices in the County of Delaware.

(C) Acquisition in lieu of formal condemnation proceedings. Nothing in this Ordinance shall be deemed to require the Borough of Prospect Park to attempt alternate means of acquisition prior or subsequent to the formal filing of a Declaration of Taking, however amicable property acquisition is hereby authorized in furtherance of the project.

(D) Future Ordinances for property acquisition. Nothing in this Ordinance shall preclude the passage of a supplemental Ordinance(s) authorizing the acquisition of additional properties required in furtherance of the project.

(E) Recording. A copy of this Ordinance shall be recorded within thirty (30) days after its enactment in the Office of the Recorder of Deeds in and for Delaware County, Pennsylvania and shall be indexed in the name of the property owners affected hereby; and, a copy of this Ordinance shall be sent as the law should require to all owners and adjoining properties referenced in Exhibit "A" and Exhibit "B" at their last known address.

SECTION 2. That any Ordinance, or part of Ordinance conflicting with this Ordinance be and the same is hereby repealed in so far as the same affects this Ordinance.

SECTION 3. The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any Court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered. It is hereby declared the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional clause, sentence, subsection, or section had not been included therein.

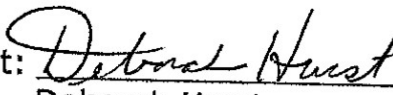
SECTION 4. This is effective immediately upon enactment according to law, and shall remain in effect hereafter until revised, amended, or revoked by action of the Borough of Prospect Park.

ADOPTED, this 13th day of October, 2020.


BY:


Patrick O'Connell
President

(SEAL)

Attest: 
Deborah Hurst
Secretary

APPROVED:


Jeffrey Harris
Mayor