



The City encompasses approximately 2.34 square miles and has a population of approximately 5,324 residents. The City currently owns and operates its own water and wastewater system (the "System") which serves approximately 2,309 connections in the City as well as providing water service to portions of the neighboring municipalities of Mannington and Quinton Townships. The existing water supply, treatment and distribution system consists of four water supply wells, two surface water intakes (at Elkinton Pond and Laurel Lake), one water treatment plant, one water storage tank, one standpipe and a water distribution system consisting of approximately 21 miles of water main. The water collected from the wells and surface water supply sources are all piped to a common water treatment plant located on Grieves Parkway which is designed to treat up to 2 million gallons a day ("MGD"). The water system infrastructure age ranges from 1880 to more recent improvements completed as of 2014.

In addition to the water system infrastructure, the System includes an existing wastewater system with three sanitary lift stations and associated force and gravity sewer mains. The City also owns and operates a wastewater treatment plant, located at the intersection of Grieves Parkway and West Front Street, which is permitted to treat up to 1.4 MGD. The treatment plant outfall discharges to the Salem River (FW2-NT<sup>1</sup>). The wastewater system infrastructure is estimated to be 40 years old.

The New Jersey Department of Environmental Protection's ("NJDEP's") Water Resource Management program issued an Emergent Condition(s) Certification on April 21, 2023 under the authority of the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq. This certification stated that the City met two emergent conditions: 1) that there is a "demonstrated lack of historical investment, repair, or sustainable maintenance" or "material damage to the infrastructure of the system" and 2) that "the system owner lacks the financial, technical, or managerial capacity to adequately address any of the foregoing on a sustainable basis or own and operate the system in a way that supports economic activity in the municipality on a sustainable basis." This determination was based on the fact that the age of the System far exceeded the expected service lives of these facilities, the City allocates far less capital investment annually than is required to maintain the System, and the System is a drain on the City's General Fund since it is not self-supporting and operating at negative cash flow and net income.

## **PROPOSAL**

The City seeks to sell its assets, including certain property containing its water and wastewater systems located in the Township of Alloway, Township of Quinton and the City of Salem, Salem County, to NJAWC. Without the exemption, conveyance of the property may be prohibited by the Act.

The City decided it was in the public interest to privatize the System due to the mounting operation and capital improvement costs, which would create a substantial increase in

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<sup>1</sup> According to the New Jersey Surface Water Quality Standards at N.J.A.C. 7:9B, the Salem River is classified as a FW2-NT stream. FW2 is a classification given to fresh waters that are not designated as FW1 or Pinelands Waters. NT means non trout production waters.



water rates and create additional debt obligation for the City. In May 2023, the City sought public bids for the sale of the System. Two bids were received and after review and analysis of the bids, the City awarded the contract to NJAWC, as the highest responsible bidder, subject to the approval of the voters and the New Jersey Board of Public Utilities ("NJBPU"). On November 7, 2023, the City held a referendum on whether to approve the acquisition of the System by NJAWC. The voters approved the proposed sale, and the City and NJAWC entered into a purchase agreement for \$18,000,000.

There are 20 parcels included in this sale ("the Properties"). The Properties will be transferred in fee, as inventoried in Exhibit 1. In addition to these properties, the City's utility rights within certain road rights-of-way ("ROW") and 22 utility easements ("Easements") across public and private properties will also be transferred to NJAWC. The Properties, ROWs and Easements are located in either the Salem River or the Alloway Creek/Hope Creek watersheds and the Maurice, Salem and Cohansey Watershed Management Area.

Two water mains, a sewer main and Well No. 9 are located on properties (Block 114, Lots 3 and 7 and Block 86, Lot 1.01 in the City) that are subject to NJDEP, Green Acres Program restrictions as set forth in N.J.S.A. 13:8C-1, et seq. and N.J.A.C. 7:36, et seq., as may be amended and supplemented. Block 114, Lot 7 is further subject to the rules and regulations of the federal National Park System ("NPS") pursuant to the Land and Water Conservation Fund ("LWCF").

### **PUBLIC COMMENT**

A 30-day written public comment period on the Co-Applicants' application was held from March 18, 2024 to April 17, 2024. Board Staff did not receive any public comment on this application.

### **DISCUSSION**

The Act prohibits any "municipality, municipal utility authority, or public utility" from conveying "any land utilized for the purpose of the protection of a public water supply." Section 1 of P.L. 1998, c. 163. In other words, the Act places a moratorium on all conveyances of watershed property by these entities. The Act permits the Board to grant an exemption from the moratorium under three circumstances. Section 2(a) of P.L. 1998, c. 163. The Board may permit the conveyance of watershed property if it finds: "(1) that there is a compelling public need for the conveyance of the property; (2) the denial of the exemption would result in extraordinary hardship; or (3) the sale or development of the watershed property is otherwise consistent with the purposes of this act" (which are generally to protect water quality and encourage open space preservation). Any person applying for an exemption must submit to the Board appropriate documentation addressing any potential impacts on watershed buffer areas and must propose mitigation to address those impacts.

The City is seeking an exemption which will allow it to convey its interest in the Properties,



ROWS and Easements to NJAWC on the basis that the sale is consistent with the purposes of the Act. Board Staff concurs that the Properties and easement interests will continue to be subject to the Act since they will be transferred from one regulated entity to another. The sale would further allow NJAWC to improve the system to meet current NJDEP standards. NJAWC indicated that while a comprehensive analysis of the System will be completed, it is anticipated that the System could require more than \$50 million of capital improvements over the next 10 years. Any future rate increases for the System's customers would require BPU approval.

If in the future NJAWC decides to convey any interest in the Properties or easements included in this application to a third party, NJAWC has committed to contact the Board for a jurisdictional determination on each property interest proposed for sale.

### **CONCLUSION**

Based on the foregoing discussion and after consideration of the entire application, the Board **HEREBY FINDS** that the proposed conveyance of the Properties and Easements by the City to NJAWC is consistent with the purposes of the Act, which includes the protection of water quality and encourages open space preservation. The Board **FINDS** that the Properties and Easements will continue to be subject to the Act, and any future conveyance of interest in the Properties and/or Easements would require Board Staff to conduct a detailed jurisdictional determination for each property interest proposed for conveyance and/or an exemption from the Board. The Board **HEREBY ORDERS** any future sale of the Properties would require the Board Staff to conduct a detailed jurisdictional determination for each property proposed for sale.

Exhibit 1 lists the property interests reported to the Board for sale at this time. The exemption granted herein applies to all property interests identified in Exhibit 1 and any other properties that the City intends to convey through its sale to NJAWC that are not identified on Exhibit 1. In addition, to the extent that the City and NJAWC identify additional property interests that will transfer to NJAWC at closing, WPRB **HEREBY ORDERS** that the City shall report these properties to Board Staff within 30 days of closing, via an updated Exhibit 1 inventory.

The Board **FURTHER ORDERS** the City to continue discussions with the NJDEP's Office of Transactions and Public Land Administration, Public Land Compliance ("PLC") section regarding the transfer of any property interest in Block 114, Lot 3 and 7 and Block 86, Lot 1.01 in the City and the resolution of any conversion of parkland as a result of the NPS restrictions. Nothing in this order will be construed as an approval by the NJDEP and/or the NPS of any outstanding conversion of parkland.

Nonetheless, the Board's grant of this exemption shall not be construed as a determination by this Board with regards to any other conveyance or properties for which a future application may now be pending or may be brought in the future. All applications to the WPRB must be, and are, reviewed on a case-by-case basis.

Therefore, the WPRB HEREBY ORDERS that the application for the sale of the Properties, ROWs and Easements be granted an exemption, pursuant to Section 2(a) of P.L. 1988, c. 163, as amended, and such exemption shall be and hereby is APPROVED subject to the conditions recited above.

This Order addresses consideration of an exemption from the Act and does not relieve NJAWC and The City of Salem of any other obligations that may be required pursuant to any statute or regulation. This order is contingent on the NJAWC and the City obtaining approvals pursuant to any other statute or regulation.

This Order confirms the vote on this matter taken at the duly noticed open public meeting of the Watershed Property Review Board on May 1, 2024.

DATED: 5/1/24

WATERSHED PROPERTY REVIEW BOARD

BY:

  
JUDITH YEANY  
Assistant Director, Office of Transactions and Public Land Administration  
Department of Environmental Protection  
Pursuant to delegation order dated February 5, 2024

  
DONALD PALOMBI  
Chief Regulatory Officer  
Department of Community Affairs  
Pursuant to delegation order dated March 18, 2024



Municipality	Block	Lot	Qual	Property Location	Property Class	Transaction Type	Owner's Mailing Address	City/State/Zip	EPL Facility Name	Municipality
1712	24	29		WATERWORKS RD	1	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Vacant corner lot across from pump station	QUINTON
1712	31	7		WATERWORKS RD	1	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Elkington Pond Pump Station	QUINTON
1712	32	35		WATERWORKS RD	4A	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	WELL #8	QUINTON
1712	33	2		13 WATERWORKS RD	4A	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	PS, Dam, and Laurel Lake	QUINTON
1712	35	1		WATERWORKS RD	4A	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Elkington Pond and water access	QUINTON
1712	35	4		WATERWORKS RD	1	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Elkington Pond and Dam	QUINTON
1701	20	7		WATERWORKS RD	1	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Elkington Pond Pumping Station	ALLOWAY
1701	61	1		WATERWORKS RD & ELKNTN L	1	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Elkington Mill Pond	ALLOWAY
1713	11	2		20 N THIRD STREET	15C	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Third St Tank	SALEM
1713	11	47		3rd St & Griffith St		Easement	Private		Water Mains	SALEM
1713	46	1		W BROADWAY	15C	Subdivide & Transfer	17 NEW MARKET ST	SALEM NJ 08079	Town Bank Pumping Station	SALEM
1713	46	11.01		GRIEVES PKY	15C	Subdivide & Transfer	17 NEW MARKET ST	SALEM NJ 08079	Town Bank Pumping Station	SALEM
1713	46	3		TILBURY RD	15C	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Wastewater Plant	SALEM
1713	46	5		GRIEVES PKY		Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Wastewater Plant	SALEM
1713	46	2		GRIEVES PKY		Easement	SI Port		Wastewater Plant	SALEM
1713	73	2		GRIEVES PARKWAY	15C	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	WATER PLANT	SALEM
1713	73	2.02		GRIEVES PARKWAY	15C	Property Transfer	17 NEW MARKET ST	SALEM NJ 08079	Well 2	SALEM
1713	73	1		GRIEVES PARKWAY		Easement	Private		Water and sewer mains	SALEM
1713	73	1.01		Broadway Rd		Easement	Private		Water Main & Hydrant	SALEM
1713	61.01	23		13 Walnut St		Easement	Private		Sewer Main	SALEM
1713	16	26.01		Railroad at Pledger St		Easement	County		STAND PIPE	SALEM
1713	16	26		Railroad at Pledger St		Easement	County		Water main	SALEM
1713	27	44		MARKET STREET		Property	17 NEW MARKET ST	SALEM NJ 08079	Sewer Main	SALEM
1713	27	10		E. Broadway		Easement	Private		Water	Quinton
1712	35	2.09		Waterworks Rd		Easement	Private		Water	Quinton
1712	35	3		Waterworks Rd		Easement	Private		Water	Quinton
1712	33	9		Waterworks Rd		Easement	Private		Water	Quinton
1712	33	8		Waterworks Rd		Easement	Private		Water	Quinton
1712	33	7		Waterworks Rd		Easement	Private		Water	Quinton
1713	114	7		Walnut St		Subdivide	17 New Market St	SALEM NJ 08079	Well 9	Salem
1713	114	7		Walnut St		Easement	17 New Market St	SALEM NJ 08079	Water Main	Salem
1713	114	3		Walnut St		Easement	17 New Market St	SALEM NJ 08079	Water Main	Salem
1713	106	1		Grievess Parkway		Easement/subdivide?	17 New Market St	SALEM NJ 08079	Well 6	Salem
1713	106	1		Grievess Parkway		Easement	17 New Market St	SALEM NJ 08079	RW Main	Salem
1713	106	1		Grievess Parkway		Easement/subdivide?	17 New Market St	SALEM NJ 08079	Backwash Pond	Salem
1713	106	1		Grievess Parkway		Easement	17 New Market St	SALEM NJ 08079	Lift Station from Quinton	Salem
1713	104	5		Oak St		Property Transfer	17 New Market St	SALEM NJ 08079	Oak st Lift Station	Salem
1713	88	21		Magnolia St		Property Transfer	17 New Market St	SALEM NJ 08079	Magnolia St Lift Station	Salem
1713	88	1		Magnolia St		Easements	17 New Market St	SALEM NJ 08079	Magnolia St LS Sewer Main	Salem
1713	88	8		Magnolia St		Easements	18 New Market St	SALEM NJ 08080	Magnolia St LS Sewer Main	Salem
1713	96	6		Walnut St		Property Transfer	17 New Market St	SALEM NJ 08079	Walnut St Lift Station	Salem
1713	86	1.01		Walnut St		Easement	17 New Market St	SALEM NJ 08079	Sewer Main	Salem

EXHIBIT 1

IN THE MATTER OF THE REQUEST FOR AN EXEMPTION FROM THE WATERSHED PROTECTION AND  
MORATORIUM ACT BY NEW JERSEY AMERICAN WATER AND THE CITY OF SALEM ON THE SALE OF  
THE CITY OF SALEM'S WATER AND WASTE WATER SYSTEM ASSETS, TOWNSHIP OF ALLOWAY,  
TOWNSHIP OF QUINTON AND THE CITY OF SALEM, COUNTY OF SALEM

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