

TOWNSHIP OF ABERDEEN

NO. 10-2007

**ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE
TOWNSHIP OF ABERDEEN TO IMPLEMENT A PUBLIC CONTRACTING REFORM
ORDINANCE**

BE IT ORDAINED by the Township Council of the Township of Aberdeen, in the County of Monmouth, New Jersey, as follows:

Section 1. The Township of Aberdeen (the “Township”), as a body corporate and politic organized under the laws of the State of New Jersey and situated in Monmouth County, intends to amend the Revised General Ordinances of the Township of Aberdeen to implement a public contracting reform ordinance.

Section 2. The Township Council is empowered to regulate issues pertaining to public health, safety, and welfare within the Township under *N.J.S.A. 40:48-2*.

Section 3. The Local Public Contracts Law, specifically *N.J.S.A. 40A:11-51*, authorizes the Township Council to establish measures limiting the awarding of public contracts therefrom to business entities that have made a political contribution pursuant to *N.J.S.A. 19:44A-20.2*.

Section 4. The New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, (hereinafter “Act”) provides a mechanism to empower and assist the Township in efforts to promote programs for redevelopment.

Section 5. The Act, specifically *N.J.S.A. 40A:12A-8*, authorizes the Township to enter into contracts with private parties or redevelopers for the planning, replanning, 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.

Section 6. The Act, *N.J.S.A. 40A:12A-8*, and the exceptions to the Open Public Meetings Act, *N.J.S.A. 10:4-12b*, permit the Township to conduct the negotiations for such

contracts in executive session, provided the full terms of any such contracts are discussed and approved in open session.

Section 7. The Township has previously declared certain areas of the Township to be areas in need of redevelopment under the Act.

Section 8. The Township Council has determined that given the potential for negotiating with private parties or redevelopers and the entering into contracts with such redevelopers without a formal bidding process, as permitted by the Act, it is necessary to establish certain limitations on political contributions from those seeking or performing contracts with the Township which may undermine public confidence in any redevelopment efforts.

Section 9. The Township Council of the Township of Aberdeen hereby amends the Revised General Ordinances of the Township as follows:

Section ____ of the Revised General Ordinances shall be amended and supplemented in order to establish a Township policy for the awarding of any contracts with private parties or redevelopers to be engaged in the planning, re-planning, construction or undertaking of any project or redevelopment work pursuant to the Act, as follows:

SECTION _____:

Subsection A. Prohibition on awarding contracts for redevelopment work to certain contributors.

- (1) To the extent that it is not inconsistent with federal, state or local law, the Township of Aberdeen and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract with any private party for the planning, re-planning, construction or undertaking of any project or redevelopment work, including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the

Township of Aberdeen pursuant to the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, (hereinafter “redevelopment work”), if that redeveloper has solicited or made any contribution of money or pledge of a contribution, including in-kind contributions, during the applicable time period as defined below, to: (a) a campaign committee of any Aberdeen Township candidate or holder of public office within the Township of Aberdeen having responsibility for the awarding of such contracts or to any Aberdeen Township political campaign committee, or to (b) any Township of Aberdeen or Monmouth County Party Committee, or to (c) any political action committee (hereinafter “PAC”) that regularly engages in the promotion and/or support of Aberdeen Township municipal candidates or municipal officeholders. For purposes of this section, the “applicable time period” shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been declared by the governing body to be an area in need of redevelopment pursuant to and in accordance with the Local Redevelopment and Housing Law and the date of the awarding of the contract, or the twelve (12) months prior to awarding the contract, whichever is the shorter.

- (2) No redeveloper who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Township of Aberdeen or any of its departments or instrumentalities for the rendition of redevelopment work shall knowingly solicit or make any contribution of money or pledge of a contribution, including in-kind contributions, to: (a) a campaign committee of any Aberdeen Township candidate or holder of public office within the Township of Aberdeen having responsibility for the awarding of such contracts or to any Aberdeen Township political campaign committee, or to (b) any Township of Aberdeen or Monmouth County Party Committee, or to (c) any PAC that regularly engages in the promotion and/or support of

Aberdeen Township municipal candidates or municipal officeholders, between the time of first communication between that redeveloper and the Township of Aberdeen regarding a specific agreement for redevelopment work and the later of the termination of negotiations or rejection of any proposal, or the completion of all matters specified in the contract or agreement.

- (3) For purposes of this section, a “redeveloper” subject to the restrictions set forth in sections (1) and (2) above means: (a) an individual, including the individual’s spouse, if any, and any child/children living at home, a person, firm, corporation, professional corporation, partnership, organization, or association seeking or obtaining redevelopment work as defined above; (b) all principals who own one percent (1%) or more of the equity or ownership or income interests in the person or entity defined in section (a) above and their spouses and any child/children living at home; (c) all the partners and/or officers of such an entity, in the aggregate, and their spouses and any child/children living at home; and (d) any affiliates or subsidiaries directly controlled by the redeveloper.
- (4) For the purposes of this section, the office that is considered to have responsibility for the award of the contract under the Local Redevelopment and Housing Law shall be:
 - (a) The Aberdeen Township Council if the contract requires approval or appropriation from the Council or a public officer who is responsible for the award of a contract if that public officer is appointed by the Council; or
 - (b) The Mayor of the Township of Aberdeen if the contract requires the approval of the Mayor or a public officer who is responsible for the award of contract if that public officer is appointed by the Mayor; or
 - (c) Both of the above.

Subsection B. Contribution made prior to the effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a redeveloper to any Aberdeen Township candidate for Mayor or Township Council or Aberdeen Township political campaign committee shall be deemed a violation of this section; nor shall an agreement for property, goods or services of any kind whatsoever be disqualified thereby if that contribution or agreement was made by the redeveloper prior to the effective date of this Section.

Subsection C. Contribution statement by redeveloper.

- (1) Prior to awarding any contract or agreement to any redeveloper, the Township of Aberdeen or any of its departments, instrumentalities or purchasing agents, as the case may be, shall receive a sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of Subsection A of this Section.
- (2) The redeveloper shall have a continuing duty to report any violations of this Section that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township of Aberdeen and shall be in addition to any other certifications that may be required by any other provision of law.

Subsection D. Penalty.

- (1) All redevelopment contracts, leases or other undertakings shall provide that it shall be a breach of the terms of such agreements to violate Subsection A(2) above, or to knowingly conceal or misrepresent contributions given or received or to make or solicit contributions through any intermediaries for the purpose of concealing or misrepresenting the source of the contribution.
- (2) Any redeveloper, as defined in Subsection A(3) above, who knowingly fails to reveal a contribution made in violation of this section or who knowingly

makes or solicits contributions through any intermediaries for the purpose of concealing or misrepresenting the source of the contribution shall be disqualified from eligibility for future redevelopment contracts for a period of four (4) calendar years from the date of the violation.

Section 10. Nothing contained herein shall be interpreted to impair in any way the right of such private parties or redevelopers secured by the First Amendment of the Constitution of the United States and further secured by Article 1, Paragraph 6 of the Constitution of the State of New Jersey to exercise its right to freedom of speech and its right to speak and write and publish its sentiments on all subjects.

Section 11. Severability and Effectiveness Clause. If any sentence, paragraph or section of this Ordinance, or the application thereof to any person or circumstance shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this Ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this Ordinance.

Section 12. A certified copy of this Ordinance shall be filed with the Secretary of State.

Section 13. All other Ordinances or parts of Ordinances inconsistent with any provision of this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 13. Effective Date. This ordinance shall take effect immediately upon final passage and publication in accordance with the law.

ROLL CALL VOTE:

Ayes: Councilmen Drapkin, Perry, Vinci, Deputy Mayor Gumbs and Mayor Sobel

Nays: None

Abstain: None

Absent: Councilmen Minutolo and Raymond

Adopted: May 15, 2007

David G. Sobel, Mayor

Karen Ventura, Municipal Clerk