

BILL NO. 99-1

ORDINANCE NO. 99-1

**AN ORDINANCE OF THE CITY OF JEANNETTE
AUTHORIZING THE ACQUISITION OF PROPERTIES AND THE
FILING OF CONDEMNATION PROCEEDINGS IN FURTHERANCE
OF THE EMERGENCY STREAM BANK PROTECTION PROJECT**

WHEREAS, the Commonwealth of Pennsylvania, Department of Environmental Protection (hereafter referred to as "The Commonwealth") has entered into agreements, dated May 18, 1988 and December 16, 1996 (hereafter referred to as "Agreements") with the City of Jeannette, County of Westmoreland and Commonwealth of Pennsylvania, (hereafter referred to as "The City"), whereby the Commonwealth has agreed to install certain flood control improvements along the channel of Brush Creek and three (3) of its tributaries, (hereinafter referred to as "The Project"), also known as "Project No. DGS 182-7", to alleviate, in part, flood damage and to prevent, as much as feasible, the recurrence of flood damage; and

WHEREAS, in accordance with the aforesaid Agreements, the City is required to provide all lands, easements, rights-of-way, rights of entry, and permits from adjoining land owners, utilities and political subdivisions necessary for the successful construction and future maintenance of the Project; and

WHEREAS, the City is empowered, under the Eminent Domain Code of Pennsylvania, 26 P.S. §1-101 et seq. and the Third Class City Code, 53 P.S. §37801, to exercise the power of

eminent domain and enter upon, appropriate, take, use, and occupy property in furtherance of the aforementioned project.

NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HEREIN, IT IS HEREBY ORDAINED AND ENACTED AS FOLLOWS:

1. **PROPERTIES TO BE ACQUIRED.** The properties itemized in Exhibit "A" attached hereto and more particularly identified in the attached surveys shall be acquired by the City for the purposes of the Project.

2. **CONDEMNATION/FILING DECLARATION(S) OF TAKING.** A Declaration or Declarations of Taking shall be filed where necessary as to all properties itemized in the attached Exhibit "A", within one (1) year of the effective date of this Ordinance.

3. **ACQUISITIONS IN LIEU OF FORMAL CONDEMNATION PROCEEDINGS.** Nothing in this Ordinance shall be deemed to require the City to attempt alternate means of acquisition prior to the formal filing of a Declaration of Taking, however, amicable property acquisitions are hereby authorized in furtherance of this Project, in accordance with the terms and conditions of the Agreements with the Commonwealth.

4. **FUTURE ORDINANCES FOR PROPERTY ACQUISITION.** Nothing in this Ordinance shall preclude the passage of a supplemental Ordinance or Ordinances authorizing the acquisition of additional properties required in furtherance of the Project.

5. **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 Westmoreland County,

Pennsylvania and shall be indexed in the name of the property owners affected hereby; and a copy of this Ordinance shall be sent by registered mail to each owner of property referenced in Exhibit "A" attached hereto, at his or her last known address.

6. **EFFECTIVE DATE.** This Ordinance shall become effective in ten (10) days.

ORDAINED AND ENACTED AT A PUBLIC MEETING OF THE COUNCIL OF THE
CITY OF JEANNETTE ON FEBRUARY 10, 1999

ATTEST:



Ronald E. Dinsmore, City Clerk

THE CITY OF JEANNETTE:



Carl J. Matt, Mayor/President of Council

ORDINANCE NO. 99-1

EXHIBIT "A"
**LIST OF PROPERTY ACQUISITIONS FOR EMERGENCY
STREAM BANK PROTECTION PROJECT**

The following properties, or interests therein, shall be acquired by the City for the purposes of the Emergency Stream Bank Protection Project, as set forth in paragraph 1 and 2 of this Ordinance:

1. Property owned by David Iwinski:

An easement through that part or parcel of ground known as Lot No. 2 in the David Iwinski Plan of Lots, as such Plan is recorded in Plan Book Volume 90, Page 59, in the Office of the Recorder of Deeds of and for Westmoreland County, Pennsylvania, said lot being located in the Township of Penn, Westmoreland County, Pennsylvania, such permanent easement being more particularly bounded and described as follows:

BEGINNING at a point in the Southwest corner of Lot No. 2 in such Plan, where same adjoins the Southeast corner of Lot No. 1, thence, along the line of lot No. 1, North 9° 35' 00" West a distance of 145.42 feet to a point; thence, South 86° 20' 10" East a distance of 256.37 feet to a point; thence, South 3° 39' 50" West a distance of 92.01 feet to a point; thence, along a line going to the left having a radius of 5763.00 feet, an arc distance of 228.50 feet to the place of beginning.

CONTAINING approximately 30485.9531 square feet.

Being a portion of Westmoreland County Tax Map Parcel No. 55-18-11-0-071

The above description is prepared in accordance with a survey completed by Antonacci & Associates dated September 3, 1998, a copy of which is attached hereto.

2. Property owned by Jacob Shafley, VI, Louis M. Laffoon and Karen L. Laffoon:

A permanent easement through that parcel of ground of Jacob J. Shafley, VI, Louis M. Laffoon, Jr. And Karen L. Laffoon, his wife, situate in the Borough of Penn, County of Westmoreland and Commonwealth of Pennsylvania, such land being commonly known as Lot No. 1 in the David Iwinski Plan of Lots as same is recorded in Plan Book Volume 90, Page 59, in the Office of the Recorder of Deeds of and for Westmoreland County, Pennsylvania, said property being more particularly bounded and described as follows:

BEGINNING at a point where the Southeasterly corner of Lot No. 1 intersects with the Southwesterly corner of Lot No. 2 in such Plan, thence, along a line going to the left having a radius of 5763.00 feet, an arc distance of 72.10 feet to a point; thence, North 3° 39' 50" East a distance of 115.99 feet to a point along the 50 foot right-of-way of Depot Street; thence, along the line of the Depot Street right-of-way, North 80° 25' 00" East a distance of 15.41 feet to a point; thence, South 3° 39' 50" West a distance of 9.52 feet to a point; thence, South 86° 20' 10" East a distance of 21.63 feet to a point; thence, South 9° 35' 00" East a distance of 145.42 feet to the place of beginning.

CONTAINING approximately 8265.3598 square feet.

TOGETHER WITH a temporary easement for the construction of improvements associated with the Jeannette City and Penn Borough Flood Protection Project, such temporary easement being adjacent to the above described permanent easement, and more particularly bounded and described as follows:

BEGINNING at a point along a line going to the left having a radius of 5763.00 feet, an arc distance of 72.10 feet from the intersection of the Southeastern corner of Lot No. 1 and the Southwestern corner of Lot No. 2 in the aforesaid David Iwinski Plan of Lots, thence, continuing along such line going to the left having a radius of 5763.00 feet, an arc distance of 36.16 feet to a point; thence, North 3° 39' 50" East a distance of 58.10 feet to a point; thence, South 86° 20' 10" East a distance of 35 feet to a point; thence, South 3° 39' 50" West a distance of 49.01 feet to the place of beginning.

CONTAINING approximately 1873.7742 square feet.

Being a portion of Westmoreland County Tax Map Parcel No. 55-18-11-0-088

The descriptions for the permanent easement and temporary easement set forth above are made in accordance with a survey dated September 3, 1998 prepared by Antonacci & Associates, a copy of such survey being attached hereto.

3. Property owned by Penn Volunteer Fire Department and Relief Association:

A permanent easement through those parts or parcels of ground now or formerly owned by the Penn Volunteer Fire Department and Relief Association, such parcel being commonly known as Lot No. 107 in the Penn Station Plan of Lots, recorded in Plan Book Volume 43, Page 492, in the Office of the Recorder of Deeds in and for Westmoreland County, Pennsylvania, such lots being

located within the Borough of Penn, Westmoreland County, Pennsylvania and being more particularly bounded and described as follows:

BEGINNING at a point at the Northwest corner of Lot No. 107 in such Plan, thence, North 71° 14' 43" East a distance of 32.15 feet to a point; thence, South 18° 35' 26" West a distance of 3.64 feet to a point; thence, along a line going to the left having a radius of 128.24 feet, an arc distance of 80.93 feet to a point; thence, South 17° 34' 06" East a distance of 14.28 feet to a point; thence, South 72° 25' 54" West a distance of 3.39 feet to a point along the line of a 40 foot public right-of-way known as Penn Street; thence, North 18° 45' 17" West a distance of 92.24 feet to the place of beginning.

CONTAINING approximately 1065.7445 square feet.

TOGETHER with a temporary easement through Lots numbered 107 and part of lot number 108 in such plan for the purpose of constructing improvements associated with the Jeannette City and Penn Borough Flood Protection Project, said temporary easement being more particularly bounded and described as follows:

BEGINNING at a point on the Northeast corner of Lot No. 108 in such Plan, thence South 18° 45' 17" East a distance of 95 feet to a point; thence, South 71° 14' 43" West a distance of 50 feet to a point; thence, North 18° 45' 17" West a distance of 2.76 feet to a point; thence, North 72° 25' 54" East a distance of 3.39 feet to a point; thence, North 17° 34' 06" West a distance of 14.28 feet to a point; thence, along a line curving to the right, having a radius of 128.24 feet, an arc distance of 80.93 feet to a point; thence, North 18° 35' 26" East a distance of 3.64 feet to a point along the Northern boundary line of Lot No. 107 in such Plan where same abuts South Railroad Street; thence, North 71° 14' 43" East a distance of 17.85 feet to the point of beginning.

CONTAINING approximately 3684.2555 square feet.

Being a part of Westmoreland County Tax Map Parcel No. 29-1-10-0-190

The descriptions of the permanent easement and temporary easement above are prepared in accordance with a survey prepared by Antonacci & Associates dated September 21, 1998, a copy of such survey being attached hereto.

4. Property owned by Richard G. Elias and Robert E. Elias:

A permanent easement through that property of Richard G. Elias and Robert E. Elias, as same was conveyed to Richard G. Elias and Robert E. Elias by Deed of Elias & Sons, Inc., dated

March 11, 1995, and recorded in the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania in Deed Book Volume 3318, Page 208, such land being situate in the City of Jeannette, Westmoreland County, Pennsylvania and being more particularly bounded and described as follows:

BEGINNING at the point of intersection of the Southeastern corner of lands of Richard G. Elias and Robert E. Elias, where same intersects with the Southwestern corner of lands now or formerly of Terence A. Leighty and Frances E. Leighty, thence, along the line of a 15 foot alleyway, North 71° 29' 30" West a distance of 166.09 feet to a point; thence, North 19° 09' 12" East a distance of 35.70 feet to a point; thence, South 70° 50' 48" East a distance of 168.39 feet to a point; thence, South 23° 04' 00" West a distance of 33.91 feet to the place of beginning.

CONTAINING approximately 5863.3748 square feet.

Being a part of Westmoreland County Tax Map Parcel No. 14-1-12-0-568

The above description is prepared in accordance with a survey prepared by Antonacci & Associates dated September 11, 1998, a copy of which is attached hereto.

5. Property owned by Terence A. Leighty and Francis E. Leighty:

A permanent easement through that parcel of ground conveyed to Terence A. Leighty and Francis E. Leighty by deed of Thomas A. Leighty, Sr., and Genevieve S. Leighty, dated June 26, 1997, and recorded in the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania in Deed Book Volume 3504, Page 315, such parcel being situate within the City of Jeannette, County of Westmoreland and Commonwealth of Pennsylvania and being more particularly bounded and described as follows:

BEGINNING at a point located North 71° 29' 30" West a distance of 109.97 feet from the Southeastern corner of those lands described in Deed Book Volume 3504, Page 315, thence, North 71° 29' 30" West a distance of 58.93 feet to a point; thence, North 23° 04' 00" East a distance of 33.91 feet to a point; thence South 70° 50' 48" East a distance of 56.61 feet to a point; thence, South 19° 09' 12" West a distance of 33.17 feet to the place of beginning.

CONTAINING approximately 1934.8415 square feet.

Being a part of Westmoreland County Tax Map Parcel No. 14-1-12-0-570

The above description is prepared in accordance with a survey prepared by Antonacci & Associates dated September 11, 1998, a copy of such survey being attached hereto.

6. Property owned by L. Ronald Valetti, R. Scott Valetti, Todd Valetti, Deborah Brickner (now Deborah Spark), Craig Brickner, and the Estate of David F. Valetti:

A permanent easement through lands now or formerly of L. Ronald Valetti, et al., as same are generally described as Lots Nos. 32, 33 and 34 in the E.M. Gross Second Plan of Lots recorded in Corporation Book Volume 3, Page 295 in the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania, said lots being located within the City of Jeannette, Westmoreland County, Pennsylvania and being more particularly bounded and described as follows:

BEGINNING at a point along the Northern boundary line of Lot 32 in such Plan, such point being South 78° 30' 11" West a distance of 35.34 feet from the intersection of the Northeastern corner of Lot 31 in such Plan, a 12 foot alleyway and a 20 foot alleyway, thence, from such point of beginning, South 03° 31' 22" West a distance of 53.26 feet to a point along the line of a 50 foot public right-of-way known as Penn Avenue; thence, along the line of such 50 foot right-of-way, South 60° 17' 00" West a distance of 47.82 feet to a point; thence, North 03° 31' 22" East a distance of 68.75 feet to a point along the line of a 12 foot right-of-way; thence, along the line of said 12 foot alleyway, North 78° 30' 11" East a distance of 41.41 feet to the place of beginning.

CONTAINING approximately 2440.23 square feet.

TOGETHER with a temporary easement for the construction of improvements associated with the Jeannette City and Penn Borough Flood Protection Project through Lots numbered 33, 34 and 35 in the aforesaid E.M. Gross Second Plan of Lots, such temporary easement being more particularly bounded and described as follows:

BEGINNING at a point along the Southern boundary line of Lot No. 35 in such Plan as same sits along the line of the 50 foot right-of-way known as Penn Avenue, such point of beginning being North 60° 17' 00" East a distance of 105.50 feet from the Southwestern corner of Lot No. 38 in such Plan, thence, along the line of the 50 foot right-of-way known as Penn Avenue, North 60° 17' 00" East a distance of 23.91 feet to a point; thence, North 03° 31' 22" East a distance of 42.35 feet to a point; thence, North 86° 28' 38" West a distance of 20 feet to a point; thence, South 03° 31' 22" West a distance of 55.46 feet to the place of beginning.

CONTAINING approximately 978.10 square feet.

Being a part of Westmoreland County Tax Map Parcel No. 14-1-11-0-292

The above descriptions are prepared in accordance with a revised survey prepared by Antonacci & Associates dated January 13, 1999, a copy of which is attached hereto.

7. Property owned by West End Builders Supply Company, Inc.:

A permanent easement through those lands now or formerly of West-End Builders Supply Company, Inc., more commonly known as Lots 836 and 840 in the Western Land and Improvement Company Plan of Lots recorded in Plan Book Volume 3, Page 25 in the Office of the Recorder of Deeds of Westmoreland County, Pennsylvania, such parcels being situate in the City of Jeannette, Westmoreland County, Pennsylvania and being more particularly bounded and described as follows:

BEGINNING at a point North 49° 08' 00" West a distance of 14.12 feet from the Northeastern corner of Lot No. 836 in such plan, thence, North 49° 08' 00" West a distance of 40.37 feet to a point; thence, South 30° 13' 02" West a distance of 70.98 feet to a point; thence, South 22° 17' 07" West a distance of 69.99 feet to a point; thence, North 67° 42' 53" West a distance of 9.75 feet to a point; thence, along a line going to the right having a radius of 94.59 feet, an arc distance of 31.39 feet to a point; thence, South 49° 13' 51" West a distance of 28.56 feet to a point along the line of a public right-of-way known as Gaskill Avenue; thence, South 50° 41' 00" East a distance of 45.10 feet to a point; thence, North 49° 13' 51" East a distance of 7.73 feet to a point; thence, along a line going to the left having a radius of 134.59 feet, an arc distance of 44.66 feet to a point; thence, North 30° 14' 54" East a distance of 147.80 feet to the place of beginning.

CONTAINING approximately 7725.5316 square feet.

Being a part of Westmoreland County Tax Map Parcel No. 14-1-11-0-014

The aforesaid description is prepared in accordance with a survey prepared by Antonacci & Associates dated September 11, 1998, a copy of which is attached hereto.