

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

June 9, 2020

Due to the COVID-19 (coronavirus) pandemic and the Governor's Executive Order 107, in accordance with N.J.S.A. 10:4-8(b), this meeting was not open to the public, but was held by remote means on Zoom.

PRESENT: Mayor John Coiro, presiding, Council President Lou D'Angelo, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Councilman William Bucher, Councilman John Capo, Councilwoman Lisa Palazzo, Municipal Clerk Joseph Wassel and Municipal Attorney Kristin Corrado.

ABSENT: None.

Mayor John Coiro called the meeting to order and asked the Municipal Clerk to call the roll.

Municipal Clerk Wassel recited the Prayer of the Meeting followed with the Pledge of Allegiance to the Flag with the public participating.

Mayor Coiro asked the Clerk to read the statement of the meeting.

The Municipal Clerk read the following statement: This meeting of the Mayor and Council held on this day is being held in accordance with Chapter 231, P.L. 1975 of the State of New Jersey as amended. The agenda for this meeting has been prepared and distributed to the Mayor and Council and a copy has been on file in the Office of the Municipal Clerk.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to dispense with the regular order of business in order to hold a public hearing on the 2020 Municipal Budget and Ordinance Nos. 03-2020 & 07-2020 as advertised. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel announced that the 2020 Municipal Budget and Ordinance Nos. 03-2020 & 07-2020 have been advertised for public hearing for Tuesday, June 9, 2020.

Municipal Clerk Wassel read the Municipal Budget Notice.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to adopt the following Resolution To Waive The Reading In Full Of The 2020 Municipal Budget. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 71-2020

RESOLUTION TO WAIVE THE READING IN FULL OF THE
2020 MUNICIPAL BUDGET

WHEREAS, N.J.S.A. 40A:4-8 permits that the Budget as advertised may be read by its title providing that at least one week prior to the date of the hearing and at the hearing, a complete copy of the approved budget:

- a) shall be made available for public inspection; and
- b) shall be made available to each person upon request; and

WHEREAS, the Borough of Totowa has complied with the aforesaid requirements.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council that the Borough of Totowa is hereby permitted to waive the reading in full, of the Municipal Budget for the year ending December 31, 2020.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens watching via Zoom wished to be heard on the 2020 Municipal Budget.

CITIZENS HEARD:

Mayor Coiro announced that we have not received any emailed questions pertaining to the 2020 Municipal Budget.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to adopt the following Resolution Regarding Self-Examination Of The 2020 Municipal Budget. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 72-2020

RESOLUTION REGARDING SELF-EXAMINATION OF THE 2020 MUNICIPAL BUDGET

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 thru 7.5 the Borough of Totowa has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Borough meets the necessary conditions to participate in the program for the 2020 budget year.

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Totowa that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officer's certification, the Governing Body has found the budget has met the following requirements:

1. That with reference to the following items, if applicable, the amounts have been calculated pursuant to law and appropriated as such in the budget.
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items
 - f. Any inclusions of amounts required for school purposes.

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met. (Complies with the “CAP” law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate, and correctly stated;
 - b. Items of appropriations are properly set forth
 - c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.
5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.
6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the Director of the Division of Local Government Services.

There was a motion by Councilman D’Angelo, seconded by Councilwoman Andriani to approve Resolution No. 73-2020 To Adopt The 2020 Municipal Budget. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 03-2020.

There was a motion by Councilman D’Angelo, seconded by Councilwoman Andriani to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens watching via Zoom wished to be heard on Ordinance No. 03-2020.

CITIZENS HEARD:

Mayor Coiro announced that we have not received any emailed questions pertaining to Ordinance No. 03-2020.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 03-2020 by title:

ORDINANCE NO. 03-2020

ORDINANCE OF THE BOROUGH OF TOTOWA AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH RESPECT TO A PORTION OF CERTAIN PROPERTY IDENTIFIED ON THE BOROUGH'S TAX MAPS AS BLOCK 154, LOT 19.07 LOCATED WITHIN THE NORTH JERSEY DEVELOPMENTAL CENTER REDEVELOPMENT AREA

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to adopt Ordinance No. 03-2020 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 07-2020.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens watching via Zoom wished to be heard on Ordinance No. 07-2020.

CITIZENS HEARD:

Mayor Coiro announced that we have not received any emailed questions pertaining to Ordinance No. 07-2020.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 07-2020 by title:

ORDINANCE NO. 07-2020

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 398 ENTITLED "VEHICLES AND TRAFFIC", ARTICLE II, "PARKING",
SECTION 12, "MUNICIPAL PARKING LOTS"**

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to adopt Ordinance No. 07-2020 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to revert to the regular order of business. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any members of the Council, the Municipal Clerk or the Municipal Attorney wished to address the Council.

There were no reports.

Mayor Coiro asked if any citizens watching via Zoom wished to be heard on any matter.

CITIZENS HEARD:

Mayor Coiro announced that we have not received any emailed questions pertaining to the public portion of the meeting through 7:30 p.m.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to approve the Minutes of the Mayor and Council for the Youth Week meeting of May 26, 2020. On roll call vote, all members of the Council present voted in the affirmative. Councilman Bucher and Councilman Capo abstained from the voting.

COMMITTEE ON FINANCE:

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to approve Resolution No. 2020-13 for the payment of bills. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following resolution to effectuate the redemption of Tax Sale Certificate Number 18-00007 for 8 Floyd Drive, Block 173, Lot 21.11. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION

Tax Sale Certificate Number 18-00007
Block 173, Lot 21.11

Property: 8 Floyd Dr., Totowa, New Jersey 07512
Owner: Anthony & Lucy Convertino

WHEREAS, at the Municipal Tax Sale on October 24, 2019, a lien was sold on Block 173, Lot 21.11; and

WHEREAS, this lien known as Tax Sale Certificate Number 18-00007, was sold to Matthew Bariso for a 0% redemption fee and a premium of \$3,000.00; and

WHEREAS, Anthony & Lucy Convertino, the owner of the property, has effected redemption of Tax Sale Certificate Number 18-00007 in the amount of \$1,658.01 as of June 9, 2020.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Treasurer to issue a check in the amount of \$1,658.01 payable to Matthew Bariso for the redemption of Tax Sale Certificate Number 18-00007.

BE IT FURTHER RESOLVED, that the Mayor and Council do hereby authorize the Treasurer to issue a check in the amount of \$3,000.00 (premium) to the aforementioned Lien Holder.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following resolution authorizing a tax refund for Michael A. Hodges, 6 Yorktown Lane, Block 9.12, Lot 87, Qualifier C0703 due to a 100% Exemption for a 100% permanent and total disability. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION

WHEREAS, Michael A. Hodges, 6 Yorktown Lane, has applied for a 100% exemption for a 100% permanent and total disability due to a wartime service connected disability; and

WHEREAS, he meets all the requirements for the exemption, and his 100 % disability became effective on March 27, 2018; and

WHEREAS, he is "Exempt" from real estate taxes for 2020; and

WHEREAS, he purchased Block 9.12 Lot 87 Qualifier C0703 on May15, 2020; and

WHEREAS, he paid the 2nd quarter taxes from May 15, 2020, in the amount of \$1,455.57, therefore he is entitled to a refund of \$1,455.57.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa that the Treasurer is authorized to refund \$1,455.57 to Michael A. Hodges, and upon paying the refund due to the Taxpayer, this property will be exempted from future tax payments.

COMMITTEE ON PUBLIC SAFETY:

There was a motion by Councilman D'Angelo, seconded by Councilman Capo to approve payment of the annual garage rent for 2020 to Volunteer Fire Company No. 1 and to Riverview Park Fire Company, Inc. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman D'Angelo, seconded by Councilman Capo to adopt the following Resolution Authorizing The Purchase And Delivery Of A Lucas Chest Compression System And Accessories For The Borough Of Totowa First Aid Squad. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 74-2020

RESOLUTION AUTHORIZING THE PURCHASE AND DELIVERY OF
A LUCAS CHEST COMPRESSION SYSTEM AND ACCESSORIES FOR THE
BOROUGH OF TOTOWA FIRST AID

WHEREAS, SARS-CoV-2 is the virus that causes Coronavirus Disease 19 ("Covid-19"), a contagious and at times fatal, respiratory disease; and

WHEREAS, by Executive Order No. 103 dated March 9, 2020, Governor Phil Murphy declared a Public Health Emergency and State of Emergency in the State of New Jersey in response to the Covid-19 outbreak; and

WHEREAS, the Borough of Totowa First Aid Squad is a volunteer organization comprised of professional EMT's and first responders; and

WHEREAS, the Borough of Totowa First Aid Squad Director has advised the Mayor and Council of the Borough of Totowa that manual CPR is a possible transmission route for the First Aid Squad caregivers because the mouth and nose of the EMT comes in close contact with the mouth and nose of the patient; and

WHEREAS, the Borough of Totowa First Aid Squad Director has requested the purchase and delivery of a chest compression device which will serve as a possible protective method to perform CPR in order to reduce Covid-19 transmission to caregivers; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that there is a need for this equipment which will ensure the safety and well-being of our volunteer EMT's and first responders; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the purchase and delivery of this equipment for the Borough of Totowa First Aid Squad; and

WHEREAS, Stryker Medical, P.O. Box 93308, Chicago, Illinois 60673-3308 has submitted a proposal dated May 14, 2020 for the purchase and delivery of one Lucas Chest Compression System and related accessories in the amount of \$16,098.34, a copy of which is on file in the office of the Borough of Totowa Municipal Clerk.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the purchase and delivery of one Lucas Chest Compression System and related accessories from Stryker Medical in the amount of \$16,098.34.

BE IT FURTHER RESOLVED, that the Mayor and Municipal Council of the Borough of Totowa do hereby authorize the Municipal Clerk and First Aid Squad Director to execute any and all instruments relating thereto.

COMMITTEE ON PUBLIC WORKS:

Upon the recommendation of the Committee, there was a motion by Councilman Bucher, seconded by Councilwoman Palazzo to hire Sam Ferraro as Meter Reader for the Department of Public Works. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Bucher, seconded by Councilwoman Palazzo to adopt the following Resolution Authorizing The Purchase And Installation Of A New Drive For The Shepherds Lane Pump Station. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 75-2020

RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF A NEW DRIVE FOR THE SHEPHERDS LANE PUMP STATION

WHEREAS, the Borough of Totowa Department of Public Works ("DPW") Superintendent has advised the Mayor and Council of the Borough of Totowa that the drive at the Shepherds Lane Pump Station is not working satisfactorily and must be replaced; and

WHEREAS, the Pump Station services the residents of the Borough of Totowa by collecting sanitary sewerage waste from individual users throughout the municipality where it is processed and conveyed to the Passaic Valley Sewerage Commission located in Newark, New Jersey for proper treatment and disposal; and

WHEREAS, the Borough of Totowa DPW Superintendent solicited quotes from companies experienced in the servicing of drives; and

WHEREAS, Electronic Drives & Controls, Inc., 17 Eastmans Road, Parsippany, New Jersey 07054 has submitted a proposal for the removal of the existing drive and installation and programming of a new drive in the amount of 14,289.00, a copy of which is on file on the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the purchase and installation of a new drive at the Shepherds Lane Pump Station.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby accept the proposal submitted by Electronic Drives & Controls, Inc. for the purchase and installation of a new drive at the Shepherds Lane Pump Station in the amount of \$14,289.00.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Municipal Clerk and DPW Superintendent to execute any and all necessary instruments relating thereto.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

A letter was received from the Totowa Library requesting permission to use the six parking spaces in the rear of the building closest to the library as a curbside pickup area for their patrons beginning on or around June 8, 2020. There was a motion by Councilman Capo, seconded by Councilwoman Andriani to grant permission. On roll call vote, all members of the Council present voted in the affirmative.

A letter was received from the Totowa Library requesting permission to use the Municipal Parking Lot in the rear of the building on June 10, 2020 (rain date: June 13th) from 6:00 – 8:00 p.m. for a family game night. There was a motion by Councilman Capo, seconded by Councilwoman Andriani to grant permission. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON LIAISON & INSPECTION:

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution Authorizing The Funding Agreement Between The Borough Of Totowa And Community Options, Inc. For 20 Maple Lane. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 76-2020

RESOLUTION AUTHORIZING THE FUNDING AGREEMENT BETWEEN THE
BOROUGH OF TOTOWA AND COMMUNITY OPTIONS, INC. FOR 20 MAPLE LANE

WHEREAS, pursuant to the Fair Housing Act, P.L. 1985, c. 222 (the "Act"), municipalities in the State of New Jersey are required to provide their fair share of housing that is affordable to very-low, low and moderate-income households in accordance with the provisions of the Act; and

WHEREAS, in July of 2015, the Borough of Totowa voluntarily brought a declaratory judgment action pursuant to the procedures set forth by the Supreme Court in In Re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (201) ("Mt. Laurel IV") seeking approval of a Housing Element and Fair Share Plan that satisfied the Borough's obligation to provide for its fair share of the regional need of low and moderate income housing; and

WHEREAS, by Order dated June 20, 2018, the Honorable Thomas F. Brogan, P.J.Cv., approved a settlement agreement between the Borough of Totowa and Fair Share Housing Center, which established the Borough's affordable housing obligations; and

WHEREAS, Community Options, Inc., 16 Farber Road, Princeton, New Jersey 08540 has acquired the real property located at 20 Maple Lane, Totowa New Jersey 07512 (the "property") for the purpose of renovating, creating and operating a group home for very-low income qualified individuals with developmental disabilities; and

WHEREAS, the group home will consist of 4 bedrooms; and

WHEREAS, in accordance with the above-referenced settlement agreement, the Borough of Totowa administers an Affordable Housing Trust Fund; and

WHEREAS, Community Options, Inc. and the Borough of Totowa desire to restrict the property for use as a very low income affordable housing for income qualified individuals with developmental disabilities; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the expenditure of funds from the Affordable Housing Trust Fund to partially reimburse Community Options, Inc., for the creation of the Group Home Project; and

WHEREAS, more specifically, the Borough will authorize the expenditure of the sum of \$15,000.00 per creditable bedroom in consideration of Community Options, Inc., executing a Declaration of Covenants, Condition and Restrictions (the "Declaration"), which shall be recorded in the Office of the Passaic County Clerk; and

WHEREAS, the Declaration shall implement affordable housing control on the Property and shall ensure that the Property remains affordable to very low income qualified individuals with developmental disabilities for a period of no less than 30 years; and

WHEREAS, pursuant to the Declaration, the Property shall be a part of the Borough of Totowa's Affordable Housing Program subject to the rules and regulations of the Totowa Affordable Housing Program and COAH and/or its successors and assigns in accordance with applicable law; and

WHEREAS, the Group Home Project shall provide the Borough of Totowa with credits for the 5 bedroom group home towards the Borough of Totowa's fair share affordable housing obligation.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Borough of Totowa to enter into a Funding Agreement with Community Options, Inc. for 20 Maple Lane, Totowa, New Jersey 07512.

BE IT FURTHER RESOLVED, that the Municipal Council of the Borough of Totowa does hereby authorize the Mayor and Municipal Clerk to execute any and all necessary instruments relating thereto.

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution Authorizing A Home Improvement Program Agreement Between The Borough Of Totowa And Monwar Shahid And Shema Khanom For 21 Mair Avenue. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 77-2020

RESOLUTION AUTHORIZING A HOME IMPROVEMENT PROGRAM AGREEMENT BETWEEN THE BOROUGH OF TOTOWA AND MONWAR SHAHID AND SHEMA KHANOM FOR 21 MAIR AVENUE

WHEREAS, the Borough of Totowa Home Improvement Program ("HIP") was created by the Borough of Totowa to provide funds to assist properties occupied by low and moderate income households to correct existing interior and exterior health, safety and code substandard conditions of major housing systems in conformity with the standards of the New Jersey State Housing Code, N.J.A.C. 5:28 and the Rehabilitation Subcode, N.J.A.C. 5:23-6; and

WHEREAS, the HIP is guided by N.J.A.C.5:93-5.2 and in accordance with the New Jersey Department of Community Affairs (“DCA”) Council on Affordable Housing (“COAH”) regulations; and

WHEREAS, the Borough of Totowa has contracted with Community Grants, Planning and Housing LLC (“CGP&H”), a private consulting company specializing in the implementation of publicly-funded housing rehabilitation programs, to administer the HIP; and

WHEREAS, the HIP received an application for a Home Improvement Construction loan from Monwar Shahid and Shema Khanom for the property located at 21 Mair avenue, Totowa New Jersey 07512 also identified as Block 127, Lot 9 on the official tax map of the Borough of Totowa; and

WHEREAS, the homeowners have been income qualified and the application has been approved; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to enter into a Home Improvement Agreement with the property owners subject to all the rules and regulations of the Borough of Totowa HIP.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Borough of Totowa to enter into a Home Improvement Agreement with Monwar Shahid and Shema Khanom for the property located at 21 Mair Avenue, Totowa New Jersey 07512 also identified as Block 127, Lot 9 on the official tax map of the Borough of Totowa.

BE IT FURTHER RESOLVED, that the Municipal Council of the Borough of Totowa does hereby authorize the Mayor and Municipal Clerk to execute any and all necessary instruments relating thereto.

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution Authorizing The Issuance Of Non-Recourse Redevelopment Area Bond (Senior Living Facility Project) Of The Borough Of Totowa, In The County Of Passaic, New Jersey In An Aggregate Principal Amount Of \$200,000. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 78-2020

RESOLUTION AUTHORIZING THE ISSUANCE OF NON-RECURSE REDEVELOPMENT AREA BOND (SENIOR LIVING FACILITY PROJECT) OF THE BOROUGH OF TOTOWA, IN THE COUNTY OF PASSAIC, NEW JERSEY IN AN AGGREGATE PRINCIPAL AMOUNT OF \$200,000

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “Redevelopment Law” or the “Act”), and that certain redevelopment plan adopted on February 23, 2016 (as the same may be amended from time to time, the “Redevelopment Plan”) by ordinance of the Council (the “Borough Council”) of the Borough of Totowa, a public body corporate and politic of the State of New Jersey (the “Borough”), the Borough and NJDC Urban Renewal, LLC (“NJDC”) entered into that certain Redevelopment Agreement dated June 15, 2017, as amended by that certain First Amendment to Redevelopment Agreement, dated January 24, 2018, as further amended by that certain Second Amendment to Redevelopment Agreement, dated February 26, 2019, as further amended by that certain Third Amendment to Redevelopment Agreement, dated August 19, 2019 (as the same may be further amended from time to time, the “Redevelopment Agreement”) with respect to a portion of the property then identified as Block 154, Lot 19.03 on the Borough’s tax map (the “Project Area”) and designated by resolution of the Borough Council as an “area in need of redevelopment” in accordance with the Redevelopment Law; and

WHEREAS, pursuant to the Redevelopment Agreement, a building with approximately 307,000 square feet of assisted living, memory care and senior living space (the “Project”), among other components, will be constructed within the Project Area; and

WHEREAS, subject to the terms and conditions of the Redevelopment Agreement, NJDC intends to transfer its redevelopment rights and obligations with respect to the Project to its affiliate, Sycamore Totowa Urban Renewal, LLC (the “Entity”), an urban renewal entity qualified to do business under the provisions of the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “Exemption Law”); and

WHEREAS, the provisions of the Exemption Law and such other statutes as may be sources of relevant authority, authorize the Borough to accept, in lieu of real property taxes, annual service charges paid by the Entity to the Borough as set forth in such laws (the “Annual Service Charge”); and

WHEREAS, in accordance with the provisions of the Exemption Law, the Entity filed an application with the Borough seeking a tax exemption in connection with the Project; and

WHEREAS, the Borough and the Entity intend to enter into a financial agreement to memorialize the terms and conditions by which the Entity will pay the Annual Service Charge (the “Financial Agreement”); and

WHEREAS, pursuant to the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64 et seq.* (the “RAB Law”), a municipality may issue bonds to finance redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, which bonds may be secured by an annual service charge; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-29(a)(3)* and *N.J.S.A. 40A:12A-67(g)*, the Borough Council authorized by resolution the application to the Local Finance Board (the “Application”) for the Borough’s issuance of a \$200,000 Non-Recourse Redevelopment Area Bond in support of the Project; and

WHEREAS, on May 13, 2020, the Local Finance Board met, reviewed and approved the Application; and

WHEREAS, as an inducement to the Entity to construct the Project, and in furtherance of the purposes of the Act and the RAB Law, the Borough intends to issue a Non-Recourse Redevelopment Area Bond (Senior Living Facility Project), in the principal amount of \$200,000, in one series (the “Bond”), which Bond shall be secured by a pledge of the Annual Service Charge; and

WHEREAS, the Bond is hereby authorized to be issued and executed and secured by a pledge of the Annual Service Charge for the payment of the principal of the Bond,

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF TOTOWA, NEW JERSEY AS FOLLOWS:

Section 1. Determination to Issue. To accomplish the purposes and objectives of the Act and the RAB Law, the Borough hereby determines to finance a portion of the costs associated with the Project. To finance a portion of the Project, the Bond is hereby authorized to be issued in the principal amount of \$200,000. The net proceeds from the sale of the Bond shall be paid to the Redeveloper for the Project. The Bond shall be issued in one series, shall be dated its date of delivery, shall not bear interest and shall be payable as to principal as set forth therein. The Bond shall be issued in the form, shall mature and shall have such other details and provisions as are set forth in the form of the Bond attached hereto as Exhibit A. The first principal payment on the Bond shall be on a date which is after the payment of four (4) quarterly Annual Service Charge payments.

Section 2. Bond Constitutes a Special, Limited Obligation. The Bond shall be a special, limited obligation of the Borough, payable solely out of the Annual Service Charge and all such Annual Service Charge is hereby irrevocably pledged to the payment of the Bond. The payment of the principal of the Bond shall be secured by the pledge of the Annual Service Charge and certain rights of the Borough as provided in the Financial Agreement. Neither the members of the Borough Council nor any person executing the Bond issued pursuant to this Resolution, the Act and the RAB Law shall be liable personally for the Bond by reason of the issuance thereof. The Bond shall not be in any way a debt or liability of the Borough other than to the limited extent set forth herein. NEITHER THE FULL FAITH AND CREDIT NOR TAXING POWER OF THE BOROUGH IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF THE BOND.

Section 3. Authorization and Execution of Bond. (a) The Bond shall mature not more than thirty (30) years from the date of its issuance and, in any event, not prior to the termination of the Financial Agreement, and shall be issued in an aggregate principal amount of \$200,000. The Bond shall not bear interest. A certificate evidencing the terms of the sale of the Bond to the purchaser (the "Purchaser") shall be executed by the Chief Financial Officer (the "Award Certificate"). (b) The Mayor, Borough Clerk and Chief Financial Officer (each an "Authorized Officer") are each hereby authorized to execute and deliver the Bond on behalf of the Borough. The Bond shall be executed by the Mayor, the Chief Financial Officer and the Borough Clerk and shall be issued in the form of one physical certificate registered in the name of the Purchaser.

Section 4. Delivery of the Bond. Following execution of the Bond, each Authorized Officer is hereby authorized to deliver the Bond to the Purchaser against receipt of the purchase price or unpaid balance thereof (the "Closing"). At the Closing, the Borough shall distribute the net proceeds from the sale and issuance of the Bond to the Redeveloper in order to pay costs associated with the Project.

Section 5. Conditions Precedent to Issuance of the Bonds. The obligations of the Borough and the Purchaser to consummate the transactions contemplated hereby are subject to (i) the execution and delivery of the Bond, the Financial Agreement, the Redevelopment Agreement and any instruments executed in connection herewith or therewith, and all amendments and modifications thereto, which shall be in full force and effect on and as of the date of issuance of the Bond and shall be in form and substance satisfactory to the Borough and the Purchaser and no default or event of default (however denominated) shall exist under any such documents and (ii) such financing statements, legal opinions, certificates and other documents as the Purchaser and bond counsel to the Borough may reasonably deem necessary to evidence compliance by the Borough and the Purchaser with the Bond, Financial Agreement and Redevelopment Agreement.

Section 6. Transfer of Bond. The Bond may only be transferred to (a) an affiliate of the Purchaser, (b) a trust or custodial arrangement established by the Purchaser or one of its affiliates, the owners of the beneficial interests in which are limited to qualified institutional buyers, as defined in Rule 144A promulgated under the Securities Act of 1933, as amended, or (c) to a Person that is a qualified institutional buyer and a commercial bank having capital and surplus of \$5,000,000,000 or more; each of which has executed and delivered to the Borough an Investor Letter in the form of Exhibit B attached hereto.

Section 7. Limitations of Liability of Borough. The Borough shall not incur any responsibility with respect to the Bond other than in connection with the duties or obligations explicitly set forth herein, in the Bond and in the Financial Agreement. No provision of this Resolution, the Bond, the Financial Agreement or any agreement, document, instrument or certificate executed, delivered or approved in connection with the issuance, sale, delivery or administration of the Bond shall require the Borough to expend or risk its own general funds, the obligations and liabilities of the Borough hereunder being payable solely from the Annual Service Charge. In the event of any default by the Borough hereunder, the liability of the Borough to any person who shall be the registered owner of the Bond (the "Bondholder") shall be enforceable only against the Annual Service Charge that may be made available for such purposes under the RAB Law, and there shall be no other recourse for damages by the Bondholder against the Borough, its officers, members, agents and employees, or any of the property now or hereafter owned by it or them.

Section 8. Certain Actions of the Borough. The Borough covenants to take such action as the Bondholder shall reasonably request, in order that the Bondholder may realize the benefits of the right to receive the Annual Service Charge; such actions may include, but shall not be limited to, conducting an *in rem* tax foreclosure action in accordance with the provisions of *N.J.S.A. 54:5-1 et seq.* Upon the happening and continuance of any Default as defined in the Financial Agreement, upon receipt of the written request of the Bondholder, the Borough shall proceed to protect and enforce its rights and the rights of the Bondholder under the laws of the State of New Jersey and the terms of the Financial Agreement, by such suits, actions or special proceedings in equity or at law, including, without limitation, directing the Borough to commence an *in rem* tax foreclosure pursuant to the Financial Agreement or mandamus, or by proceedings in the office of any board or office having jurisdiction, either for the specific performance of any covenant, condition or agreement contained in the Bond or the Financial Agreement or for the enforcement of any proper legal or equitable remedy. Only the Borough can undertake the sale of tax sale certificates, and in the same manner, and at the same time, as generally applicable for unpaid taxes due and owing to the Borough, subject to all applicable laws (including bankruptcy laws) necessary to realize the collection of the pledged Annual Service Charge remaining

unpaid in accordance with the Financial Agreement. If the Bondholder shall have proceeded to enforce the rights of the Bondholder under the Bond and the Financial Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bondholder, then the Bondholder shall be restored to its position and rights hereunder, and all rights, remedies and powers of the Bondholder shall continue as though no such proceedings had taken place.

Section 9. Incidental Action. Each Authorized Officer is hereby authorized to execute and deliver such other papers, instruments, certificates, opinions, affidavits and documents, and to take such other action as may be necessary or appropriate in order to carry out the purpose of this Resolution, including effectuating the execution and delivery of any closing certificates required in connection with the issuance of the Bond, and the issuance and sale of the Bond, all in accordance with the foregoing sections hereof.

Section 10. Independent Determination by Purchaser. The Bond authorized herein is being issued to the Purchaser with the understanding that it is being held for the Purchaser's own account and that the Purchaser has made its own independent investigation and judgment about the credit and security for the payment of such Bond. Any sale or assignment by the Purchaser of such Bond shall be on the same terms and conditions as set forth herein. The Borough will act as the paying agent for the Bond. Pursuant to the terms of the Financial Agreement, the Borough will collect the Annual Service Charge in quarterly installments on February 1, May 1, August 1 and November 1 and, on each date and upon receipt of each such quarterly installment, will deposit one-fourth of the principal amount of the Bond due on the next succeeding principal payment date into a separate trust account for the benefit of the Purchaser or subsequent Bondholder, as the case may be. The Borough shall make payment to the Purchaser, or subsequent Bondholder, as the case may be, of the principal amount of the Bond due, out of the Annual Service Charge. In the event of a Default (as defined in the Financial Agreement) resulting from the failure of the Entity to pay the Annual Service Charge payment then due and owing, the Borough will determine the amount of the Annual Service Charge shortfall and shall deposit a pro rata amount of the quarterly Annual Service Charge into the trust account for the benefit of the Purchaser, or subsequent Bondholder, as the case may be; subject to payment of the County Share (as such term is defined in the Financial Agreement).

Section 11. Construction. If any one of more of the provisions of this Resolution or the Bond issued hereunder shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, and the Bond shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 12. Effective Date. This Resolution shall take effect immediately upon adoption.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to introduce on first reading and advertise for public hearing the following entitled ordinance. On roll call vote, all members of the Council present voted in the affirmative.

ORDINANCE NO. 08-2020

**A CAPITAL ORDINANCE APPROPRIATING THE SUM OF \$2,454,192
FOR VARIOUS IMPROVEMENTS AND ACQUISITIONS TO BE
UNDERTAKEN BY THE BOROUGH OF TOTOWA**

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to adopt the following Resolution Authorizing Special Outdoor Dining Permits During The COVID-19 Crisis. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 79-2020

**RESOLUTION AUTHORIZING SPECIAL OUTDOOR DINING PERMITS
DURING THE COVID-19 CRISIS**

WHEREAS, SARS-CoV-2 is the virus that causes Coronavirus Disease 19 ("Covid-19"), a contagious and at times fatal, respiratory disease; and

WHEREAS, by Executive Order No. 103 dated March 9, 2020, Governor Phil Murphy declared a Public Health Emergency and State of Emergency in the State of New Jersey in response to the Covid-19 outbreak; and

WHEREAS, by Executive Order No. 107 dated March 21, 2020, Governor Murphy further ordered that all residents of the State of New Jersey were to remain at home and closed all non-essential businesses; and

WHEREAS, the Covid-19 Pandemic and shutting of businesses has had a significant negative impact on the food and beverage establishments in the Borough of Totowa; and

WHEREAS, by Executive Order No. 150 dated June 10, 2020, Governor Murphy temporarily authorized restaurants, bars and other food and beverage establishments to provide in-person outdoor service in accordance with CDC and State of New Jersey Department of Health (“DOH”) guidelines; and

WHEREAS, Executive Order No. 150 further recognizes that municipalities are in the best position to make decisions on allowing restaurants or bars to expand their service footprint on their property or into adjacent areas in ways that still comport with public safety; and

WHEREAS, the Borough of Totowa has established a Temporary Special Outdoor Dining Permit Application and protocol to be utilized during the crisis wherein businesses engaged in serving food and/or drinks can extend their services and sales to outdoor areas in the vicinity of their enclosed businesses; and

WHEREAS, the Mayor and Council of the Borough of Totowa are desirous of supporting businesses in this time of crisis and have determined that all municipal fees associated with the Temporary Special Outdoor Dining Permit shall be waived.

NOW THEREFORE BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the following:

1. In furtherance of the aforesaid goals, a Special Temporary Outdoor Dining Permit may be issued to businesses engaged in the service and sale of food and/or drink to use privately owned outdoor public spaces adjacent to or in the vicinity of the said enclosed businesses subject to the regulations set forth hereafter.
2. Application for Permit: A person or organization seeking issuance of a permit shall file an application for approval and shall furnish the following information:
 - a. The name, address and contact information for the business entity providing services.
 - b. A sketch and/or plan showing the location of the proposed outdoor dining area.
 - c. Proof of compliance with the requirements of any State, County or local governmental agency with jurisdiction over the type of the expanded outdoor dining area.
 - d. Written approval from the owner of the space or area to be utilized.

- e. Evidence that the expanded area will not interfere with pedestrians or vehicle traffic or interfere with the operation of other businesses in the vicinity.
- f. The applicant shall submit a copy of an insurance policy or certificate of insurance, issued by a company duly authorized to transact business under the laws of the State of New Jersey, providing for the payment of not less than \$500,000.00 and naming the Borough of Totowa as an additional insured.

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to adopt the following Resolution Authorizing Special ABC Petition To Extend Licensed Premises Permits During The COVID-19 Crisis. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 80-2020

RESOLUTION AUTHORIZING SPECIAL ABC PETITION TO EXTEND LICENSED PREMISES PERMITS DURING THE COVID-19 CRISIS

WHEREAS, SARS-CoV-2 is the virus that causes Coronavirus Disease 19 (“Covid-19”), a contagious and at times fatal, respiratory disease; and

WHEREAS, by Executive Order No. 103 dated March 9, 2020, Governor Phil Murphy declared a Public Health Emergency and State of Emergency in the State of New Jersey in response to the Covid-19 outbreak; and

WHEREAS, by Executive Order No. 107 dated March 21, 2020, Governor Murphy further ordered that all residents of the State of New Jersey were to remain at home and closed all non-essential businesses; and

WHEREAS, the Covid-19 Pandemic and the shutting of businesses has had a significant negative impact on the food and beverage establishments in the Borough of Totowa; and

WHEREAS, by Executive Order No. 150 dated June 10, 2020, Governor Murphy authorized restaurants, bars and other food and beverage establishments to provide in-person outdoor service in accordance with CDC and State of New Jersey Department of Health (“DOH”) guidelines; and

WHEREAS, to facilitate the reopening of these businesses, the Director of the Division of Alcoholic Beverage Control (“ABC”) created a temporary permit known as the Covid-19 Expansion of Premises Permit to enable licensees and permittees to expand their licensed premises into outdoor areas, either contiguous or non-contiguous to their permanently licensed premises; and

WHEREAS, all licensees and permittees with on-premise retail consumption privileges may apply through the POSSE ABC Online Licensing System; and

WHEREAS, upon submission of a complete Covid-19 Expansion Permit application in POSSE and payment of the \$75.00 permit fee, the application will be transmitted to the Municipal Clerk and Police Chief of the municipality.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Municipal Clerk and Police Chief to endorse all complete Covid-19 Expansion Permit applications filed in POSSE ABC website.

There being no further business to come before the Council, there was a motion by Councilman D’Angelo, seconded by Councilwoman Andriani that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

Joseph Wassel, RMC
Municipal Clerk