

**MAYOR & COUNCIL  
REGULAR MEETING  
SEPTEMBER 3, 2020  
6:30 P.M.**

The Regular Meeting of the Mayor and Council of the Borough of Rockaway, in the County of Morris, New Jersey, was held in the Community Center, 21-25 Union Street, Rockaway, N.J. with Mayor Thomas Mulligan presiding. Mayor Mulligan called the meeting to order at 6:30 p.m.

Mayor Mulligan read the following statement: In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Laws, 1975, be advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and sending to the officially designated newspapers, indicating that the meeting would take place as a telephonic meeting only at 6:30 p.m. on this date.

Councilmembers Present

Melissa Burnside  
Thomas Haynes  
James Hurley  
Patrick McDonald  
Russell Greuter  
Robert Smith - Council President

Councilmembers Absent

Borough Attorney Joseph J. Bell, Jr., Esq., was also present.

Everyone present participated in the salute to the flag.

CLOSED SESSION

**RESOLUTION 139-20: CLOSE MEETING TO THE PUBLIC**

**WHEREAS**, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

**WHEREAS**, this public body is of the opinion that such circumstances do exist;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway in the County of Morris, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matters.
2. The general nature of the subject matter to be discussed is as follows:
  - Pending or Anticipated Litigation, Contract Negotiation, or Matters Falling Within Attorney-Client Privilege
  - Personnel (matter involving employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting)
  - Confidential Per Express Provision of Federal Law or State Statute
  - Release of Information Would Impair Right to Receive Federal Funds
  - Disclosure of Information Would Constitute Unwarranted Invasion of Individual Privacy
  - PBA Collective Bargaining Agreement Negotiations
  - Teamsters Collective Bargaining Agreement Negotiations
  - Purchase, Lease, or Acquisition of Real Property with Public Funds, or Investment of Public Funds
  - Tactics or Techniques to Protect Safety and Property of Public
  - Deliberations May Result in Imposition of Specific Civil Penalty

3. The minutes of the discussion shall be made public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
4. This resolution shall take effect immediately.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

Mayor Council went into closed session at 6:33 p.m. and resumed the public meeting at 6:41 p.m.

#### RESOLUTIONS (CONSENT AGENDA ITEMS)

Upon motion by Councilman Haynes, seconded by Councilman Greuter, and carried unanimously upon call of the roll, the following resolutions were adopted:

#### **RESOLUTION 130-20: AWARD CONTRACT (FIREFIGHTER ONE - TURNOUT GEAR)**

**WHEREAS**, there exists a need to obtain replacement turnout gear for the Fire Department; and

**WHEREAS**, a New Jersey State Contract No. T-0790 exists for the purchase of firefighter protective clothing and equipment from Firefighter One, LLC, 34 Wilson Drive, Sparta, NJ 07871 (973-940-3061); and

**WHEREAS**, a Certificate of Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that it does hereby authorize the purchase of replacement turnout gear for use by the Fire Department from Firefighter One, LLC, 34 Wilson Drive, Sparta, NJ 07871 (973-940-3061), under New Jersey State Contract No. T-0790, not to exceed the amount of \$24,175.80.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

#### **CERTIFICATION FOR AVAILABILITY OF FUNDS**

I, Patricia Reiche, CFO/Treasurer, of the Borough of Rockaway, in the County of Morris, New Jersey, do hereby certify that funds in the amount not to exceed \$24,175.80 are available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Firefighter One, LLC, 34 Wilson Drive, Sparta, NJ 07871 (973-940-3061)

For the purpose of: Purchasing Replacement Firefighter Turnout Gear

The funds are available in Current Fund

Budget Line Item#: 01-201-36-472-205 and 01-201-25-255-204

Date: September 3, 2020

By: Patricia Reiche, CFO/Treasurer

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#### **RESOLUTION 131-20: APPROVE 2020-2021 ALCOHOL BEVERAGE CONTROL LICENSES**

**WHEREAS**, the following named applicants have duly filed applications for the Class "C" Retail licenses known as Plenary Retail Consumption Licenses, for the period from July 1, 2020 to June 30, 2021:

<u>License Number</u>	<u>Name</u>	<u>Place of Business</u>
1434-32-009-004	H.K. Smith Corp. t/a Smiths Tavern & Liquor Store	173-177 East Main Street Rockaway, NJ 07866

1434-33-001-005	Ashish Dhruvi,	Marilyn Avenue off Route 46 Rockaway, NJ 07866
1434-33-005-002	Mill Lane Tavern Inc. t/a Mill Lane Tavern	8 Mill Lane Rockaway, NJ 07866
1434-33-003-006	March 18th Inc. t/a Caffè Navona	147 U.S. Hwy, 46 West Rockaway, NJ 07866
1434-33-002-010	JNJS Enterprises, Inc t/a Tavern on the Rocks	9 Wall Street Rockaway, NJ 07866
1434-33-006-005	TRV Corp. t/a The Exchange Restaurant	160 East Main Street Rockaway, NJ 07866

and;

**Whereas**, the Director of the Division of Alcoholic Beverage Control has caused to be advertised in a newspaper in each County, a General Notice of Intention to apply for said Licenses.

**Now, Therefore, be it Resolved** that the Licenses under Class "C" Retail Licenses, known as Plenary Retail Consumption Licenses, be and the same are hereby granted as to each of the above-named applicants.

**Now, Therefore, be it Further Resolved** that the License under Class "C" Retail Licenses, known as Plenary Retail Distribution Licenses, be and the same is granted to the above-named applicant.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

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#### **Resolution 132-20: Authorize Change Order No. 1 (Fox Lake Dam Rehabilitation)**

**Whereas**, on June 10, 2020, a contract for the Fox Lake Dam Rehabilitation was awarded to Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501); and

**Whereas**, additional work is necessary due to:

Item No. A1, Mobilization, add item at \$15,000/LS x 1 LS = \$15,000.00  
Item No. A2 Lake Dredging and Sediment Disposal,  
Add item at \$76.00/CY x 2,500 CY = \$190,000.00; and

**Whereas**, the procedures for this change order are in compliance with N.J.A.C. 5:34-48 of the regulations governing Local Public Contracts; and

**Whereas**, a Certification for Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

**Now, Therefore, be it Resolved**, that Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, hereby authorize and approve the execution of Change Order No. 1 in an amount not to exceed \$205,000.00 to the contract awarded to Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501), in the amount not to exceed \$205,000.00 for the mobilization and lake dredging and sediment disposal at Fox Lake Dam Rehabilitation, thereby increasing the cost of this contract to \$1,767,727.00.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

#### **CERTIFICATION FOR AVAILABILITY OF FUNDS**

I, Patricia Reiche, CFO/Treasurer, of the Borough of Rockaway, in the County of Morris, New Jersey, do hereby certify that funds in the amount not to exceed \$205,000.00 are available for the purpose of

authorizing Change Order No. 1 to the contract awarded on June 10, 2020 for the furnishing of goods or services to the following entity:

Hutton Construction, LLC, 41 Village Park Road, Cedar Grove, NJ 07009 (973-857-2501),  
For the purpose of: The mobilization and lake dredging and sediment disposal at Fox Lake Dam Rehabilitation,  
The funds are available in General Capital Fund  
Budget Line Item#: 04-215-55-955-001

Date: September 3, 2020

By: Patricia Reiche, CFO/Treasurer

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**RESOLUTION 133-20: REFUND OF RECYCLING FEE**

**WHEREAS**, on May 3, 2019 the Borough of Rockaway received payment in the amount of \$15.00 from Tom Thomas, 12 William Drive, Rockaway, NJ 07866, for freon removal from a refrigerator; and

**WHEREAS**, the property owner did not have the freon removed from the refrigerator and has requested a refund; and

**WHEREAS**, the Borough Superintendent of Department of Public Works has authorized the refund and;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Rockaway, County of Morris, to refund \$15.00 for freon removal to Tom Thomas, 12 William Drive, Rockaway, NJ 07866.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

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**RESOLUTION 134-20: AWARD CONTRACT (STABILIZATION OF THE STONE CULVERT OVER FOX'S BROOK)**

**Whereas**, on August 12, 2020 the Borough Clerk received four (4) bid proposals for the Stabilization of the Stone Culvert Over Fox's Brook:

Drill Construction  
80 Main Street Ste 570  
West Orange, NJ 07052  
\$208,250.00

Dell-Tech Inc.  
930 New York Avenue  
Trenton, NJ 08638  
\$248,900.00

Sparwick Contracting, Inc.  
21 Sunset Inn Road  
Lafayette, NJ 07848  
\$257,501.00

Lewis-Graham, Inc.  
15 Brentwood Road  
Clark, NJ 07066  
\$258,000.00

**WHEREAS**, the apparent low bidder was Drill Construction, 80 Main Street, West Orange, NJ 07052, with a bid in the amount of \$208,250.00; and

**WHEREAS**, the contract is being awarded through a fair and open process, pursuant to N.J.S.A. 19:44A-20.4 et seq.; and

**WHEREAS**, a Certification for Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized and directed to execute an agreement in an amount not to exceed \$208,250.00 with Drill Construction, 80 Main Street, West Orange, NJ 07052 for the Stabilization of the Stone Culvert Over Fox's Brook.

2. A copy of this resolution and the subject agreement shall be made available for inspection in the office of the Borough Clerk.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

**Certification for Availability of Funds**

I, Patricia Reiche, CFO/Treasurer, of the Borough of Rockaway, in the County of Morris, New Jersey, do hereby certify that funds in the amount not to exceed \$208,250.00 are available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Drill Construction, 80 Main Street, West Orange, NJ 07052  
For the purpose of: Stabilization of the Stone Culvert Over Fox's Brook  
The funds are available in General Capital Fund  
Budget Line Item#: 04-215-55-951-007

Date: September 3, 2020

By: Patricia Reiche, CFO/Treasurer

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**RESOLUTION 135-20: AWARD CONTRACT (POLICE VEHICLE)**

**WHEREAS**, there exists a need to obtain a Police Vehicle for the Police Department; and

**WHEREAS**, the Morris County Cooperative Pricing Council contract #15-A includes the purchase of a 2020 Police Interceptor SUV from Beyer Ford, 170 Ridgedale Avenue, Morristown, NJ 07960 (973) 463-3065; and

**WHEREAS**, a Certification for Availability of Funds has been filed by the Borough of Rockaway Chief Financial Officer.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, that it does hereby authorize the purchase of a 2020 Police Interceptor SUV from Beyer Ford, 170 Ridgedale Avenue, Morristown, NJ 07960 (973) 463-3065 for use by the Police Department, under Morris County Cooperative Pricing Council contract #15-A, not to exceed the amount of \$35,278.95.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

**CERTIFICATION FOR AVAILABILITY OF FUNDS**

I, Patricia Reiche, CFO/Treasurer, of the Borough of Rockaway, in the County of Morris, New Jersey, do hereby certify that funds in the amount not to exceed \$35,278.95 are available for the purpose of awarding a contract for the furnishing of goods or services to the following entity:

Beyer Ford, 170 Ridgedale Avenue, Morristown, NJ 07960 (973) 463-3065  
For the purpose of: Purchasing a Police Vehicle  
The funds are available in Current Fund  
Budget Line Item#: 01-201-25-240-217

Date: September 3, 2020

By: Patricia Reiche, CFO/Treasurer

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**RESOLUTION 136-20: GRANTING SOIL DISTURBANCE PERMIT (HARRINGTON CONSTRUCTION CO., INC. - 135 PHILLIP DRIVE)**

**WHEREAS**, on or about July 29, 2020, WJ Harrington & Son (the "Applicant") filed an application for approval of a soil disturbance permit concerning the property located at 135 Phillip Drive, Rockaway, New Jersey (the "Property"); and

**WHEREAS**, Borough Engineer Paul W. Ferriero has opined that the subject Application is in compliance with Section 170-6 *et seq.* of the Borough of Rockaway Code, subject to the terms and conditions set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** that, it appearing that the Applicant has complied with Section 170-6, *et seq.*, Applicant's application for a soil disturbance permit be and the same is hereby approved, subject to the following terms and conditions, absent the performance of which the approval granted herein shall be null and void:

- (a) The Applicant shall produce a Certificate of Liability Insurance specifying general liability insurance in the amount of \$1,000,000.00 per occurrence and excess/umbrella liability coverage in the amount of \$4,000,000.00, naming the Borough of Rockaway as additional insured, and shall maintain the said coverage in full force and effect until such time as the work that is the subject of this approval is completed in full.
- (b) The applicant shall post with the Borough of Rockaway a \$1,000.00 escrow deposit.
- (c) The Applicant shall comply with all provisions of Section 170-6, *et seq.* of the Borough of Rockaway Code, and all other provisions of applicable law.
- (d) The Applicant shall comply with all conditions set forth in the Review Letter No. 2 of Borough Engineer Paul W. Ferriero, PE, CME, dated September 3, 2020, including but not limited to the following:
  1. Certification from Morris County Soil Conservation District is required if the disturbance is equal to or exceeds 5,000 square feet. Disturbance is slightly less than 5,000 square feet, therefore MCSCD certification is not required. The applicant should take note that the limit as shown on the plan is very tight and may be very difficult to actually maintain.
  2. The property lines should be staked by a surveyor licensed in the State of New Jersey prior to beginning construction. Given that the limit of disturbance extends to the Ferriero Engineering, Inc. September 2, 2020 Page 2 Re: WJ Harrington & Son Proposed Retaining Wall Soil Disturbance Permit 135 Phillip Drive property lines. Stakes should be set along the lines within the disturbance area. Comment open.
  3. The plan should be revised to indicate the route and destination of the removed soil. Comment open. Application shall provide this information prior to issuance of the permit.
  4. Since the soil to be removed exceeds 500 cubic yards, Borough Council will need to approve the permit. Notice shall be given by the applicant in accordance with Section 169-34. Comment open.
  5. Applicant shall provide certification from a professional engineer licensed in the State of New Jersey that the retaining walls have been construction in accordance with the approved plan prior to issuance of final signoff and/or certificate of completion from the construction department. Comment open

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

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**RESOLUTION 137-20: RESOLUTION AUTHORIZING THE MAYOR AND CLERK TO EXECUTE A SETTLEMENT AGREEMENT FIXING THE BOROUGH'S AFFORDABLE HOUSING FAIR SHARE OBLIGATION.**

**WHEREAS**, on March 10, 2015, the New Jersey Supreme Court handed down its decision in In re Adoption of N.J.A.C. 5:96 and 5:97 ex rel. New Jersey Council on Affordable Housing, 221 N.J. 1 (2015), which terminated COAH's jurisdiction to administer and approve municipalities' affordable housing plans, determined that the Court would reassert primary jurisdiction over the same and directed interested

municipalities to petition the Court for immunity while constitutionally compliant housing plans were prepared; and

**WHEREAS**, on July 8, 2015, the Borough filed a declaratory judgment action in the case entitled In the Matter of the Borough of Rockaway, a municipal corporation of the State of New Jersey, bearing Docket No. MRS-L-1671-15 (the "Borough's DJ Action") seeking a declaration of its compliance with the Mount Laurel doctrine and the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, et seq., in accordance with In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) ("Mount Laurel IV"), and also petitioned the Court for temporary immunity from builder's remedy lawsuits; and

**WHEREAS**, Mount Laurel IV designated Fair Share Housing Center ("FSHC") as an interested party in all declaratory judgment actions seeking to fix municipal affordable housing fair share obligations, and FSHC has participated in the Borough's DJ Action as an interested party; and

**WHEREAS**, RPM Development Group has appeared as an interested party in the Borough's DJ Action; and

**WHEREAS**, the Superior Court appointed James T. Kyle, PP, AICP as the Special Master, as is customary in Mount Laurel matters adjudicated in the courts; and

**WHEREAS**, with the assistance of the said Special Master, the Borough, FSHC and RPM Development Group engaged in extensive good faith negotiations, which resulted in an agreement on the various substantive issues, terms and conditions set forth in the Settlement Agreement, a copy of which is attached as Exhibit A hereto; and

**WHEREAS**, there is a well-established policy favoring the settlement of litigation, and the settlement of Mount Laurel litigation in particular is advisable, because it avoids the expenditure of limited public resources and avoids the risks associated with such litigation; and

**WHEREAS**, pursuant to the settlement negotiations between the parties, FSHC will support the Borough's Housing Plan and its approach to meeting the Borough's Prior Round and Third Round obligations, and will join in the Borough's request that the trial court find that it is fair to the interests of lower-income households in New Jersey and entitles the Borough to protection from Mount Laurel litigation through July 1, 2025; and

**WHEREAS**, the Mayor and Council are of the opinion that the settlement of the Borough's DJ Action is in the best interest of the residents of the Borough because it eliminates the uncertainty and expense of litigation, and will result in approval of the Borough's Housing Plan, which, in turn, will maintain the Borough's immunity from all Mount Laurel lawsuits through July 2, 2025..

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris, State of New Jersey, as follows:

1. The Mayor and Clerk are hereby authorized to execute the Settlement Agreement attached hereto as Exhibit A, and to undertake all reasonable and necessary steps to effectuate the foregoing.
2. The Mayor and Council direct the Borough's Affordable Housing Counsel to file the fully-executed Settlement Agreement with the Superior Court for review and approval at a duly-noticed Fairness Hearing; (b) take all actions reasonable and necessary to secure an Order approving the Settlement Agreement, and (c) base3d on same, proceed toward securing judicial approval of the Borough's Housing Plan, after it is drafted, adopted by the Borough's Land Use Board and endorsed by the Mayor and Council.
3. This Resolution shall take effect according to law.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

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**RESOLUTION 138-20: RESOLUTION APPOINTING LINDA ENGELMANN AS DEPARTMENT ASSISTANT**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway, County of Morris and State of New Jersey, that Linda Engelmann is hereby appointed to the position of Department Assistant and is hereby employed by the Borough of Rockaway at salary within the salary ordinance, effective Tuesday, September 1, 2020.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

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ORDINANCE NO. 12-20, Public Hearing & Adoption

On motion by Councilman Haynes and seconded by Councilman Hurley, to offer the following ordinance as read by title on second reading:

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL AUTHORIZING LONG TERM TAX EXEMPTION  
AGREEMENT BETWEEN BOROUGH OF ROCKAWAY AND  
74 WEST MAIN STREET URBAN RENEWAL ASSOCIATES, LP**

**WHEREAS**, in compliance with the New Jersey Supreme Court's March 10, 2015 decision in In re Adoption of N.J.A.C. 5:96 and 5:97 by N.J. Council on Affordable Housing, 221 N.J.1 (2015) ("Mount Laurel IV"), on or about July 7, 2015, the Borough of Rockaway filed an action with the Superior Court of New Jersey ("Court") in Morris County, entitled In the Matter of the Application of the Borough of Rockaway, County of Morris, Docket No. 1671-15, seeking a Judgement of Compliance and Repose approving its Housing Element and Fair Share Plan ("Affordable Housing Plan"), in addition to related relief, including temporary immunity from all Mount Laurel lawsuits; and

**WHEREAS**, the Court granted the Borough's motion for temporary immunity from all Mount Laurel lawsuits, which was subsequently extended via a series of orders, and is still in full force and effect today; and

**WHEREAS**, 74 West Main Street Urban Renewal Associates, LP (the "Entity") proposes to construct sixty-four (64) total senior rental units, sixty-three (63) of which would be Affordable Housing Units, along with one (1) market rate unit to be occupied by the on-site property manager and amenities (the "Project") within the Borough of Rockaway, which will aid the Borough in complying with its affordable housing obligation, on a site described as Block 73, Lot 65 as shown on the official assessment map of the Borough of Rockaway, and commonly known as 74 West Main Street, Rockaway, New Jersey (the "Property"); and

**WHEREAS**, the New Jersey Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. authorizes a municipality to enter into a Financial Agreement with an urban renewal entity undertaking development and construction of a low or moderate income housing project, granting a long term tax exemption to the project; and

**WHEREAS**, the Entity is qualified to do business under the provisions of the New Jersey Long Term Tax Exemption Law and has made application to the Borough of Rockaway for (i) the approval of the Project; (ii) the grant of a long term tax exemption for the Project; and (iii) the execution of a Financial Agreement; and

**WHEREAS**, the Entity has presented to the Borough Council a Financial Agreement, which is attached hereto as Exhibit A, and which has attached as an exhibit a revenue projection for the Project which sets forth the anticipated revenue to be received by the Entity from the operation of the Project.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Rockaway, County of Morris, and State of New Jersey as follows:



Section I

1. The Borough Council authorizes the execution of the Agreement substantially in the form attached hereto as Exhibit A and made a part hereof authorizing an in lieu tax payment of six and 28/100 percent (6.28%) of the Annual Gross Revenue of the Project.
2. The exemption from taxation on improvements to be constructed by the Entity on the be and is hereby approved for a period of thirty (30) years from the date of substantial completion of the Project, but only so long as the Entity is subject to and in compliance with the terms of the Financial Agreement and the Long Term Tax Exemption Law.
3. The Borough Council hereby authorizes and directs the Mayor to execute, on behalf of the Borough, the Agreement attached hereto as Exhibit A.
4. The Borough Council understands and agrees that the revenue projections set forth in exhibit to the Financial Agreement are estimates and that the actual payments in lieu of taxes to be paid by the Entity to the Borough shall be determined pursuant to the Agreement.
5. The Borough Council understands that the Entity may form a limited partnership or a limited liability company in which the Entity will be the general partner or managing member, respectively, and that the Borough may enter into the payment in lieu of taxes Agreement with such limited partnership or limited liability company.
6. An executed copy of the Financial Agreement authorized by this Ordinance shall be kept on file in the office of the Borough Clerk for purposes of review and record.
7. The Project, when completed, shall conform with all State laws and ordinances of the Borough of Rockaway relating to its construction and use.
8. The Entity shall pay an annual service charge based on six and 28/100 percent (6.28%) of the Annual Gross Revenue of the Project as set forth in the Financial Agreement. The annual service charge rate shall be fixed for the entire term of the tax exemption, but after the initial fifteen (15) years of the term the minimum annual service charge shall be determined as otherwise set forth in the Financial Agreement. Following submission of an annual auditor's report within ninety (90) days of the end of each fiscal or calendar year, the Borough and the Entity shall adjust any overpayment or underpayment determined for the audited period.
9. The Entity shall submit a total Project cost audit by certified public accountants within ninety (90) days following substantial completion of the project.
10. The Municipal Clerk is hereby authorized to forward a certified true copy of the Ordinance to 74 West Main Street Urban Renewal Associates, LP at 77 Park Street, Montclair, New Jersey 07042-2962. The Municipal Clerk is hereby authorized to forward a certified true copy of this Ordinance, and the Financial Agreement implementing it, to both the Municipal Tax Assessor and the Direction of the Division of Local Government Services.

Section II

1. All Ordinances of the Borough of Rockaway which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
2. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.
3. This Ordinance shall take effect as provided by law.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

Mayor Mulligan opened the meeting to the public.

There being no comments, Mayor Mulligan closed the public hearing.

The above-mentioned ordinance was adopted by the following roll call:

Roll Call: Ayes: Councilwoman Burnside, Councilman Greuter, Councilman Haynes, Councilman Hurley, Councilman McDonald, Council President Smith  
Nays:  
Abstain:

ORDINANCE NO. 13-20, Introduction & First Reading

**ORDINANCE OF THE BOROUGH OF ROCKAWAY  
MAYOR AND COUNCIL  
AMENDING CHAPTER 241, VEHICLES AND TRAFFIC,  
SECTIONS 241-26 AND 241-62,  
OF THE CODE OF THE BOROUGH OF ROCKAWAY**

Upon motion by Councilman McDonald, seconded by Councilwoman Burnside, and carried by the following call of the roll, Ordinance 13-20 was tabled for further review:

Roll Call: Ayes: Councilwoman Burnside, Councilman Haynes, Councilman Hurley, Councilman McDonald, Councilman Greuter, Council President Smith  
Nays:  
Abstain:

PUBLIC PORTION

Mayor Mulligan opened the meeting to the public.

*Joyce Freiermuth, 99 E. Flagg Street*, expressed her support for reducing truck traffic as much as possible on residential streets.

*Lynn Morena, 336 West Main Street* – stated her concern over having more truck traffic directed to roads such as West Main Street.

*Bonnie Hook, 23 Jackson Avenue* – expressed her support for reducing the truck traffic in the Borough and requested that Jackson Avenue be added to the list. Ms. Hook also expressed concern over the audio quality of the Zoom call.

*Arnold Bernard, 68 Union Street* – stated his concern over increased truck traffic, including damage to storm drains, sidewalks, fences, etc.

*Carol Mealy, 418 West Main Street* – voiced concern about all truck traffic being directed to County roads.

*John Cummins, 326 West Main Street* – stated his concerns over the amount of trucks, as well as the speed of the trucks.

CLOSED SESSION

**RESOLUTION 139-20: CLOSE MEETING TO THE PUBLIC**

**WHEREAS**, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

**WHEREAS**, this public body is of the opinion that such circumstances do exist;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Rockaway in the County of Morris, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matters.
2. The general nature of the subject matter to be discussed is as follows:
  - Pending or Anticipated Litigation, Contract Negotiation, or Matters Falling Within Attorney-Client Privilege
  - Personnel (matter involving employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion, or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting)
  - Confidential Per Express Provision of Federal Law or State Statute
  - Release of Information Would Impair Right to Receive Federal Funds
  - Disclosure of Information Would Constitute Unwarranted Invasion of Individual Privacy
  - PBA Collective Bargaining Agreement Negotiations
  - Teamsters Collective Bargaining Agreement Negotiations
  - Purchase, Lease, or Acquisition of Real Property with Public Funds, or Investment of Public Funds
  - Tactics or Techniques to Protect Safety and Property of Public
  - Deliberations May Result in Imposition of Specific Civil Penalty
3. The minutes of the discussion shall be made public as soon as the matters under discussion are no longer of a confidential or sensitive nature.
4. This resolution shall take effect immediately.

Date: September 3, 2020

Borough of Rockaway

Attest: Kimberly Cuspilich, Acting Borough Clerk

By: Thomas Mulligan, Mayor

Mayor Council went into closed session at 7:37 p.m. and resumed the public meeting at 7:49 p.m.

#### ADJOURNMENT

The meeting adjourned at 7:50 p.m.

Approved: As Submitted

Kimberly Cuspilich, Acting Borough Clerk

Date: September 24, 2020