



Borough of Middlesex

Access to be Posted on Boro Website
Middlesex,, NJ

Mayor and Council Regular Meeting

~ Minutes ~

Linda Chismar
732 356-7400 x238
www.middlesexboro-nj.gov

Tuesday, June 9, 2020

7:00 PM

Remote Telephone Meeting

MAYOR'S STATEMENT

UNDER THE PROVISIONS OF N.J.S.A. 10:4-6 ET SEQ., NOTICE OF THE TIME AND PLACE OF THIS MEETING WAS GIVEN BY WAY OF AN ANNUAL MEETING NOTICE TO THE STAR LEDGER, COURIER NEWS AND HOME NEWS, AND POSTED AT BOROUGH HALL.

SALUTE TO FLAG

ROLL CALL

Mayor John Madden
Council President Jack Mikolajczyk
Councilman Jeremiah Carnes
Councilman Jason Carr
Councilman James Eodice
Councilwoman Amy Flood
Councilman Douglas Rex

Also Present:

Marcia Karrow Administrator
Christopher Corsini Borough Attorney

Others Absent:

Mayor Madden stated that before we begin, he wanted to acknowledge that holding a Council Meeting by conference call is difficult at best. To facilitate a smoother meeting, and in consultation with our Attorney, he requested that the Council President make all motions and that Councilman Carr make all seconds. All Council members approved.

PRESENTATIONS

APPOINTMENTS

PROCLAMATIONS

ORDINANCE(S) FOR INTRODUCTION

The Borough Clerk read ordinance 2000-20 by title:

ORDINANCE 2000-20**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF MIDDLESEX,
COUNTY OF MIDDLESEX, NEW JERSEY, CHAPTER 158, CERTIFICATES,
RESALE/LEASED**

WHEREAS, pursuant to N.J.S.A. 40:48-1, the governing body of a municipality may make, amend, repeal, and enforce ordinances to manage regulate and control the finances and property of the municipality; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Middlesex, County of Middlesex, State of New Jersey as follows:

SECTION ONE. The Code of the Borough of Middlesex, Middlesex County, New Jersey is hereby amended to the following:

Article I Resale or Leased Certificates for Residential Uses

158-2 Fee.

The fee for a residential Resale/Leased Certificate shall be \$100 \$150 in the event that only one inspection is required of the designated official inspector(s) but in the event that the inspector is required to make more than one inspection of the premises before issuing a Resale/Leased Certificate, there shall be an additional charge of \$50 per each inspection of the premises made by the official inspector after the initial inspection.

SECTION TWO. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent.

SECTION THREE. This Ordinance may be renumbered for codification purposes.

SECTION FOUR. In the event that any section, part or provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so held unenforceable or invalid.

SECTION FIVE. This Ordinance shall take effect 20 days after passage and publication as provided by law.

Mayor Madden stated that the Public Hearing on Ordinance No. 2000-20 will be held on June 23, 2020.

RESULT:	FIRST READING [UNANIMOUS]	Next: 6/23/2020 7:00 PM
MOVER:	Jack Mikolajczyk, Council President	
SECONDER:	Jason Carr, Councilman	
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex	

The Borough Clerk read ordinance 2001-20 by title:

ORDINANCE 2001-20**ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLESEX,
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AMENDING THE LINCOLN**

**BOULEVARD REDEVELOPMENT PLAN, SPECIFICALLY AS TO THE TRANSITIONAL
ZONE SUB-AREA A**

WHEREAS, the Borough of Middlesex (the “Borough”), a public body corporate and politic of the State of New Jersey, is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Redevelopment Law”), to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, on July 25, 2006, pursuant to Resolution 179-06, the Borough Council of the Borough (the “Borough Council”) designated certain property (the “Property”) as an Area in Need of Rehabilitation in accordance with the Redevelopment Law and directed that a redevelopment plan be prepared; and

WHEREAS, on September 18, 2007, in accordance with all applicable provisions of the Redevelopment Law, the Borough Council duly adopted the Lincoln Boulevard Redevelopment Plan (the “Redevelopment Plan”); and

WHEREAS, the Redevelopment Plan was subsequently amended on August 9, 2011, pursuant to Ordinance No. 1798-11; and

WHEREAS, on December 17, 2013, pursuant to Resolution 324-13, the Borough Council directed the Planning Board to further study the Property in order to determine whether it qualified as a non-condemnation area in need of redevelopment (“Non-Condensation Redevelopment Area”) and, after multiple public hearings, the Planning Board recommended that the Property be designated as a Non-Condensation Redevelopment Area and the Borough Council accepted the Planning Board’s recommendation and, on June 12, 2014, adopted Resolution 158-14, designating the Property, as set forth in the Redevelopment Plan, as a Non-Condensation Redevelopment Area, pursuant to the Redevelopment Law; and

WHEREAS, the Redevelopment Plan was subsequently amended on December 27, 2016, pursuant to Ordinance 1903-16; on December 12, 2017, pursuant to Ordinance No. 1929-17; on March 12, 2019, pursuant to Ordinance No. 1955-19; and on January 28, 2020, pursuant to Ordinance No. 1989-20; and

WHEREAS, at the direction of the Borough Council, the Borough Redevelopment Planner, was asked to prepare certain further amendments to the Redevelopment Plan, which included permitting warehouse and distribution facility uses within certain portions of the Non-Condensation Redevelopment Area, establishing standards for the development of such uses as well as additional changes to clarify standards and to clarify desired building practices; and

WHEREAS, the Borough Redevelopment Planner prepared revisions to the Redevelopment Plan, specifically as to the Transitional Zone Sub-Area A (Block 318, Lots 1A [partial], 4A [partial], 21, 38A, 43, 44, 45, 48 and Block 319, Lots 24, 26, 28, 45, and 47) of the Non-Condensation Redevelopment Area, as well as clarifying language and said revisions have been prepared and incorporated into a proposed amended Redevelopment Plan, with a revision date of April 1, 2020 (the “2020 Revised Redevelopment Plan”), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7(e), the Borough Council has referred the 2020 Revised Redevelopment Plan to the Joint Land Use Board for its review and recommendations; and

WHEREAS, the Joint Land Use Board, by Resolution adopted [**insert date**], found that the 2020 Revised Redevelopment Plan is not inconsistent with the Master Plan of the Borough.

NOW, THEREFORE BE IT ORDAINED, by the Borough Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, that:

1. The aforementioned recitals are incorporated herein as if fully set forth at length.
2. The 2020 Revised Redevelopment Plan, attached hereto as **Exhibit A**, is hereby adopted pursuant to the terms of N.J.S.A. 40A:12A-7.
3. The Zoning District Map included in the Zoning Ordinance of the Borough is hereby amended to specifically identify Transitional Zone Sub-Area A, as described in the aforesaid 2020 Revised Redevelopment Plan.
4. To the extent that any provisions of any prior ordinance, including, but not limited to, Ordinance Nos. 1955-19 and 1989-20, are inconsistent with the provisions of the 2020 Revised Redevelopment Plan, said provisions are hereby repealed, replaced and superseded by the applicable provisions of the 2020 Revised Redevelopment Plan.
5. Upon adoption of this Ordinance, the 2020 Revised Redevelopment Plan shall be deemed adopted and the 2020 Revised Redevelopment Plan shall identify the date of adoption of this Ordinance amending same.
6. Should any section, paragraph, sentence, or clause of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect and, to this end, the provisions of this Ordinance are hereby declared severable.

7. A copy of this Ordinance and the 2020 Revised Redevelopment Plan shall be available for public inspection at the Office of the Borough Clerk during regular business hours.
8. This Ordinance shall take effect twenty (20) days after final passage, adoption and publication as mandated by law.

Mayor Madden stated that the Public Hearing on Ordinance No. 2001-20 will be held on June 23, 2020.

RESULT:	FIRST READING [UNANIMOUS]	Next: 6/23/2020 7:00 PM
MOVER:	Jack Mikolajczyk, Council President	
SECONDER:	Jason Carr, Councilman	
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex	

ORDINANCE(S) FOR PUBLIC HEARING AND FINAL ADOPTION

Mayor Madden stated that the first two ordinances for consideration for Final Adoption tonight pertain to the Rockefeller Redevelopment Project on Baekeland Avenue. He indicated that joining us on tonight's conference call meeting is Middlesex Borough Redevelopment Attorney Steve Warner and Middlesex Borough Bond Counsel Christopher Walrath. Both Attorney Warner and Attorney Walrath are available to answer all questions about the two ordinances.

The Borough Clerk read ordinance 1997-20 by title:

ORDINANCE 1997-20

BOND ORDINANCE OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, NEW JERSEY AUTHORIZING THE ISSUANCE OF REDEVELOPMENT AREA BONDS OR NOTES OF THE BOROUGH TO FINANCE THE COST OF CERTAIN INFRASTRUCTURE IMPROVEMENTS RELATING RG MIDDLESEX URBAN RENEWAL LLC

WHEREAS, the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Redevelopment Law**") authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Redevelopment Law confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Redevelopment Law, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Borough of Middlesex, in the County of Middlesex, New Jersey (the "**Borough**") has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Redevelopment Law; and

WHEREAS, on May 28, 2019, the Borough adopted Resolution No. 135-2019 designating an area of property located at 65 Baekeland Avenue (the former Union Carbide Corporation facility) and shown as Block 353, Lots 1.01 and 1.02 on the Borough of

Middlesex Tax Map, as an area in need of redevelopment pursuant to the Redevelopment Law (the “**Redevelopment Area**”); and

WHEREAS, on September 10, 2019, the Borough adopted Ordinance No. 1974-19 approving a redevelopment plan for the Redevelopment Area (the “**Redevelopment Plan**”); and

WHEREAS, RG Middlesex Urban Renewal LLC, a New Jersey limited liability company (the “**Redeveloper**”), has proposed to undertake a redevelopment project in accordance with the Redevelopment Plan, consisting of the construction of an approximately 400,000 square foot warehouse/distribution building (the “**Redevelopment Project**”) in the Redevelopment Area; and

WHEREAS, the Borough has deemed the Redeveloper to be qualified to own and operate and complete construction of the Redevelopment Project; and

WHEREAS, the Redevelopment Project will require, among other items, the construction of certain infrastructure improvements, relocations and improvements in and around the Redevelopment Area, including without limitation, such items as water and sewer infrastructure, road improvements, sidewalks, driveway improvements, turn lanes and drainage facilities, and including (i) improvements to River Road required by Middlesex County, and (ii) improvements required by the planning board of the Borough as a condition to Preliminary/Final Site Plan Approval of the Redevelopment Project, including improvements to Baekeland Avenue (collectively, the “**Infrastructure Improvements**”); and

WHEREAS, despite the Redeveloper’s investment of equity and borrowed funds, such amounts are insufficient to pay for all of the costs associated with the development and construction of the Redevelopment Project; and

WHEREAS, in order to defray certain eligible costs of the Redevelopment Project, specifically the Infrastructure Improvements, thereby making the Redevelopment Project viable, the Borough agreed to issue general obligation bonds in one or more series in an aggregate principal amount not to exceed \$750,000 (the “**RABs**” or “**Bonds**”) pursuant to the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq.*, (the “**RAB Law**”, as further defined herein) and/or the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.* (the “**Local Bond Law**”), as applicable; and

WHEREAS, the Redeveloper has represented to the Borough that financial assistance is necessary in order for the Redevelopment Project to be undertaken in its intended scope; and

WHEREAS, the Borough desires to authorize the issuance of Bonds in an amount not to exceed \$750,000 to fund the Infrastructure Improvements; and

WHEREAS, the Borough will use the proceeds of the Bonds to finance the Infrastructure Improvements described in Section 3 of this bond ordinance.

NOW THEREFORE BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvements and purposes described in Section 3 of this bond ordinance are hereby authorized to be undertaken by the Borough as general and local improvements, as described in more detail herein. For the improvements and purposes described in Section 3, there is hereby appropriated the sum of \$750,000. Pursuant to Section 37 of the Redevelopment Law (N.J.S.A. 40A:12A-37c(2)), no down payment is required, notwithstanding the requirements of Section 11 of the Local Bond Law, because the improvements and purposes set forth in Section 3 constitute a "redevelopment project" under the Redevelopment Law.

Section 2 In order to finance the cost of the several improvements and purposes described in Section 3, negotiable bonds are hereby authorized to be issued pursuant to the Local Bond Law and the Redevelopment Law in a principal amount not to exceed \$750,000. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law and the Redevelopment Law.

Section 3. (a) The several improvements hereby authorized and the several purposes for which the bonds are to be issued, include the construction of the Infrastructure Improvements, constituting a portion of the Redevelopment Project, which constitutes a "redevelopment project" under the Redevelopment Law, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvements and purposes is as stated in Section 2 hereof.

(c) The estimated costs of the improvements and purposes are equal to the amount of the appropriations herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law and the Redevelopment Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. Notice is hereby given to RG Middlesex Urban Renewal LLC, with its principal place of business at 92 Headquarters Plaza, North Tower, 9th Floor, Morristown, New Jersey 07960, the owners of Block 353, Lots 1.01 and 1.02, the parcels of real estate benefitted by the improvements described in Section 3(a) hereof, and its/their successors and assigns, that the Borough intends to make and to levy special assessments against all such lots and parcels of real estate in an aggregate amount not to exceed \$750,000.00 (plus such amounts as are necessary to finance the aforesaid amount). Such special assessment shall be made and levied in the manner provided by law and, pursuant to Section 3 of the RAB Law (N.J.S.A. 40A:12A-66c), such owner of the properties so benefitted shall accept such specific amount as the benefit conferred on such properties in lieu of the amount being determined by the procedures otherwise applicable to determining the actual benefit conferred on such properties.

Section 7. The owner of the land upon which an assessment for the local improvements shall have been made will pay such assessment in accordance with the terms and provisions of the agreement(s) referred to in Section 13 hereof. In case any such installment shall remain unpaid for thirty (30) days after the time it shall become due and payable, the whole assessment or the balance thereof shall not become and be immediately due and payable, shall draw interest at the rate imposed upon the arrearage of taxes in the Borough and shall be collected in the same manner as provided by law for other past-due assessments. Such assessment shall remain a lien upon the land described herein until the assessment, with all installments and accrued interest thereon, shall be paid and satisfied. Notwithstanding anything herein to the contrary, the Borough shall have the right to waive default as may be permitted by law.

Section 8. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements and purposes that the Borough lawfully may undertake as general and local improvements, and a portion of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) Pursuant to N.J.S.A. 40A:12A-37(c), the obligations authorized herein shall mature in annual installments commencing not more than two (2) and ending not more than forty (40) years from the date of issuance.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$750,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount of not exceeding \$750,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

(e) The number of annual installments of bonds within which the special assessments are to be levied on the lots and parcels of real estate benefitted by the improvements is not to exceed 30.

(f) The maximum interest rate on the bonds shall be 9% without further authorization of the Borough Council, which authorization may be by resolution.

Section 9. The Borough hereby declares the intent of the Borough to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 10. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 11. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 12. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 13. The Mayor and Clerk are each hereby authorized to execute and attest one or more special assessment agreements evidencing the construction of the improvements more fully described in Section 3(a) above, which agreements may include provisions for establishing certain reserves by the Borough to secure debt service for the bonds. The special assessment agreement(s) shall be in a form substantially similar to the special assessment agreement attached as Exhibit E to the Redevelopment Agreement, such special assessment agreement(s) being hereby approved in full with such additions, deletions and modifications as are necessary to effectuate its/their purpose.

Section 14. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Mayor Madden requested if there were any questions and/or comments emailed to the Borough Clerk prior to the meeting. The Borough Clerk indicated that she did not receive any emailed questions and/or comments on Ordinance No. 1997-20. Mayor Madden then recessed the meeting for 5 minutes to allow the public to email any additional questions and/or comments regarding the Public Hearing for Ordinance Nos. 1997-20 to the Borough Administrator to discuss during the public hearings. A motion was made by Council President Mikolajczyk and seconded by Councilman Carr.

After the recess Mayor Madden addressed the Borough Administrator regarding any additional questions and/or comments she may have received during the 5 minute recess. Borough Administrator Karrow indicated that she did not receive any additional questions and/or comments for the public hearing on Ordinance Nos. 1997-20.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

The Borough Clerk read ordinance 1998-20 by title:

ORDINANCE 1998-20

ORDINANCE OF THE BOROUGH OF MIDDLESEX, IN THE COUNTY OF MIDDLESEX, NEW JERSEY APPROVING THE APPLICATION OF AND THE EXECUTION OF A FINANCIAL AGREEMENT WITH RG MIDDLESEX URBAN RENEWAL LLC IN CONNECTION WITH THE UNDERTAKING OF A REDEVELOPMENT PROJECT BY RG MIDDLESEX URBAN RENEWAL LLC

WHEREAS, the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the “**Act**”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the Act confers certain contract, planning and financial powers upon a redevelopment entity, as defined at Section 3 of the Act, in order to implement redevelopment plans adopted pursuant thereto; and

WHEREAS, the Borough of Middlesex, in the County of Middlesex, New Jersey (the “**Borough**”) has elected to exercise these redevelopment entity powers directly, as permitted by Section 4 of the Act; and

WHEREAS, on May 28, 2019, the Borough adopted Resolution No. 135-2019 designating an area of property located at 65 Baekeland Avenue (the former Union Carbide Corporation facility) and shown as Block 353, Lots 1.01 and 1.02 on the Borough of Middlesex Tax Map, as an area in need of redevelopment pursuant to the Redevelopment Law (the “**Redevelopment Area**”); and

WHEREAS, on September 10, 2019, the Borough adopted Ordinance No. 1974-19 approving a redevelopment plan for the Redevelopment Area (the “**Redevelopment Plan**”); and

WHEREAS, RG Middlesex Urban Renewal LLC, a New Jersey limited liability company (the “**Redeveloper**”), has proposed to undertake a redevelopment project in accordance with the Redevelopment Plan, consisting of the construction of an approximately 400,000 square foot warehouse/distribution building (the “**Redevelopment Project**”) in the Redevelopment Area; and

WHEREAS, the Borough has deemed the Redeveloper to be qualified to own and operate and complete construction of the Redevelopment Project; and

WHEREAS, the Redevelopment Project will require, among other items, the construction of certain infrastructure improvements, relocations and improvements in and around the Redevelopment Area, including without limitation, such items as water and

sewer infrastructure, road improvements, sidewalks, driveway improvements, turn lanes and drainage facilities, and including (i) improvements to River Road required by Middlesex County, and (ii) improvements required by the planning board of the Borough as a condition to Preliminary/Final Site Plan Approval of the Redevelopment Project, including improvements to Baekeland Avenue (collectively, the **"Infrastructure Improvements"**); and

WHEREAS, despite the Redeveloper's investment of equity and borrowed funds, such amounts are insufficient to feasibly pay for all of the costs associated with the development and construction of the Redevelopment Project; and

WHEREAS, in order to defray certain eligible costs of the Redevelopment Project, specifically the Infrastructure Improvements, thereby making the Redevelopment Project viable, the Borough agreed to issue general obligation bonds in one or more series in an aggregate principal amount not to exceed \$750,000 (the **"Bonds"**) pursuant to the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq.*, (the **"RAB Law"**) and/or the Local Bond Law, N.J.S.A. 40A:2-1 *et seq.* (the **"Local Bond Law"**), as applicable; and

WHEREAS, the Redeveloper has represented to the Borough that financial assistance is necessary in order for the Redevelopment Project to be undertaken in its intended scope; and

WHEREAS, the Borough has conceptually agreed to provide such financial assistance subject to certain terms and conditions acceptable to the Mayor and Borough Council; and

WHEREAS, the Borough and the Redeveloper will enter into a redevelopment agreement setting forth, among other things, the obligations of the Redeveloper with respect to the Redevelopment Project and the conditions upon which, in addition to the conditions set forth in the Financial Agreement (as hereinafter defined), the Borough will issue the Bonds; and

WHEREAS, the Borough will adopt an ordinance (the **"Bond Ordinance"**) to authorize the issuance of the Bonds in an amount not to exceed \$750,000 to fund the Infrastructure Improvements; and

WHEREAS, the Borough will use the proceeds of the Bonds to finance the Infrastructure Improvements (the **"Financing Project"**); and

WHEREAS, the provisions of the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq.* (the **"Long Term Tax Exemption Law"**) and the RAB Law authorize the Borough to accept, in lieu of real property taxes, an annual service charge paid by the Redeveloper and each subsequent owner of the Redevelopment Project (the **"Owner"**) to the Borough; and

WHEREAS, the Owner shall make payment of an annual service charge (the **"Annual Service Charge"**) to the Borough, which the Borough may use to pay, among other things, debt service on the Bonds and other Borough costs; and

WHEREAS, in connection with the Redevelopment Project, the Redeveloper filed an

application (the "**Application**"), with the Mayor of the Borough for approval of a long term tax exemption for the Redevelopment Project; and

WHEREAS, in order to satisfy the requirements of the Long Term Tax Exemption Law and to set forth the terms and conditions under which the Borough and the Redeveloper shall carry out their respective obligations with respect to (a) the payment of the Annual Service Charge by the Owner, in lieu of real property taxes on the Redevelopment Project improvements, and (b) the issuance of the Bonds by the Borough to finance the Financing Project, the Borough and the Redeveloper have determined to execute a financial agreement (the "**Financial Agreement**"), substantially in the form of which is attached hereto as Exhibit A; and

WHEREAS, the Mayor, together with counsel for the Borough, has reviewed the Application and found that it complies with the provisions of the Long Term Tax Exemption Law; and

WHEREAS, the Mayor submitted the Application and Financial Agreement to the Borough Council with his recommendation for approval, and copies of each are on file with the Borough Clerk; and

WHEREAS, the Borough Council hereby finds that the relevant benefits of Redevelopment Project outweigh the loss, if any, of property tax revenue in granting the long term tax exemption requested in the Application; and

WHEREAS, the Borough Council further finds that the assistance provided to the Redevelopment Project pursuant to the Financial Agreement will be a significant inducement for the Redeveloper to proceed with the Redevelopment Project.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Middlesex as follows:

Section 1. The Application and form of Financial Agreement are hereby approved.

Section 2. The Mayor is hereby authorized and directed to execute the Financial Agreement with the Redeveloper in substantially the same form attached hereto as Exhibit A, subject to modification or revision, as deemed necessary and appropriate after consultation with counsel.

Section 3. The Clerk of the Borough is hereby authorized and directed, upon the execution of the Financial Agreement by the Mayor, to attest to the signature of the Mayor and to affix the corporate seal of the Borough thereon.

Section 4. Executed copies of the Financial Agreement shall be certified by and be filed with the Office of the Borough Clerk. Further, the Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Borough, and County Counsel and the Chief Financial Officer of Middlesex County within 10 days of the execution of the Financial Agreement.

Section 5. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 6. This ordinance shall take effect in accordance with law.

EXHIBIT A

Financial Agreement

Mayor Madden requested if there were any questions and/or comments emailed to the Borough Clerk prior to the meeting. The Borough Clerk indicated that she did not receive any emailed questions and/or comments on Ordinance No. 1998-20. Mayor Madden then recessed the meeting for 5 minutes to allow the public to email any additional questions and/or comments regarding the Public Hearing for Ordinance Nos. 1998-20 to the Borough Administrator to discuss during the public hearings. A motion was made by Council President Mikolajczyk and seconded by Councilman Carr.

After the recess Mayor Madden addressed the Borough Administrator regarding any additional questions and/or comments she may have received during the 5 minute recess. Borough Administrator Karrow indicated that she did receive the following comments for Ordinance No. 1998-20:

Bob Edwards, 243 Hazelwood Ave. had the following questions:

1. Do the members of the Governing Body believe that a delinquent or defaulted PILOT agreement should be terminated like other delinquent or defaulted contractual agreements?
2. Will the Governing Body continue to grant PILOT agreements, realizing that there may be no revenue realized without expensive litigation?
3. Is the Governing Body willing to include a clause that terminates PILOT agreements for reasons of payment default or delinquency? And if not, why not?

Dave Polakiewicz, 240 Hazelwood Ave. questioned what mechanism is there in this pilot agreement to verify Rockefeller Group submits accurate revenue statements?

Mayor Madden, Borough Administrator Karrow, Attorney Walrath and Attorney Warner and members of the governing body responded to the questions on Ordinance No. 1998-20.

Seeing that there were no further comments, Mayor Madden closed the Public Hearing on Ordinance No. 1998-20.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

The Borough Clerk read ordinance 1999-20 by title:

ORDINANCE 1999-20

CALENDAR YEAR 2020 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to

2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the two succeeding years; and,

WHEREAS, the Mayor and Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, finds it advisable and necessary to increase its CY 2020 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Borough Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$143,828.95 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary.

WHEREAS, the Mayor and Borough Council hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Middlesex, in the County of Middlesex, New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2020 budget year, the final appropriations of the Borough of Middlesex shall, in accordance with this ordinance and N.J.S.A. 40 A: 4-45.14, be increased by 3.5%, amounting to \$503,401.32 and that the CY 2020 municipal budget for the Borough of Middlesex be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years: and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Mayor Madden requested if there were any questions and/or comments emailed to the Borough Clerk prior to the meeting. The Borough Clerk indicated that she did not receive any emailed questions and/or comments on Ordinance No. 1999-20. Mayor Madden then recessed the meeting for 5 minutes to allow the public to email any additional questions and/or comments regarding the Public Hearing for Ordinance Nos. 1999-20 to the Borough Administrator to discuss during the public hearings. A motion was made by Council President Mikolajczyk and seconded by Councilman Carr.

After the recess Mayor Madden addressed the Borough Administrator regarding any additional questions and/or comments she may have received during the 5 minute recess. Borough Administrator Karrow indicated that she did not received any additional questions and/or comments for the public hearing on Ordinance Nos. 1999-20.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

ADOPTION OF MINUTES

1. Approval of the May 26, 2020 Regular Meeting Minutes

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

MAYOR'S REPORT

Mayor Madden had nothing to report.

COUNCIL MEMBER REPORTS

Council President Mikolajczyk

Council President Mikolajczyk had nothing to report.

Councilman Carnes

Councilman Carnes had nothing to report.

Councilman Carr

Councilman Carr reported that the swim pool will open effective June 22, 2020. A Special meeting will be held on Thursday by the Swim Pool Commission to determine the operational process to be followed to open under the guidelines that were issued by the Governor. Hopefully, more information will forthcoming.

Councilman Eodice

Councilman Eodice stated that like many, this week has been filled with difficult discussions and strong feelings. Most have centered around the tragedies of injustice and the realities of privilege. While these discussions and feelings are not easy, they are necessary and long overdue; and silence is not our friend. The murder of George Floyd was horrible and inexcusable; and in this moment there must not only be justice, but real change and reform as well. To that end, I want to applaud those in our community (especially our young people) who have and are using their voices and energy to inspire and foster that justice and change. As someone who has spent nearly 40 years fighting against racism and injustice, I implore you to continue this work after this moment has passed for it is critical and never ending. Continue to read, research and learn all you can; continue to listen to voices from all sides, as you may find allies you never knew you had; and most important, continue to look in the mirror often and work on yourself. Finally, while our community is not perfect (few are), I do believe that most of our citizens have the heart and desire to do the work necessary to make the change we would all love to see. We all have the power within us to be either a shield or a sword.

Councilwoman Flood

Councilwoman Flood reported that the Housing and Community Development Committee has not met since our last council meeting, however we did receive word from the County that they have created a small business grant program to assist small businesses that have been negatively impacted by COVID. Amounts of up to \$30,000 may be granted.

Eligibility for this program as well as how to apply for it may be found on the Middlesex Borough Website under the heading "Latest News" where you can find a link to this information, or by directly visiting the Middlesex County website.

Also, Councilman Flood stated that the Recreation Committee met remotely on Monday, June 8th. An announcement will be made soon about Summer Playground and the Happy Campers programs. It is anticipated Fall Soccer will be held, but will begin later than usual.

The streetscape committee is moving along nicely. We will meet for the third time this Friday, and we should have plans in place soon.

Councilman Rex

Councilman Rex reported that on Saturday June 6th, the Shade Tree Commission planted 41 seedling trees. This was done with the help of both present and past Council members. A good time was had by all. In the coming years the area will have a much different appearance.

While the Senior center still remains closed to the public, they are there to support the seniors by phone. They know the seniors rely on transportation to doctor's appointments and grocery stores. They are in the process of putting together a strategic plan to resume trips in the near future that will ensure safety of this vulnerable population.

Additionally, funding for meals delivered by the Middlesex Police Department has run dry. The seniors were so appreciative for the gesture and looked forward to the socially distant interactions. McDonald's will continue with their weekly donation program.

ADMINISTRATOR'S REPORT

Administrator's Report June 9, 2020

*Items with asterices * have updates*

i. *COVID update

ii. Flood Management:

iii. Update on Sewer Projects:

i. Phase I:

- a. Additional work on George Street**
- b. O&M Manual required by DEP - no update**
- c. I/I Study**
- d. Sampling Program**
- ii. Phase II Funding: Pending with i-bank (DEP)**
- iii. Phase IV (Sewer Bypass)**

iv. Update on Other Public Works Projects:

- i. Streetscape Project
- ii. Safe Routes to Schools - no update
- iii. *Road Design (2019 DOT Grant)
- iv. Road Design (2020 DOT Grant)
- v. Road Design (2021 DOT Grant)

- v. Update on Other Projects:
 - i. Mountain View Park

- vi. Video Taping of Meetings
- vii. Miscellaneous
 - i. Dredging of Lake/Mosquito Control Commission
 - ii. Budget
 - iii. Eagle scout project - dog park
 - iv. Presentations at Upcoming Meetings
 - v. School District Shared Services
 - vi. *Civil Rights Act Group Affidavit
 - vii. *Website Issues - Council approval moving forward with recreating the existing website on a new platform via Square Space for a one time charge of \$4,500 for Positive Solutions and \$216 per year.
 - viii. *Bulk Pickup Coupons - Council concurred to remove one bulk ticket per resident (2 will be issued w/tax bill) and also to look at what other towns are charging for their bulk tickets.

PRIVILEGE OF THE FLOOR

The Borough Clerk read the following comments that she received for the Public Portion of the Meeting:

1. Yorbelid Herrera stated that she is a resident of Middlesex Borough and would like to know your stance on the Black Lives Matter movement, your residents first amendment rights and the youth of this town? Furthermore, where were you during the peaceful protest that took place this past Sunday? If I may add one more part- what actions do you have set up in place to prevent this town from becoming the next Minneapolis?"
2. Elyse & Jason Robbins, 400 Fulton St stated that they only have the option to get Optimum for our Internet because of our area. That is a monopoly. We were told the town was supposed to let Verizon finish that work to allow us to have the option of multiple carriers. That has not happened. We currently pay an astronomical amount for subpar services. With school being virtual and most of us working from home, this is really an issue. How is the town going to resolve this? We should not be in a monopoly situation because we live on a "side of town"

The Robbins also stated that they have read through the mayor's comments on the garbage cans needing to have removable lids after the pandemic and request this be addressed. They will be providing pictures of the garbage cans after they are picked up and they are thrown all over the place with no regard to our property. This is why they purchased garbage cans with attached lids. Their cans are constantly thrown down with lids not attached and they end up flying down the road becoming a dangerous hazard to drivers. If we don't have lids when we put them out, animals will get into the garbage which they have also encountered with a racoon popping out at Ms. Robbins in the morning. They understand your safety concern but then the town should provide garbage cans like other towns do. They are not going to continue to replace cans because of lack of care for their property.

They also stated that they have contacted the mayor regarding the Dunkin Donuts at 580 Union Avenue. As per the order of the Governor, masks and gloves must be worn by workers inside the business and they have

now been in there on 3 different occasions where even the owner did not have on gloves and the mask was hanging around his neck as he handled food. Only a young girl who works there seems to be consistently wearing a mask. If we have businesses who cannot open because of our shutdown yet this business can and is putting people at risk, something needs to be done. Even without a pandemic, gloves should be worn when handling food.

3. Adam Kenny, 113 Howard Avenue stated that pursuant to Governor Murphy's Executive Order No. 150, Acting Director of the ABC, James Graziano signed SR 2020-10 on June 3, 2020, which empowers a municipality to Grant a Temporary COVID-19 Permit to Expand Licensed Premises to certain licensees and permittees, including operators of limited breweries, to expand their licensed premises into outdoor areas, either contiguous or non-contiguous to their permanent licensed premises, which "outdoor areas" include parking lots contiguous to the licensed premises.

Ashton Brewing, 600 Lincoln Boulevard, opened at the end of March and has - in the two-plus months since its opening - provided both curbside pickup and delivery. Please confirm whether Ashton Brewing shall be issued a Temporary COVID-19 Permit as provided for in SR 2020-10 so that, beginning on June 15th, it may offer patrons the opportunity to sit outside its taproom and enjoy its selection of craft beers. If Ashton Brewing has not been issued and shall not be issued a Temporary COVID-19 Permit, then please state for the record the basis (or bases) of the denial.

4. Dave Polakiewicz, 240 Hazelwood Avenue asked the following questions: 1) Should every redevelopment project receive a PILOT agreement? Or should there be criteria for which ones do and those that don't? (I would like to hear all council members comment on the questions contained in #1. 2) What is the status of the Advanced Development litigation for the Lincoln Statue corner? 3) Is there a page in the new 2020 budget document relating to structural imbalances? If so, what does it say? 4) What is the police overtime cost for last Sunday's Black Lives Matter march?
5. Kathy Valente stated that it has been 7 months since I have brought my complaint to the attention of the Middlesex Administration regarding the situation at Straight Edge Striping located on Wilton Ave. Their daily operations continue to disrupt the quality of life in my neighborhood and our day to day lives are negatively impacted by the excessive noise and light pollution. My question for you today is what progress has been made to date to rectify this Issue?

Mayor Madden recessed the meeting for 5 minutes to allow the public to email any additional questions and/or comments to the Borough Administrator to discuss during the privilege of the floor. A motion was made by Council President Mikolajczyk and seconded by Councilman Carr.

After the recess Mayor Madden addressed the Borough Administrator regarding any additional questions and/or comments she may have received during the 5 minute recess. Borough Administrator Karrow read the following questions and/or comments that she received.

Kevin Redzinski, 441 Fairview Ave stated I think to continuously say we have a completely different administration is deceiving, present administration is not a completely different administration. What if any progress has been made toward collecting past due PILOT payments and what, at this point is presently owed.

Bob Edwards, 243 Hazelwood Avenue questioned who was the finance chair during the Forte Pilot?

Rich Rutkowski, 211 Maple St. questioned the Mayor's statement that there was misinformation in a recent facebook pos and if he can he expand on that.

Dave Polakiewicz 240 Hazelwood Ave.

1. You referred to unused staff time off earlier. How many accumulated unused staff days off and sick days do we have right now? thought i saw a chart that said 400 to 500 days. Is that accurate? what's the total

combined dollar value of those days off?

2. If the Forte pilots can be reverted to typical taxation, why hasn't that happened yet? aren't they in arrears?

Mayor Madden and Administrator Karrow responded to all questions and/or comments that were received.

NEW BUSINESS/CONSENT AGENDA/RESOLUTIONS

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 142-2020

GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S "ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964"

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," as amended, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the *Borough Council* of the *Borough of Middlesex*, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 143-2020**REIMBURSING MS. KRISTINE GARY \$10.30 FOR A DUPLICATE CHARGE FOR HER PET LICENSE**

WHEREAS, Ms. Kristine Gary, 22 Whitney Drive, Middlesex, New Jersey applied for a 2020 pet license for a total of \$10.30 and;

WHEREAS, Ms. Gary's credit card was charged a duplicate charge of \$10.30 for said pet license in error;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body hereby approves the reimbursement of a duplicate credit card charge for a pet license to Ms. Kristine Gary, 22 Whitney Drive, Middlesex, New Jersey in the amount of \$10.30.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 144-2020**APPROVAL TO ADVANCE PATROLMAN RICHARD SZYMCAK TO PATROLMAN CLASS "A" EFFECTIVE JUNE 11, 2020 AT AN ANNUAL SALARY OF \$114,364**

WHEREAS, Police Officer Richard Szymczak is eligible for advancement in grade pursuant to Article XV of the Police Department Ordinance; and

WHEREAS, On June 1, 2020 Chief Geist recommended Police Officer Richard Szymczak be advanced in grade.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Middlesex, County of Middlesex, State of New Jersey that Police Officer Richard Szymczak be and is hereby advanced in grade to Patrolman Class "A" effective June 11, 2020 at an annual salary of \$114,364.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 145-2020**APPROVING THE REIMBURSEMENT OF \$9.00 TO DOLLAR TREE STORE NO. 4004 FOR OVERPAYMENT OF THEIR 2020/2021 BOARD OF HEALTH LICENSE**

The Governing Body hereby approves reimbursing Dollar Tree Store No. 4004 \$9.00 for overpayment of their 2020/2021 Board of Health License. The check should be sent to:

Dollar Tree Stores, Inc.
500 Volvo Parkway
Chesapeake, Virginia 23320

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 146-2020

THE BOROUGH ENGINEER APPROVES OF THE RELEASE OF THE PERFORMANCE BOND IN THE AMOUNT OF \$9,903.60 AND THE CASH BOND IN THE AMOUNT OF \$1,100.40 FOR RICHIE'S TIRE SERVICE, BLOCK 287, LOT 51

WHEREAS, M.B.K.S., LLC (Richie's Tire Service) has requested release of the Performance Bond and the Cash Bond for site improvements at 107 Egel Avenue, Block 287, Lot 51; and

WHEREAS, the Borough Engineer has determined that the applicant has completed all site improvements; and

WHEREAS, it has been determined that the Performance Guarantee was posted by a Performance Bond No. B1190344 in the amount \$9,903.60 and the Cash Bond in the amount of \$1,100.40 can be released; and

WHEREAS, the Borough Engineer has determined that the improvements have been constructed for longer than the normal Maintenance Bond period and therefore the Maintenance Bond requirement may be waived.

NOW THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Middlesex in the County of Middlesex that the Performance Guarantee pertaining to the subject property be released and the Cash Bond be returned with the Maintenance Bond requirement being waived, the application approved by the Planning Board on November 12, 2016.

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 147-2020

PROVIDING LOCAL ENFORCEMENT GUIDELINES FOR EXECUTIVE ORDER NO. 150 (MURPHY) AND SR-2020-10 (NJ ABC) CONCERNING OUTDOOR DINING AND SPECIAL LIQUOR LICENSES - *Item Removed from Consent*

WHEREAS, pursuant to Executive Order 103 (Murphy) as executed by the Governor of New Jersey on March 9, 2020, a Public Health Emergency and State of Emergency was declared pursuant to N.J.S.A. App. A:9-34 in response to the dangers posed by the Coronavirus Disease 2019 ("COVID-19"); et seq

WHEREAS, pursuant to Executive Orders 104 (Murphy) as executed by the Governor of New Jersey and March 16, 2020, and under the emergency powers granted thereto pursuant to N.J.S.A. App. A:9-34 et seq, limited all restaurant, dining establishment, and

food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to food delivery and/or take out services only, thus prohibiting on-premises consumption of food or beverages; and

WHEREAS, pursuant to Executive Orders 107 (Murphy) as executed by the Governor of New Jersey on March 19, 2020, and under the emergency powers granted thereto pursuant to N.J.S.A. App. A:9-34 et seq, limited all non-essential “brick-and-mortar” retail businesses to close; and

WHEREAS, pursuant to Executive Order 150 (Murphy) as executed by the Governor of New Jersey of June 3, 2020, certain provisions of E.O. 104 and E.O. 107 have been duly lifted by the aforementioned authority; namely, 1) effective 6:00 am on Monday, June 15, 2020, restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, “are permitted to offer in-person service at outdoor areas, provided that the establishment complies” with the requirements of E.O. 150 and 2) effective 6:00 am on Monday, June 15, 2020, the “brick-and-mortar” premises of non-essential businesses that were closed to the public by E.O. 107 can reopen to the public under the same conditions currently applicable to essential retail businesses pursuant to Executive Order No. 122 (Murphy); and

WHEREAS, E.O. No. 150 permits municipalities to “use their existing authority to allow food or beverage establishments to expand their footprint to outdoor areas, both within their property and among municipally-governed areas;” and

WHEREAS, in conjunction with the power vested in municipalities pursuant to E.O. No. 150 and N.J.S.A. 40:48-2 grant a municipality broad power to enact “ordinances, regulations, rules and by-laws” as it may deem necessary and proper for the good government therein; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, pursuant to the authority granted in N.J.S.A. 40:48-2 and in E.O. No. 105, that following provisions shall be effective in the Borough of Middlesex as of 6:00 am on June 15, 2020:

Section I. Outdoor Dining

- 1) Notwithstanding any condition of approval Section 420-12 (Site Plan Approval) of Chapter 420 (Zoning), or any other provision of either Chapter 420 or Chapter 248 (Land Development) of the Municipal Code of the Borough of Middlesex (wherever a provision thereof may apply), including any ancillary agreement (developer’s agreement or other instrument) executed under those Chapters, and notwithstanding any regulation related to “Accessory Uses or Building” or “Conditional Use” as defined in Section 420-7 of the aforementioned Municipal Code, any restaurant, dining establishment, food court, or bar, as contemplated in E.O. No. 150 and regardless of the establishment’s possession of a liquor license (“Qualifying Establishment”), may apply to the Borough of Middlesex for a Temporary Outdoor Dining Permit.
- 2) A Qualifying Establishment shall apply to the Borough Administrator or her designee for a Temporary Outdoor Dining Permit on a form to be provided by the Borough. The Borough shall, at its sole discretion, create and distribute an application to all

interested Qualifying Establishments, and require such information as the Borough deems appropriate, including but not limited to:

- a. Name of Qualifying Establishment and the legal entity in control thereof;
 - b. Name and contact information for the individual responsible for managing the Qualifying Establishment, including valid mobile phone number and email address;
 - c. Proposed service date and hours for outdoor dining; and
 - d. A diagram that shows the proposed table layout in relation to the main structure, any accessory structures, parking facility, and main points of ingress and egress to the property and including any proposed fixture to be temporarily installed (including signage);
- 3) The Borough Administrator, or her designee, shall evaluate each application on its merits and approve said applications based on 1) the sufficiency of the information provided to the Borough and 2) the suitability of the Qualifying Establishment for the proposed layout of the temporary outdoor dining site.
- 4) The Borough Administrator, or her designee, may impose whatever condition she deems appropriate upon the issuance of a Temporary Outdoor Dining Permit; however, the following conditions shall be universal to all permits to be issued by the Borough:
- a. The approval by the Middlesex Borough Chief of Police, or his designee, as to the safety of the layout proposed by the Qualifying Establishment;
 - b. The approval by Middlesex Borough Superintendent of Code Enforcement for any applicable subcode that may be implicated or required based upon the review and evaluation of Qualifying Establishment's application.
 - c. All pedestrian walkways shall be kept clear of any impediment, including but not limited to tables and chairs. Said walkways shall be clearly and unambiguously marked.
 - d. All vehicular traffic lanes, as well as points of vehicle ingress and egress, shall be kept clear of any impediment, including but not limited to tables and chairs. Said lanes and points of ingress and egress shall be clearly and unambiguously marked.
 - e. Any exterior fixture, including but not limited to tables, chairs, umbrellas, awnings, and other appurtenance allowed pursuant to the Temporary Outdoor Dining Permit shall be brought inside at the end of each business day, unless specifically exempted from said requirement in the Temporary Outdoor Dining Permit.
 - f. The Qualifying Establishment shall abide by the provisions of all Executive Orders of the Governor of New Jersey and all valid and applicable COVID-19 transmission mitigation measures whatsoever their source, and specifically

the provisions of E.O. No. 150 as it relates directly to Qualifying Establishments.

- g. The Qualifying Establishment shall abide by Executive Directive No. 20-014 of the Department of Health of the State of New Jersey and all relevant federal, state, and local public health statutes, regulations, rules, and ordinances.
 - h. Where applicable, the Qualifying Establishment shall abide by Special Ruling 2020-10 of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey.
 - i. A valid Certificate of Liability Insurance with the Borough of Middlesex as the holder indemnifying the foregoing against all claims and losses resulting from any incident or occurrence related to the issuance of a Temporary Outdoor Dining Permit.
- 5) Upon the determination of the Borough Administrator, or her designee, a Temporary Outdoor Dining Permit issued by the Borough of Middlesex shall be revocable if it is determined that the Qualifying Establishment has violated any condition attached to the aforementioned permit or for any other reason permitted by law.
- 6) All Temporary Outdoor Dining Permits shall be valid until September 9, 2020. However, notwithstanding the provisions of Paragraph 5 of this section, the Borough may, if conditions warrant, set an expiration date for all Temporary Outdoor Dining Permits for a date prior to September 9, 2020 by resolution of the Borough Council and with reasonable notice to the permit holders.

Section II. COVID-19 Expansion Permit Liquor Licenses

- 1) All licensees and permittees holding valid licenses or permits from the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey shall be entitled to apply for and receive a COVID-19 Expansion of Premises Permit in a manner consistent with Special Ruling 2020-10 of the Division of Alcoholic Beverage Control ("SR-2020-10").
- 2) Insofar as any provision of Chapter 121 of the Municipal Code of the Borough of Middlesex may be inconsistent with SR-2020-10 of the Division of Alcoholic Beverage Control, SR-2020-10 shall take precedence for the duration of the COVID-19 Expansion Permitting time period.
- 3) Consistent with SR-2020-10, all regulations of the Borough of Middlesex concerning hours, proximity to neighbors, structures, and other issues of local concern shall be valid and enforceable by the Borough.
- 4) Consistent with the "Review Procedure" of SR-2020-10, the Borough shall receive applications transmitted by the Division of Alcoholic Beverage Control. The Borough Council, as administrative authority pursuant to Section 121-4, shall consider each application received by the Division of Alcoholic Beverage Control as soon as practicable.

- 5) Consistent with SR-2020-10, all COVID-19 Expansion of Premises Permit shall expire on September 9, 2020, or at any other date determined by the Division of Alcoholic Beverage Control or other appropriate authority.

Section III. Outdoor Retail Sales

- 1) Notwithstanding any condition of approval Section 420-12 (Site Plan Approval) of Chapter 420 (Zoning), or any other provision of either Chapter 420 or Chapter 248 (Land Development) of the Municipal Code of the Borough of Middlesex (wherever a provision thereof may apply), including any ancillary agreement (developer's agreement or other instrument) executed under those Chapters, and notwithstanding any regulation related to "Accessory Uses or Building" or "Conditional Use" as defined in Section 420-7 of the aforementioned Municipal Code, any "brick and mortar" retail premises ("Qualifying Establishment") may apply to the Borough of Middlesex for a Temporary Outdoor Retail Sales Permit.
- 2) A Qualifying Establishment shall apply to the Borough Administrator, or her designee, for a Temporary Outdoor Retail Sales Permit on a form to be provided by the Borough. The Borough shall, at its sole discretion, create and distribute an application to all interested Qualifying Establishments, and require such information as the Borough deems appropriate, including but not limited to:
 - a. Name of Qualifying Establishment and the legal entity in control thereof;
 - b. Name and contact information for the individual responsible for managing the Qualifying Establishment, including valid mobile phone number and email address;
 - c. Proposed service date and hours for outdoor dining; and
 - d. A diagram that shows the proposed retail sale area layout in relation to the main structure, any accessory structures, parking facility, and main points of ingress and egress to the property and including any proposed fixture to be temporarily installed (including signage);
- 3) The Borough Administrator, or her designee, shall evaluate each application on its merits and approve said applications based on 1) the sufficiency of the information provided to the Borough and 2) the suitability of the Qualifying Establishment for the proposed layout of the temporary outdoor retail site.
- 4) The Borough Administrator, or her designee, may impose whatever condition she deems appropriate upon the issuance of a Temporary Outdoor Retail Sales Permit; however, including but not limited to those enumerated in Paragraph 4 of Section I of this Resolution, where those conditions may be applicable to retail sales.
- 5) Upon the determination of the Borough Administrator, or her designee, a Temporary Outdoor Retail Sales Permit issued by the Borough of Middlesex shall be revocable if it is determined that the Qualifying Establishment has violated any condition attached to the aforementioned permit or for any other reason permitted by law.
- 6) All Temporary Outdoor Retail Sales Permits shall be valid until September 9, 2020.

However, notwithstanding the provisions of Paragraph 5 of this section, the Borough may, if conditions warrant, set an expiration date for all Temporary Outdoor Retail Sales Permits for a date prior to September 9, 2020 by resolution of the Borough Council and with reasonable notice to the permit holders.

BE IT FURTHER RESOLVED that, the Borough Council of the Borough of Middlesex may, at its sole, amend, alter, or rescind any provision of this resolution in a manner consistent with the law.

This resolution was amended to change the Expansion of Premise permit expiration date to be September 9, 2020.

RESULT:	ADOPTED AS AMENDED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 148-2020

**REFERRING THE 2020 REVISED LINCOLN BOULEVARD REDEVELOPMENT PLAN
(TRANSITIONAL ZONE SUB-AREA A) TO THE JOINT LAND USE BOARD PURSUANT
TO N.J.S.A. 40A:12A-7(E) - *Item Removed from Consent***

WHEREAS, the Borough of Middlesex (the "Borough"), a public body corporate and politic of the State of New Jersey, is authorized pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"), to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation and/or an area in need of redevelopment; and

WHEREAS, on July 25, 2006, pursuant to Resolution 179-06, the Borough Council of the Borough (the "Borough Council") designated certain property (the "Property") as an Area in Need of Rehabilitation in accordance with the Redevelopment Law and directed that a redevelopment plan be prepared; and

WHEREAS, on September 18, 2007, in accordance with all applicable provisions of the Redevelopment Law, the Borough Council duly adopted the Lincoln Boulevard Redevelopment Plan (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan was subsequently amended on August 9, 2011, pursuant to Ordinance No. 1798-11; and

WHEREAS, on December 17, 2013, pursuant to Resolution 324-13, the Borough Council directed the Planning Board to further study the Property in order to determine whether it qualified as a non-condemnation area in need of redevelopment ("Non-

Condemnation Redevelopment Area”) and, after multiple public hearings, the Planning Board recommended that the Property be designated as a Non-Condemnation Redevelopment Area and the Borough Council accepted the Planning Board’s recommendation and, on June 12, 2014, adopted Resolution 158-14, designating the Property, as set forth in the Redevelopment Plan, as a Non-Condemnation Redevelopment Area, pursuant to the Redevelopment Law; and

WHEREAS, the Redevelopment Plan was subsequently amended on December 27, 2016, pursuant to Ordinance 1903-16; on December 12, 2017, pursuant to Ordinance No. 1929-17; on March 12, 2019, pursuant to Ordinance No. 1955-19; and on January 28, 2020, pursuant to Ordinance No. 1989-20; and

WHEREAS, at the direction of the Borough Council, the Borough Redevelopment Planner, was asked to prepare certain further amendments to the Redevelopment Plan, which included permitting warehouse and distribution facility uses within certain portions of the Non-Condemnation Redevelopment Area, establishing standards for the development of such uses as well as additional changes to clarify standards and to clarify desired building practices; and

WHEREAS, the Borough Redevelopment Planner prepared revisions to the Redevelopment Plan, specifically as to the Transitional Zone Sub-Area A (Block 318, Lots 1A [partial], 4A [partial], 21, 38A, 43, 44, 45, 48 and Block 319, Lots 24, 26, 28, 45, and 47) of the Non-Condemnation Redevelopment Area, as well as clarifying language and said revisions have been prepared and incorporated into a proposed amended Redevelopment Plan, with a revision date of April 1, 2020 (the “2020 Revised Redevelopment Plan”), a copy of which is attached hereto as **Exhibit A**; and

WHEREAS, the Borough Council introduced the 2020 Revised Redevelopment Plan, as Ordinance No. 2001-20, on first read, at a duly noticed meeting held on June 9, 2020; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7(e), the Borough Council hereby refers the 2020 Revised Redevelopment Plan to the Joint Land Use Board for its review, recommendations and report; and

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Middlesex, County of Middlesex, State of New Jersey, that:

1. The aforementioned recitals are incorporated herein as if fully set forth at length.
2. The Borough Council hereby refers the 2020 Revised Redevelopment Plan, attached hereto as Exhibit A, to the Joint Land Use Board in accordance with the requirements of N.J.S.A. 40A:12A-7(e).
3. The Borough Clerk shall forward a copy of this Resolution and the 2020 Revised Redevelopment Plan to the Joint Land Use Board for its review, recommendations and report.

4. This Resolution shall take effect immediately.

This resolution was amended to change the date of introduction of Ordinance No. 2001-20 to June 9, 2020.

RESULT:	ADOPTED AS AMENDED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

NON-CONSENT AGENDA/RESOLUTIONS

The Borough Clerk read the following resolution:

BE IT RESOLVED by the Mayor and Council of the Borough of Middlesex that:

RESOLUTION 149-2020

PAY ALL CLAIMS

THE DISBURSING OFFICERS BE AND THEY ARE HEREBY AUTHORIZED TO PAY THE ATTACHED CLAIM LIST AS PRESENTED, IF FOUND CORRECT, AND APPROVED BY THE FINANCE COMMITTEE. EXCLUDED VOUCHERS MAY BE PAID UPON BEING FOUND ACCEPTABLE.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Jack Mikolajczyk, Council President
SECONDER:	Jason Carr, Councilman
AYES:	Mikolajczyk, Carnes, Carr, Eodice, Flood, Rex

AGENDA WORKSHOP ITEM

PRIVILEGE OF THE FLOOR ON AGENDA WORKSHOP ITEMS

EXECUTIVE SESSION

ADJOURNMENT

The Next Regular Meeting will be June 23, 2020

Respectfully yours,

Borough Clerk