

Minutes of a Regular Meeting of the Verona Township Council on Monday, February 7, 2022, beginning at 7:01 p.m. in the Municipal Building, 600 Bloomfield Avenue, Verona, New Jersey and via Zoom video conferencing platform.

Call to Order:

Municipal Clerk reads notice of Open Public Meetings law. The notice requirements of the Open Public Meetings Act have been satisfied with respect to this meeting of the Township Council which is being held via Zoom video conferencing and in person due to the COVID-19 pandemic. Specifically, the time and date were included in the public meeting notice. This information, along with the public internet link and telephone call-in information was posted in the Municipal Building, and sent the official newspapers of the Township, the Verona-Cedar Grove Times and the Star Ledger and MyVeronaNJ.com, TAPinto and the Verona/Cedar Grove PATCH, the official online news source(s) of the Township, at least 48 hours preceding the start time of this meeting. The agenda and public handouts for this meeting can be viewed online at www.veronanj.org/councilmeetings. A public comment period will be held in the order it is listed on the meeting agenda and instructions on how to comment will be provided at the appropriate time. This meeting is being recorded, both audibly and visually for retention purposes and for rebroadcast on the Township's YouTube.

Roll Call:

Mayor Alex Roman, Deputy Mayor Christine McGrath, Councilman Jack McEvoy, Councilwoman Cynthia Holland and Councilman Chris Tamburro, Township Manager Matthew Cavallo, Township Attorney Brian Aloia and Municipal Clerk Jennifer Kiernan. Newly appointed Township Manager Joseph D'Arco is also present.

Mayor's Report:

Mayor Alex Roman holds a moment of silence for two (2) New York PD Officers Jason Rivera and Wilbert Mora. The Mayor then speaks about outgoing Township Manager Matthew Cavallo's accomplishments and states that "Matt took the Town apart and rebuilt it, in terms of the renovation to the library, the purchase of real estate in order to meet our Affordable Housing obligations, and the list goes on and on." Several employees are present to speak about Matt:

Police Chief Christopher Kiernan
PBA President Officer Mike Barone
Director of Administration & Economic Development Steven Neale
DPW Supervisor Chuck Molinaro, Assistant Supervisor George Zehnder
Assistant Tax Assessor Pam Priscoe
Deputy Mayor Christine McGrath
Councilman Jack McEvoy
Councilman Chris Tamburro
Councilwoman Cynthia Holland
Former Mayor/Council member Kevin Ryan

Mayor Roman introduces Township Manager Joseph D'Arco, who is seated at the dais and welcomes him and states that Mr. D'Arco has the Council's backing 110 per cent. Joseph O. D'Arco takes his oath of office administered by Municipal Clerk Jennifer Kiernan.

Essex County Liaison, Julius Coltre states he was appointed the Essex County liaison to Verona in 2015 and met Matt at that time and they have enjoyed a wonderful working relationship. Mr. Coltre announces that there are summer job openings at the Turtle Back Zoo. Interested parties can visit the parks department online for more information. Testing and vaccinations continue at Kmart, Sears and Essex County College. Mr. Coltre reminds the public to go to the County's website's Health Department page and response to the survey for the health assessment.

Manager's Report:

No report.

Councilmembers' Reports:

Deputy Mayor McGrath attended the Lunar Celebration and enjoyed the performance by the Verona middle school children and states this was a collaborative effort between the Township and the Board of Education. She also reports that residents can now apply for the Multicultural Inclusion & Accessibility Advisory Committee and thanks Steve Neale and Jen Kiernan for their help with its launch. The Deputy Mayor attended a VMAC seminar with Success Street called, "Building Self Esteem for Teens" and found it very informative. She also attended a seminar held by NJ Transit that contained an overview of their transit friendly planning guide. She states that she will share it with members of the Council who are on the Planning Board as the guide may be helpful for the Master Plan development. She encourages all residents to complete the Master Plan survey.

Councilman McEvoy thanks the Mayor for the moment of silence for the fallen NYPD officers. The Councilman also attended the Chinese Lunar New Year celebration which he really enjoyed. He thanks the Environmental Commission for their webinar on PFAS run by Dr. Fuad Dahan, a public member of the Commission. He mentions that the microphones in the ballroom of the Community Center need to be redone because it was very difficult to listen although it did not take away from the event.

Councilman Tamburro reports that he also enjoyed the Lunar New Year celebration. He will be meeting with the Planning Board consultants tomorrow with Councilman McEvoy and looks forward to providing some insight there. He encourages the public to follow the OEM Facebook page that was launched a couple weeks ago. The Neighborhood Traffic & Safety Advisory Committee will be meeting on Wednesday, February 16th on Zoom. There is a robust agenda on various traffic related issues and Chief Chris Kiernan has agreed to speak to the Committee about auto theft in Verona. The Councilman congratulates Jimmy McHugh and Emily Ying who were announced as the valedictorian and salutatorian of the Verona High School Class of 2022. Councilman Tamburro states that tragedies involving law enforcement officers is becoming more of a common occurrence. He urges the public to look into an organization called Running for Heroes which a 13 year old boy started. The boy does one mile runs carrying a flag for every fallen law enforcement officer and firefighter in the U.S. and grants \$10,000 every month to a survivor of violence. This is all done by donations.

The Neighborhood Traffic & Safety Advisory Committee rescheduled their meeting to February 16 at 7:00 pm on Zoom. He reports that several topics will be discussed including potential financing and requests coming through the town for some traffic calming mechanisms. They will also be having a short presentation from Police Chief Christopher Kiernan on auto theft and how to prevent it. The OEM team met last week to identify some goals and community outreach and thanks Detective Joel Martin for being OEM Coordinator and leading that.

Councilwoman Holland submitted her report in writing. "This evening is rather bittersweet. I'm sad to publicly bid you farewell, Matt. I have sincerely appreciated some of our time together. I know it wasn't as long as others have had, but it has been a pleasure. I do wish you well in your new role. And just like that, an ending is followed by a new beginning... Separately, I'm so grateful to have Mr. D'Arco here tonight. I look forward to working with you and seeing you make your mark here in Verona. As my fellow colleagues noted, I attended the Lunar New Year celebration with my family. The new committee should be an asset in planning for these items. For example, I want to remind everyone that February is Black History month. One month is not sufficient to acknowledge the substantial contributions of people of color to our local community, the county, state and nation - but I am excited that the new committee will share more cultural events with our community for all of our enrichment.

As to other matters, we've had some notable winter weather since our last meeting, which requires our DPW to be out there salting and plowing the roads. I want to thank those staffers for their dedication to the community. I also want to note the various announcements about water main breaks in the community. Increased force on the water pipes from frozen ground and thermal contraction in the pipes can also play a role: underground pipes, like the soil above, cool and contract in winter, which can lead to leaks and breaks. Leaking mains and pipes leads to lost revenue water - that is, we're paying for water we are not selling - it increases your rates; it also leads to wasted energy, because we're pumping water we're not selling - that increases your rates. In 2021, the New Jersey Board of Public Utilities offered grants for leak detection equipment to help mitigate water main breaks. If offered again, I sincerely hope Verona considers it.

I likewise attended the VMAC seminar and the VEC webinar about water. I did meet with H2M

to share some of my concerns about the Master Plan. This past Saturday, I attended a day-long orientation for newly elected officials, which was hosted by the NJLM. It was a very informative program overall, but my greatest takeaways really focused on Transparency in Government - both in terms of public records, as well as in fiscal matters. And while these things may feel administratively burdensome to public employees at times, openness and transparency ultimately strengthens our democracy - and promotes the effectiveness of Government. I am grateful to Verona for sending me to this session. I think that the investment in continuing education pays substantial dividends."

Hearing Adoption or Amendment Ordinances:

ORDINANCE #2022-05

AN ORDINANCE TO AMEND CHAPTER A565-1 (SCHEDULE OF FEES) OF THE CODE OF THE TOWNSHIP OF VERONA TO AMEND BASIC WATER CONSUMPTION RATES

The Municipal Clerk reads Ordinance No. 2022-05 by title into record.

Motion to move Ordinance No. 2022-05 is moved by Councilman McEvoy; seconded by Mayor Roman.

Public Hearing:

None.

Council discussion:

Councilwoman Holland submitted her statement in writing for the record. "I'd like to note that my entire career has centered around rate-regulated utilities - beginning with water and then moving onto gas and electric utilities. I've worked for the State-regulator; and, more recently, I've worked for a regulated utility. In that role, I have petitioned for rate increases, making the case with expert witness testimony and a detailed cost of service study. Rate increases require analysis of prudent investments, cost causation principles, and an evaluation of the public interest. The goal is to avoid "rate shock". - And what is Rate Shock? Exactly what it sounds like - Rate shock is what occurs when rates suddenly increase. Indeed, the increase may be to the point where some customers can't pay their bills. If you haven't avoided the rate shock proactively with a well-justified, reasonable rate increase - the Rate Shock is typically followed by a public demand for that justification, sometimes by customer class - the only way to justify your rates is through a cost of service study (that is also called a rate study). Now, first of all, the Ordinance pending before us has a substantial increase. So sizable that I have serious concerns about Rate Shock.

Some may try to mitigate concerns about rate shock by referencing the nomenclature used in the ordinance - The use of the phrase "water surcharge," in my opinion, is a distinction without a difference - the end result is that customers are going to realize an increase in their rates. The phrasing obfuscates the reality that this is, in fact, a rate increase. A rate by any other name still impacts the ratepayer. Second, over my objection in the last meeting, a majority of the Council moved to make the so-called "water surcharge" a temporary measure and selected an end date negotiated at the meeting. That date is stated in the ordinance, but - in my opinion- not meaningfully justified. We have not concluded the mandatory asset management plan for our water utility; we have not conducted a rate study. We simply do not know that an automatic rate decrease will be justified at the end of 2023, so asserting that it will at this time - without any provision for re-evaluation - is misleading to the ratepayers and contrary to the public interest.

Finally, I remain of the opinion that the more reasonable approach was to have the Council commit to a rate study, aligned with the asset management plan, to justify the water rates and likely find efficiencies that might mitigate future rate shock. This approach would not leave the utility in the red, but would Despite Council discussion at the last meeting including several of my colleagues' concession that a rate study is a reasonable request, no rate study language was added to this ordinance; no resolution concerning the commissioning of a rate study is published on this evening's public meeting agenda. So the voting this evening is for a shocking rate increase, without the rate study. Accordingly, I simply cannot support this ordinance, as it goes against fundamentals of good utility ratemaking. I understand my colleagues may feel differently and may speak to their point of view. We are all Verona residents. We all drink this water. We will all

pay this increased rate, but the difference is down to the job I have. Tomorrow I must go to work for a rate-regulated public utility and tomorrow I will continue to practice public utility law. And I intend to do so with a clear conscience, so I will be voting no. Thank you.

Councilman Tamburro states that the Council did have a problem by not looking at the rates over the years, but the utility was in the black. He continues that we have to now buy water from an exterior organization and not setting that price, Passaic Valley is. At this point there are very few options. In the last meeting he proposed having the temporary rate increase because the Township needs to see what our rates are going to look like after remediation for PFOA is concluded and we can start producing our own water. He states it wasn't any way to somehow not be transparent as part of government and he resents that suggestion. This surcharge is simply something the Township Council must do or otherwise we are not going to have water anymore. He believes the shock will be greater if we do not plan ahead for that increase. It comes down to simple math and we do not have more money in the utility and it will go into debt and it will be in a deficit, which will be a significant problem. The temporary surcharge will allow the Township to conduct the cost of service studies and so forth and this Council will see to that, and that is the reason why he proposed the temporary nature of the surcharge. The Councilman states he is very skeptical of government and knows that money doesn't tend to get back in the hands of rate payers and tax payers so that he why he feels it is necessary to have the option to halt that to the Council. He states he will be voting in favor of this ordinance not because he wants to but because we have to. This is one of those situations where he accepts the unpopular nature of his position but must always act in the best interest of Verona.

Councilman McEvoy says that everything he was going to say has already been talked about. He states that what the Council has to focus on was whether or not to just do an increase as one rate for the entire amount or add the surcharge. The reason the Council did add the surcharge was we are now buying more water from Passaic Valley and hoping to get our wells back up and running by the end of 2023 and a surcharge could be removed at that time. That is why the Council decided to do a small increase with the surcharge. Do we want to increase 26 per cent? No. But we also do not want to run in the black so we have to do this. He suggests doing a public announcement about how people can save water. When summertime comes, find a different way to water your lawn such as using rain barrels or some other things to educate the public to conserve water and then they won't pay these rates and save a little money, but this is something that we have to do and this is what we decided on.

Deputy Mayor McGrath states that this is not easy and she is not pleased that we need to raise our water rates by 26 per cent especially since we were given information not less than 6 (six) months ago in public that a rate increase would not be necessary when we realized we were going to have to buy water from Passaic Valley due to PFOA remediation. She states that clearly the financial management of this utility needs to be improved and she will support the increase of these rates, but will not vote for any future changes to water or sewer rates without the appropriate rate studies. She hopes that with the asset management plan the Council can get this utility under better management.

Mayor Roman states the he has made is position clear. The Township is now in a situation that has stretched out longer than expected. He asserts that the utility cannot be run at a deficit. Should that happen, the Township would have to draw it out of the budget, so this has to be done. He believes that forcing the Council to review these rates at a certain period of time is possible, although the surcharge may have to be extended, modified or maybe even another rate increase for the general cost of inflation. The utility has always had financial challenges. When he got on the Council it capital spending and bond and bond and bond without ever spending any of the money. The money would just sit there. The Mayor goes on to say that the Council is constantly trying to refine and improve our government but ultimately we are at a point where we have to do this and we need to pay for the cost of water being supplied to us. Therefore, he will support this ordinance.

ROLL CALL:

AYES: Tamburro, McEvoy, McGrath, Roman

NAYS: Holland

Ordinance No. 2022-05 is adopted 4-1 and will be published according to law.

Minutes from the January 3 and January 24, 2022 Meetings are approved unanimously.

Public Comment on Consent Agenda Items:

Kevin Ryan, [REDACTED]

Tiena Cafoni of McManimon, Scotland & Baumann, Special Counsel for Affordable Housing for the Township is present this evening to explain the resolution to authorize the Second Amendment to the Redevelopment Agreement, a Second Amendment to the PILOT Agreement and a First Amendment to the Purchase and Sale Agreement of the PIRHL project.

RESOLUTION No. 2022-040

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO AND ASSIGNMENT OF REDEVELOPER AGREEMENT, A SECOND AMENDMENT TO AND ASSIGNMENT OF AGREEMENT FOR PAYMENT IN LIEU OF TAXES, AND A FIRST AMENDMENT TO AND ASSIGNMENT OF THE CONTRACT FOR SALE, WITH PIRHL DEVELOPERS, LLC AND VERONA LIHTC URBAN RENEWAL LLC CONCERNING PROPERTY IDENTIFIED AS BLOCK 2301, LOTS 11, 12, 14, 15, 16, 17, A PORTION OF 18, AND 19 ON THE TOWNSHIP TAX MAPS

WHEREAS, on February 11, 2019, the Township Council for the Township of Verona (the "**Township Council**") adopted Resolution No. 2019-55, designating as a non-condemnation redevelopment area, as defined in the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.* (the "**Redevelopment Law**"), Block 2301, Lots 1 through 12 and 14 through 19 as shown on the Tax Map of the Township, commonly known as the "Depot and Pine Redevelopment Area," (the "**Redevelopment Area**"); and

WHEREAS, by Ordinance No. 2019-16 the Township Council adopted a redevelopment plan for the Redevelopment Area entitled "Depot and Pine Redevelopment Area, Redevelopment Plan, Block 2301, Lots 1-12, 14-19, Township of Verona, New Jersey", dated April 22, 2019 (as may be amended and supplemented from time to time, the "**Original Redevelopment Plan**"); and

WHEREAS, PIRHL Developers, LLC (the "**Redeveloper**") and the Municipality entered into an agreement for payments in lieu of taxes dated January 9, 2020 providing for a tax exemption and payments in lieu of taxes pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, N.J.S.A. 55:14K-1 *et seq.* (the "**HMFA Law**") for the construction of an affordable housing project on Block 2301, Lots 11, 12, 14, 15 and 16 (the "**Original PILOT Agreement**"); and

WHEREAS, the Township and the Redeveloper have entered into that certain redeveloper agreement dated January 9, 2020, which contemplates the donation of Block 2301, Lots 11, 12, 14, 15, and 16 to the Redeveloper in exchange for the construction of an affordable housing project thereon (the "**Original Redeveloper Agreement**"); and

WHEREAS, by Ordinance No. 2020-04 adopted on February 24, 2020, the Township Council adopted a First Amendment to the Original Redevelopment Plan dated January 21, 2020 (the "**First Amendment to Redevelopment Plan**"); and

WHEREAS, by Ordinance No. 2020-14 adopted on June 29, 2020, the Township Council adopted a Second Amendment to the Original Redevelopment Plan dated May 28, 2020 (the "**Second Amendment to Redevelopment Plan**") (the Original Redevelopment Plan, First Amendment to Redevelopment Plan and Second Amendment to Redevelopment Plan, collectively referred to herein as the "**Redevelopment Plan**"); and

WHEREAS, the Township and the Redeveloper entered into a First Amendment to Redeveloper Agreement dated September 3, 2020 to include Lots 17, a portion of Lot 18, and Lot 19 and to amend the project description to provide for an affordable housing project consisting of not less than 95 units to be constructed on Block 2301, Lots 11, 12, 14, 15, 16, 17, a portion of 18, and 19 (the "**First RDA Amendment**", together with the Original Redeveloper Agreement, the "**Redeveloper Agreement**"); and

WHEREAS, the Township and Redeveloper desire to modify certain terms of the Redeveloper Agreement and effectuate the assignment of Redeveloper's right, title and interest in and to the Redeveloper Agreement to Verona LIHTC Urban Renewal LLC, an urban renewal entity with the same majority ownership as the Redeveloper, making the assignment a Permitted Transfer under the Redeveloper Agreement (the "**Second Amendment to and Assignment of Redeveloper Agreement**"); and

WHEREAS, the Township and the Redeveloper entered into a First Amendment to Agreement for Payments in Lieu of Taxes dated September 3, 2020, to amend the property and project as set forth in the First RDA Amendment (the "**First PILOT Amendment**", together with the Original PILOT Agreement, the "**PILOT Agreement**"); and

WHEREAS, the Township and Redeveloper desire to modify certain terms of the PILOT Agreement and effectuate the assignment of Redeveloper's right, title and interest in and to the PILOT Agreement to Verona LIHTC Urban Renewal LLC (the "**Second Amendment to and Assignment of Agreement for Payment In Lieu of Taxes**"); and

WHEREAS, the Township and Redeveloper entered into a Contract for Sale of Real Estate dated June 9, 2020, providing for the conveyance of the Property by the Township to Redeveloper for the construction of an affordable housing project thereon (the "Contract for Sale"); and

WHEREAS, the Township and Redeveloper desire to modify certain terms of the PSA and effectuate the assignment of Redeveloper's right, title and interest in and to the PSA to Verona LIHTC Urban Renewal LLC (the "**First Amendment to Contract for Sale**").

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Verona as follows:

1. The preamble to this Resolution is hereby incorporated as if more fully set forth herein.
2. The Township Manager and Township Clerk are hereby authorized to execute the Second Amendment to and Assignment of Redeveloper Agreement, in the form attached hereto as Exhibit A, with such changes, omissions or amendments as the Township Manager deems appropriate in consultation with the Township's redevelopment counsel, planning consultant and other professionals.
3. The Township Manager and Township Clerk are hereby authorized to execute the Second Amendment to and Assignment of Agreement for Payment In Lieu of Taxes, in the form attached hereto as Exhibit B, with such changes, omissions or amendments as the Township Manager deems appropriate in consultation with the Township's redevelopment counsel, planning consultant and other professionals.
4. The Township Manager and Township Clerk are hereby authorized to execute the First Amendment to and Assignment of Contract for Sale, in the form attached hereto as Exhibit C, with such changes, omissions or amendments as the Township Manager deems appropriate in consultation with the Township's redevelopment counsel, planning consultant and other professionals.
5. This resolution shall take effect immediately.

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-041

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

**AWARDING CONTRACT No. 2022-02
TREE TRIMMING, REMOVAL & MAINTENANCE SERVICES**

WHEREAS, on January 6, 2022 the Township of Verona advertised in the Verona-Cedar

Grove Times for bids for Contract No. 2022-02 – Tree Trimming, Removal & Maintenance Services setting the date for the return of bids as January 27, 2022; and

WHEREAS, on January 20, 2022 the Township of Verona issued Addendum No. 1 to the bid solicitation for Contract No. 2022-02 to correct submission requirements; and

WHEREAS, on January 27, 2022 the Township of Verona received two (2) responsive and responsible bids were received for Contract No. 2022-02; and

WHEREAS, Caputo Brothers Tree Service, Inc., 22 Appleton Place, Upper Montclair, New Jersey 07043 is the lowest responsive and responsible bidder, for a twelve-month period, with the Township’s option to renew for a maximum of four additional twelve month terms; and

WHEREAS, the Township Manager/Qualified Purchasing Agent has reviewed the proposal and recommends that Contract No. 2022-02 be awarded to Caputo Brothers Tree Service, Inc. as the lowest responsive and responsible bidder; and

WHEREAS, this contract was advertised and is being awarded as an open-ended contract pursuant to *N.J.A.C. 5:30-11.10* and there shall be a maximum of 250 work orders as defined in the bid specifications per contract year (twelve-months); and

WHEREAS, the as required amount shall be chargeable at such time as a certification of available funds is made by the Chief Financial Officer upon receipt of a properly executed purchase order.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Verona, in the County of Essex, New Jersey as follows:

1. The preamble to this Resolution is hereby incorporated as if more fully set forth herein.
2. Contract No. 2022-02 shall be awarded to the lowest responsive and responsible bidder, Caputo Brothers Tree Service, Inc., for a twelve-month period beginning February 7, 2022 and terminating February 6, 2023.
3. The Township Manager, upon recommendation of the Superintendent of Public Works and the Qualified Purchasing Agent shall be authorized to renew Contract No. 2022-02 for a maximum of four additional twelve month terms (February 7, 2023 – February 6, 2024, February 7, 2024 – February 6, 2025, February 7, 2025 – February 6, 2026, and February 7, 2026 – February 6, 2027), without further authorization by the governing body.
4. No amount of this contract shall be chargeable until such time as to the certification of available funds is made by the Chief Financial Officer, upon receipt of a properly executed Purchase Order pursuant to *N.J.A.C. 5:30-11.10*
5. The Township Manager and the Township Clerk are hereby authorized to enter into any agreement necessary for the aforementioned services a copy of which shall be available for public inspection in the Office of the Township Clerk.

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-042

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

**AWARDING CONTRACT No. 2022-08
FURNISHING OF SNOW PLOW EQUIPMENT & PERSONNEL**

WHEREAS, on January 20, 2022 the Township of Verona advertised in the Verona-Cedar Grove Times for bids for Contract No. 2022-08 – Furnishing of Snow Plowing Equipment &

Personnel setting the date for the return of bids as February 1, 2022; and

WHEREAS, on January 27, 2022 the Township of Verona issued Addendum No. 1 to the bid solicitation for Contract No. 2022-08 to correct submission requirements and change the bid date to February 3, 2022; and

WHEREAS, on February 3, 2022 the Township of Verona received one (1) responsive and responsible bid were received for Contract No. 2022-08; and

WHEREAS, Martin Contracting, LLC, P.O. Box 15, 49 Commerce Court, Verona, New Jersey 07044 is the lowest responsive and responsible bidder, for a twelve-month period, with the Township's option to renew for a maximum of two additional twelve month terms; and

WHEREAS, the Township Manager/Qualified Purchasing Agent has reviewed the proposal and recommends that Contract No. 2022-08 be awarded to Martin Contracting, LLC as the lowest responsive and responsible bidder; and

WHEREAS, this contract was advertised and is being awarded as an open-ended contract pursuant to *N.J.A.C. 5:30-11.10* and there shall be a maximum of 50 jobs as defined in the bid specifications per contract year (twelve-months); and

WHEREAS, the as required amount shall be chargeable at such time as a certification of available funds is made by the Chief Financial Officer upon receipt of a properly executed purchase order.

NOW, THEREFORE BE IT RESOLVED by the Township Council of the Township of Verona, in the County of Essex, New Jersey as follows:

6. The preamble to this Resolution is hereby incorporated as if more fully set forth herein.
7. Contract No. 2022-08 shall be awarded to the lowest responsive and responsible bidder, Martin Contracting, LLC, P.O. Box 15, 49 Commerce Court, Verona, New Jersey 07044 for a twelve-month period beginning February 7, 2022 and terminating February 6, 2023.
8. The Township Manager, upon recommendation of the Superintendent of Public Works and the Qualified Purchasing Agent shall be authorized to renew Contract No. 2022-08 for a maximum of two additional twelve month terms (February 7, 2023 – February 6, 2024 and February 7, 2024 – February 6, 2025), without further authorization by the governing body.
9. No amount of this contract shall be chargeable until such time as to the certification of available funds is made by the Chief Financial Officer, upon receipt of a properly executed Purchase Order pursuant to *N.J.A.C. 5:30-11.10*
10. The Township Manager and the Township Clerk are hereby authorized to enter into any agreement necessary for the aforementioned services a copy of which shall be available for public inspection in the Office of the Township Clerk.

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-043

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

REFUND TAX COURT JUDGMENT

WHEREAS, notification has been received from the Tax Court reducing the assessment on property located at [REDACTED] owned by Disha & Jaymin LLC as follows:

YEAR	ASSESSMENT REDUCED	TAX RATE	REFUND AMOUNT
2015	\$ 10,000.00	3.000	\$ 300.00
2016	---	---	---
2017	\$ 199,300.00	3.113	\$ 6,204.20
2018	\$ 199,300.00	3.159	\$ 6,295.88
TOTAL REFUND			\$ 12,800.08

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer and Tax Collector be authorized to refund \$12,800.08 to:

McKirby, Riskin, Olson & DellaPelle PC
201 Littleton Road, Suite 135
Morris Plains, NJ 07950

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-044

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

REFUNDING TAX LIEN REDEMPTION

WHEREAS, property located at 2 Claridge Drive #3IW (Block 102, Lot 1, Qualifier C0318) owned by DDS Properties LLC, has been held in tax lien since December 2, 2021; and

WHEREAS, payment was received, in the amount of \$14,616.27 from the Daniella DiGiacomo, clearing the lien as follows:

Certificate #21-00001	
Certificate	\$ 6,735.80
4% Redemption Penalty	\$ 269.43
2021 Taxes plus Interest	\$ 7,546.04
Recording Fee	\$ 45.00
Search Fee	<u>\$ 12.00</u>
	\$14,608.27
Premium	\$51,300.00
Total	<u>\$65,908.27</u>

WHEREAS, this certificate has been held by the Township of Verona and the certificate has been received and properly signed for cancellation.

NOW, THEREFORE, BE IT RESOLVED, that the Chief Financial Officer and Tax Collector be authorized to refund, from Trust, \$65,908.27 to:

Evolve Bank & Trust
6070 Poplar Avenue, Suite 200
Memphis, TN 38119

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-045

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

DEMANDING THAT THE NEW JERSEY STATE LEGISLATURE ACCEPT

ITS RESPONSIBILITY TO PROVIDE AFFORDABLE HOUSING

WHEREAS, in 1975 the New Jersey Supreme Court in Mount Laurel I decreed that every municipality in New Jersey, “must, by its land use regulations, presumptively make realistically possible an appropriate variety and choice of housing. More specifically, presumptively it cannot foreclose the opportunity of the classes of people mentioned for low and moderate income housing and in its regulations must affirmatively afford that opportunity, at least to the extent of the municipality's fair share of the present and prospective regional need therefor” (10 S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp., 67 N.J. 151, 174 (1975)); and

WHEREAS, in 1983, the Supreme Court in Mount Laurel II expanded the Mount Laurel doctrine, saying:

“Therefore, proof of a municipality's bona fide attempt to provide a realistic opportunity to construct its fair share of lower income housing shall no longer suffice. Satisfaction of the Mount Laurel obligation shall be determined solely on an objective basis: if the municipality has in fact provided a realistic opportunity for the construction of its fair share of low and moderate income housing, it has met the Mount Laurel obligation to satisfy the constitutional requirement; if it has not, then it has failed to satisfy it. Further, whether the opportunity is “realistic” will depend on whether there is in fact a likelihood-to the extent economic conditions allow-that the lower income housing will actually be constructed. Plaintiff's case will ordinarily include proof of the municipality's fair share of the regional need and defendant's proof of its satisfaction. Good or bad faith, at least on this issue, will be irrelevant.” (S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp., 92 N.J. 158, 220– 22 (1983)); and

WHEREAS, the Supreme Court in Mount Laurel II suggested that builders’ remedies should be used to force compliance by municipalities, reasoning that:

Experience . . . has demonstrated to us that builder's remedies must be made more readily available to achieve compliance with Mount Laurel. We hold that where a developer succeeds in Mount Laurel litigation and proposes a project providing a substantial amount of lower income housing, a builder's remedy should be granted unless the municipality establishes that because of environmental or other substantial planning concerns, the plaintiff's proposed project is clearly contrary to sound land use planning. We emphasize that the builder's remedy should not be denied solely because the municipality prefers some other location for lower income housing, even if it is in fact a better site. (S. Burlington Cty. N.A.A.C.P. v. Mount Laurel Twp., 92 N.J. 158, 279–80 (1983)); and

WHEREAS, the New Jersey Legislature responded quickly to the Court’s Mount Laurel decision by enacting the Fair Housing Act of 1985, N.J.S.A. 52:27D-301, *et seq.*, which created the Council on Affordable Housing (“COAH”) which as the Court noted in Mount Laurel IV “ . . . was designed to provide an optional administrative alternative to litigating constitutional compliance through civil exclusionary zoning actions.” (In re Adoption of N.J.A.C. 5:96 & 5:97 *ex rel.* New Jersey Council on Affordable Hous., 221 N.J. 1, 4 (2015); and

WHEREAS, COAH, pursuant to the authority granted to it by the Fair Housing Act, then adopted procedural and substantive rules which provided clear guidance to municipalities as to how they could meet their affordable housing obligation; and

WHEREAS, in its rules, COAH assigned a fair share number to each municipality and set forth various mechanisms that a municipality could use in order to satisfy that obligation; and

WHEREAS, the Township of Verona, like many other municipalities throughout the State of New Jersey, met its First and Second Round Affordable Housing Obligations through the COAH process; and

WHEREAS, COAH adopted the First Round Rules for the period from 1987 through 1993 and the Second Round Rules for the period 1993 to 1999 and then extended to 2004; and

WHEREAS, COAH was obliged by the Fair Housing Act to adopt Third Round Rules to

take effect in 2004, however, but never adopted rules that were acceptable to the Courts; and

WHEREAS, in 2015, the Supreme Court again stepped in, finding that COAH's failure to adopt Third Round Rules forced the Court to intervene; and

WHEREAS, the Supreme Court designated Mount Laurel judges in each of the fifteen court vicinages to hear all Mount Laurel cases; and

WHEREAS, instead of providing clear guidance, like the COAH rules did, the Supreme Court in Mount Laurel IV set forth the following vague standards:

"As we said in In re Adoption of N.J.A.C. 5:96 & 5:97, supra, previous methodologies employed in the First and Second Round Rules should be used to establish present and prospective State-wide and regional affordable housing need. 215 N.J. at 620. . . . The parties should demonstrate to the Court computations of housing need and municipal obligations based on those methodologies.

Second, many aspects to the two earlier versions of Third Round Rules were found valid by the appellate courts. In upholding those rules the appellate courts highlighted COAH's discretion in the rule-making process. Judges may confidently utilize similar discretion when assessing a town's plan, if persuaded that the techniques proposed by a town will promote for that municipality and region the constitutional goal of creating the realistic opportunity for producing its fair share of the present and prospective need for low- and moderate-income housing. In guiding the courts in those matters, we identify certain principles that the courts can and should follow." In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 30 (2015); and

WHEREAS, as a result of the Supreme Court's decision in Mount Laurel IV, municipalities no longer were assigned fair share numbers, no longer had clear and concise procedural and substantive rules to follow, and no longer had one tribunal to decide these issues, which meant that even the threshold issues of regional need and local fair share obligations had to be litigated before fifteen different Mount Laurel judges, and as a result, municipalities were forced to spend tens of thousands, and in some cases hundreds of thousands of dollars, to negotiate fair share numbers with the Fair Share Housing Center ("FSHC") and to gain court approval of settlement agreements negotiated with FSHC; and

WHEREAS, the Supreme Court in Mount Laurel IV concluded its opinion by encouraging the Legislature to once again assume responsibility in the area of affordable housing, saying:

"In conclusion, we note again that the action taken herein does not prevent either COAH or the Legislature from taking steps to restore a viable administrative remedy that towns can use in satisfaction of their constitutional obligation. In enacting the FHA, the Legislature clearly signaled, and we recognized, that an administrative remedy that culminates in voluntary municipal compliance with constitutional affordable housing obligations is preferred to litigation that results in compelled rezoning. (Citation omitted.) It is our hope that an administrative remedy will again become an option for those proactive municipalities that wish to use such means to obtain a determination of their housing obligations and the manner in which those obligations can be satisfied" (In re Adoption of N.J.A.C. 5:96 & 5:97 ex rel. New Jersey Council on Affordable Hous., 221 N.J. 1, 34 (2015)); and

WHEREAS, it has been five years since the Mount Laurel IV opinion was issued and neither the Legislature nor the Governor nor COAH have taken any action to remedy the situation; and

WHEREAS, if the Governor, the Legislature and COAH continue to ignore their responsibilities, municipalities will once again face a burdensome, time-consuming and expensive process to obtain Fourth Round Mount Laurel compliance starting in 2025.

NOW, THEREFORE, BE IT RESOLVED that the Township Council of the Township of Verona, in the County of Essex, State of New Jersey, does hereby demand that the Governor and the Legislature take appropriate steps to restore a viable administrative remedy that municipalities can use in satisfaction of their constitutional obligations to provide affordable

housing.

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

RESOLUTION No. 2022-046

A motion was made by Councilman Tamburro; seconded by Deputy Mayor McGrath that the following resolution be adopted:

PERMITTING ITEMS TO BE DISCUSSED IN EXECUTIVE SESSION

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

WHEREAS, this public body is of the opinion that such circumstances presently exists.

NOW, THEREFORE, BE IT RESOLVED by the Township of the Township of Verona, County of Essex, State of New Jersey, as follows:

1. The public shall be excluded from discussion of an action upon the hereinafter specified subject matter.
 - a. Pending, Ongoing, or Anticipated Litigation and Contract Negotiations pursuant to *N.J.S.A. 10:4-12 (7)*
 - i. Montclair Health Department - Shared Services

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

NAYS:

Addendum:

ORDINANCE No. 2022-06

BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$1,250,000 FOR THE ACQUISITION OF REAL PROPERTY AND OTHER COSTS TO PROVIDE FOR AN AFFORDABLE HOUSING REDEVELOPMENT PROJECT IN AND BY THE TOWNSHIP OF VERONA, IN THE COUNTY OF ESSEX, NEW JERSEY, AUTHORIZING THE ISSUANCE OF \$1,250,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF AND AMENDING THE PROJECT DESCRIPTION SET FORTH IN BOND ORDINANCE #2020-12 OF THE TOWNSHIP FINALLY ADOPTED JUNE 8, 2020

Motion to introduce Ordinance No. 2022-06 is moved by Councilman Tamburro; seconded by Councilman McEvoy.

ROLL CALL:

AYES: Holland, Tamburro, McEvoy, McGrath, Roman

Ordinance No. 2022-06 is introduced 5-0 and will be published according to law and a public hearing will be held at a Regular Meeting scheduled February 28, 2022.

New/Unfinished Business:

Councilwoman Holland states that the Borough of Caldwell is still interested in having a storm water summit with municipalities in western Essex County, including the Township of Verona. Deputy Mayor McGrath asks Mr. Cavallo if the Township ever received feedback from Congresswoman Sherrill's office regarding the meeting at the Peckman River. Mr. Cavallo responds that he has not. The Deputy Mayor announces that the Township is accepting applications for the Multicultural Inclusion & Accessibility Advisory Committee (MIAAC) and the first meeting of the Committee will be on March 23.

Public Comment:

Kristen Donohue, [REDACTED]
Liz Zalme, [REDACTED]
Mike Dupree, [REDACTED]

Mayor Roman states that Council will be entering into Executive Session but will not take any official action when returning to Public Session. Council enters into Executive Session at 8:41 p.m.

Council returns into Public Session at 9:06 p.m.

Adjournment:

A motion to adjourn the meeting is made by Councilwoman Holland; seconded by Councilman Tamburro at 9:09 p.m. The next regular scheduled meeting of the Township Council is February 28, 2022 at 7:00 p.m.

Respectfully submitted,


Jennifer Kiernan, Municipal Clerk


Alex Roman, Mayor

APPROVED: February 28, 2022