

TOWNSHIP OF BORDENTOWN

TOWNSHIP COMMITTEE SPECIAL MEETING AGENDA

DATE: JUNE 6, 2013 TIME: 6:00 P.M. MEETING ROOM, MUNICIPAL BUILDING

ATTENDANCE:	PRESENT	ABSENT	
	_____	_____	Mayor Cann
	_____	_____	Deputy Mayor Popko
	_____	_____	Committeeman Benowitz
	_____	_____	Committeeman Feltes
	_____	_____	Committeeman Moynihan
	_____	_____	Township Clerk Eckert
	_____	_____	Attorney Kearns
	_____	_____	Chief Financial Officer Kocian
	_____	_____	Public Works Director Buhrer
	_____	_____	Police Chief Nucera

1. Salute to the flag and moment of silence.
2. Roll Call.
3. Open Public Meeting Announcement:

In compliance with the Open Public Meetings Act, adequate notice of this meeting was provided in the following manner:

On June 4, 2013, advance written notice of this meeting was posted on the bulletin board opposite the main entrance to the meeting room in the Municipal Building; was faxed to the REGISTER-NEWS, the BURLINGTON COUNTY TIMES and THE TIMES; was filed with the Clerk of Bordentown Township; and was mailed to all persons who requested and paid for such notice.

4. The proceedings of this meeting, which are open to the public, are being electronically recorded. Requisite minutes are kept for all meetings, whether open or closed to the public.
5. Resolution #2013-157-5 entitled ESTABLISHING AN EMERGENCY MEETING.
6. Resolution #2013-157-6 entitled RESOLUTION OF NEED FROM MUNICIPALITY FOR BORDENTOWN SENIOR RESIDENCE URBAN RENEWAL, LP.
7. Consideration of Introduction of Ordinance #2013-11 entitled ORDINANCE OF THE MAYOR AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN AUTHORIZING THE AMENDMENT, ASSUMPTION AND ASSIGNMENT OF CERTAIN AGREEMENTS WITH RESPECT TO PHASE 1B OF THE WATERFRONT REDEVELOPMENT PROJECT.
8. Public Participation.

Questions, comments or statements from members of the public in attendance.

9. Motion to Adjourn.

RESOLUTION #2013-157-5

RESOLUTION TO ESTABLISH AN EMERGENCY MEETING

WHEREAS, this emergency meeting has been called for the following purpose:

1. To adopt a resolution of need from municipality for Bordentown Senior Residence Urban Renewal, LP.
2. To introduce an ordinance authorizing the amendment, assumption and assignment of certain agreements with respect to Phase 1B of the Waterfront Redevelopment Project.

WHEREAS, the normal requirements of the law regarding 48 hours notice have not been met due to lack of time and subject matter, however notices of this Emergency Meeting were faxed to the Burlington County Times, the Register News and The Times on Tuesday, June 4, 2013 between 5:30 p.m. and 5:50 p.m; and

WHEREAS, this emergency meeting is necessary to introduce an ordinance in order to meet deadlines for filing grant applications, which could not have been anticipated;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby declare an emergency meeting for the aforementioned purposes and such meeting is only authorized by 3/4ths affirmative vote of the members of the governing body.

It is hereby certified that the foregoing is a true and correct copy of a resolution adopted by the Township Committee of the Township of Bordentown at a meeting held on June 6, 2013.

COLLEEN M. ECKERT, RMC, TWP. CLERK

06/06/13

RESOLUTION #2013-157-6

RESOLUTION OF NEED FROM MUNICIPALITY

WHEREAS, Bordentown Senior Residence Urban Renewal, LP (hereinafter referred to as the “Sponsor”) proposes to construct Bordentown Senior Residence, a sixty-two (62) unit senior housing project (hereinafter referred to as the “project”) pursuant to the provisions of the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended (N.J.S.A. 55:14K-1 et seq.), the rules promulgated thereunder at N.J.A.C. 5:80-1.1 et seq., and all applicable guidelines promulgated thereunder (the foregoing hereinafter collectively referred to as the “HMFA Requirements”) within the Township of Bordentown (hereinafter referred to as the “Municipality”) on a site described as Lot 2, Block 140.1 as shown on the Official Assessment Map of the Township of Bordentown, Burlington County and known as a portion of the Waterfront Village Redevelopment Area [address TBD], New Jersey; and

WHEREAS, the Project will be subject to the HMFA Requirements and the mortgage and other loan documents executed between the Sponsor and the New Jersey Housing and Mortgage Finance Agency (hereinafter referred to as the “Agency”); and

WHEREAS, pursuant to the HMFA Requirements, the governing body of the Municipality hereby determines that there is a need for this housing project in the Municipality.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown (the “Township Committee”) that:

- (1) The Township Committee finds and determines that Bordentown Senior Residence, an affordable 62 unit apartment building for seniors proposed by the Sponsor meets or will meet an existing housing need;
- (2) The Township Committee does hereby adopt the within Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of the HMFA Law to enable the Agency to process the Sponsor’s application for Agency funding to finance the Project.

ADOPTED:

I hereby certify that the foregoing resolution was adopted by Township Committee on _____, 2013

Township Clerk

ORDINANCE #2013-11

ORDINANCE OF THE MAYOR AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN AUTHORIZING THE AMENDMENT, ASSIGNMENT AND ASSUMPTION OF CERTAIN AGREEMENTS WITH RESPECT TO PHASE IB OF THE WATERFRONT REDEVELOPMENT PROJECT

WHEREAS, acting in accordance with the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the “**LRHL**”), the Township of Bordentown in the County of Burlington, New Jersey (the “**Township**”) has designated an area within its borders, including those certain properties then identified on the official tax map of the Township as Block 140 Lots 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18 & 19 and Block 141 Lot 4 (collectively, the “**Redevelopment Area**”) as an area in need of redevelopment pursuant to *N.J.S.A. 40A:12A-5*; and

WHEREAS, on April 28, 2008 the Township adopted by ordinance a redevelopment plan superseding the provisions of the Township Zoning Ordinance for the Redevelopment Area (as may be amended, the “**Redevelopment Plan**”); and

WHEREAS, in furtherance of the redevelopment of this area, the Township entered into an amended and restated redevelopment agreement with Bordentown Waterfront Community, L.L.C., a limited liability company of the State of New Jersey (“**BWC**”) dated June 23, 2008 (along with any subsequent amendments thereto, the “**Redevelopment Agreement**”), which Redevelopment Agreement specifies the rights and responsibilities of the Township and BWC with respect to certain aspects of the Phase IB Project (as hereinafter defined); and

WHEREAS, the Township entered into that certain Project Finance Agreement with BWC dated August 8, 2011 (the “**Project Finance Agreement**”) setting forth the terms and conditions of the Township’s provision of financial assistance with respect to the redevelopment of the Redevelopment Area; and

WHEREAS, BWC Phase 1 Urban Renewal, LLC (the “**Entity**”), a limited liability company of the State of New Jersey authorized to operate as an urban renewal entity under the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the “**Long Term Tax Exemption Law**”) filed an application (the “**Application**”) for long term tax exemption with respect to Block 140, Lots 5, 6, 7 and 8 (the “**Phase 1 Property**”) with the Township on August 22, 2011; and

WHEREAS, among other things, the Entity proposed in the Application to construct 62 affordable, age-restricted rental units (the “**Phase IB Project**”) on the Phase 1 Property; and

WHEREAS, on December 12, 2011, the Township finally adopted Ordinance 2011-23 authorizing a long term tax exemption for the Phase 1 Property, including the Phase IB Project, and authorizing execution of a financial agreement with the Entity incorporating the terms and conditions of the Project Finance Agreement with respect to the Phase 1 Property (the “**Financial Agreement**”), which Financial Agreement has been executed and recorded against the Phase 1 Property; and

WHEREAS, BWC desires and intends to transfer its rights, duties and obligations under the Redevelopment Agreement with respect to the Phase IB Project to Bordentown Senior Residence Urban Renewal, LP, a limited partnership of the State of New Jersey authorized to operate as an urban renewal entity (“**BSR**”), and BSR desires and intends to assume the same; and

WHEREAS, the Entity desires and intends to transfer its rights, duties and obligations under the Financial Agreement with respect to the Phase IB Project to BSR, and BSR desires and intends to assume the same; and

WHEREAS, BSR has filed a new application for long term tax exemption with the Township (the “**BSR Application**”) describing its proposed construction of the Phase IB Project upon Block 140.1, Lot 2 (the “**Phase IB Property**”, known prior to subdivision as Block 140, Lot 8), and its proposed financing of the Phase IB Project through, among other things, the use of Low Income Housing Tax Credits to be allocated through the New Jersey Housing and Mortgage Finance Agency (“**LIHTCs**”); and

WHEREAS, in the BSR Application, BSR has requested a modification of the calculation of the Annual Service Charge due under the Financial Agreement with respect to the Phase IB Project in order to comport with the terms of LIHTC financing, so that in each year BSR will pay with respect to the Phase IB Project the greater of: (i) 6.28% of annual gross revenue generated by the Phase IB Project fixed for years 1 through 15; (ii) the amount of \$29,977; and (iii) in years 16-30, inclusive, a percentage of otherwise applicable taxes, which shall increase over the term of the exemption as provided by the Long Term Tax Exemption Law and as further described in the Assignment Agreement (as defined below); and

WHEREAS, the Project Finance Agreement and the Financial Agreement provide for the issuance of redevelopment area bonds to support infrastructure within the Redevelopment Area; and

WHEREAS, the Project Finance Agreement establishes parameters for the issuance of such bonds based upon the payment of Annual Service Charges; and

WHEREAS, as further described in the Assignment Agreement, BWC has agreed to the modification of these parameters in order to offset the reduction in net revenue that would arise from a reduction in the Annual Service Charge for Phase IB; and

WHEREAS, the Mayor has reviewed the BSR Application in accordance with the Long Term Tax Exemption Law, and has recommended that the BSR Application be approved,

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Bordentown, in the County of Burlington, New Jersey as follows:

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

BSR APPLICATION FOR EXEMPTION ACCEPTED AND APPROVED

The BSR Application for the Phase IB Project, which is on file with the Township Clerk and which has been recommended for approval by the Mayor, is hereby accepted and approved.

II. AMENDMENTS, ASSIGNMENT AND ASSUMPTION APPROVED

(A) Redevelopment Agreement: The Township hereby determines that BWC and BSR have complied with the requirements for transfer set forth in the Redevelopment Agreement, and hereby consents to the transfer of BWC’s interest in the Redevelopment Agreement with respect to the Phase IB Project, and all rights, duties and obligations of BWC with respect to the Phase IB Project thereunder, to BSR. The Township hereby further agrees and acknowledges that upon execution of such transfer to BSR, BWC shall be and is hereby released from all duties and obligations existing under the Redevelopment Agreement with respect to the Phase IB Project.

(B) Financial Agreement: The Township hereby determines that the Entity and BSR have complied with the requirements for transfer set forth in the Financial Agreement, and hereby consents to the transfer of the Entity’s

interest in the Financial Agreement with respect to the Phase IB Project, and all rights, duties and obligations of the Entity with respect to the Phase IB Project thereunder, as the same are amended by that certain Amendment, Assignment and Assumption Agreement (the “**Assignment Agreement**”), to BSR. The Township hereby further agrees and acknowledges that upon execution of such transfer to BSR, the Entity shall be and is hereby released from all duties and obligations existing under the Financial Agreement with respect to the Phase IB Project.

IV. ASSIGNMENT AND AMENDMENT AGREEMENT AUTHORIZED

Upon written notification to the Township that BSR has received an allocation of LIHTCs for the Phase IB Project, the Mayor is hereby authorized and directed to execute the Assignment Agreement substantially in the form attached hereto as Exhibit A, together with such modifications as may be necessary or desirable to effect the transfers described herein and the amendments to the long term tax exemption, in consultation with counsel. Upon execution of the Assignment Agreement by the Mayor, the Clerk of the Township is hereby authorized and directed to impress the seal of the Township upon the Assignment Agreement and to attest to same.

V. PRIOR ACTIONS SUPERSEDED

Upon execution and recordation of the Assignment Agreement against the Phase IB Property, all prior actions of the Township inconsistent with the Assignment Agreement shall be superseded.

VI. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

VII. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Township.

VIII. EFFECTIVE DATE

This Ordinance shall take effect in accordance with law.

Exhibit A

Assignment Agreement

NOTICE

TOWNSHIP OF BORDENTOWN

NOTICE IS HEREBY GIVEN that the Bordentown Township Committee will hold a Special Meeting on Thursday, June 6, 2013, at 6:00 p.m. to be held in the Main Meeting Room of the Municipal Building, 1 Municipal Drive, Bordentown, NJ 08505. The purpose of this meeting will be to consider a Resolution of Need from Municipality for Bordentown Senior Residence Urban Renewal, LP and to consider introduction of an Ordinance Authorizing the Amendment, Assumption and Assignment of Certain Agreements with Respect to Phase 1B of the Waterfront Redevelopment Project.

Formal action will be taken.

Colleen M. Eckert, RMC, Twp. Clerk

NOTICE TO NEWSPAPERS IS REQUIRED BY THE STATE OPEN PUBLIC MEETINGS LAW AND IS NOT TO BE PUBLISHED AS A PAID LEGAL ADVERTISEMENT.