

BOROUGH OF WATCHUNG
MAYOR & COUNCIL AGENDA - REVISED

DECEMBER 16, 2021 | 7:30 P.M.

THIS MEETING WILL BE HELD IN-PERSON AND BROADCASTED LIVE VIA ZOOM. PUBLIC COMMENTS MAY BE SUBMITTED IN-PERSON, THROUGH ZOOM OR VIA EMAIL TO THE BOROUGH CLERK. BELOW ARE INSTRUCTIONS:

To call into the meeting, dial 1 (646) 558-8656. It will prompt you for a meeting ID. Type 99501390087#. You do not need a participating ID, just press #.

To access the meeting using a smart phone or computer, you can download the **Zoom app** from the app store for free. You have to type in the meeting ID 99501390087 or click on <https://zoom.us/j/99501390087> **Please enter your full name.**

To submit your public comments in writing, please mail them in or send an email before **6:00 P.M.** by the meeting date to the Borough Clerk at publiccomment@watchungnj.gov

MAYOR'S STATEMENT: This meeting is being held in compliance with the Open Public Meetings Act, 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 the Revised Annual Meeting Notice to the Courier News, Echoes Sentinel, the Star Ledger, posted at Borough Hall and on the Borough's website. Public Comments will be accepted in-person, through zoom or by email to the Borough Clerk. For those joining through Zoom, please note that upon arrival you are automatically muted. If you wish to speak during the public portion, you will need to click on the "raise your hand" feature. For those joining us through the conference call line, you will need to press *6 to unmute yourself.

SALUTE TO THE FLAG AND A MOMENT OF SILENCE FOR OUR SERVICE MEN AND WOMEN, SERVING HOME AND ABROAD

ROLL CALL:

Robinson [] Goodloe [] Eisenberg Knegten [] Jubin [] Martino [] Hayeck []

PROCLAMATIONS

*A public portion is held prior to Council action **for comments of agenda items only**; another public portion is held at the end of the meeting for general discussion.*

PUBLIC PORTION / AGENDA ITEMS ONLY

*Individuals commenting are limited to **3 minutes** per person, and will not be permitted to speak again until everyone has had an opportunity to speak. For those joining us through Zoom, please note that upon arrival you are automatically muted. If you wish to speak during a public portion, you will need to click on the "Raise your hand" feature. For those joining us through the conference call line, you will need to press *6 to unmute yourself. If a group is represented by an attorney, the attorney will be given 5 minutes to make the presentation for the group.*

DISCUSSION

**BOROUGH OF WATCHUNG
MAYOR & COUNCIL AGENDA - REVISED**

DECEMBER 16, 2021 | 7:30 P.M.

UNFINISHED BUSINESS

Public Hearing of Ordinance **OR 21/12** - ***“AN ORDINANCE APPROVING THE FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF WATCHUNG AND BONNIE BURN REDEVELOPERS URBAN RENEWAL, LLC (FORMERLY STERLING WATCHUNG, LLC) UNDER THE LONG-TERM TAX EXEMPTION LAW (N.J.S.A. 40A:20-1, ET SEQ.) FOR AN INCLUSIONARY HOUSING PROJECT ON PROPERTY KNOWN AS 291 BONNIE BURN ROAD IDENTIFIED AS BLOCK 7403, LOTS 5 AND 10 AND BLOCK 7402, LOTS 19.01 AND 19.02 ON THE TAX MAP OF THE BOROUGH OF WATCHUNG”***

R1: Adoption of Ordinance **OR: 21/12** – An Ordinance Approving and Authorizing the Execution of the Financial Agreement with Bonnie Burn Redevelopers Urban Renewal, LLC.

NEW BUSINESS

REPORTS & CORRESPONDENCE: Matters listed within this section have been referred to members of the Borough Council for reading and study, are considered to be routine and will be enacted by one motion of the Council. If separate discussion is desired, any item may be removed from the Consent Agenda by Council action.

Acknowledging Receipt of the following Borough Reports:

Annual Audit Review	2020
Board of Adjustment Meeting Minutes	September 9, 2021
Building Department Monthly Report	November 2021
Engineer Capital Project Status Report	December 2021
Environmental Commission Meeting Minutes	October 25, 2021
Library Advisory Board Meeting Minutes	September 15, 2021
Municipal Council Meeting Minutes	November 22, 2021
Planning Board Meeting Minutes	October 19, 2021
Planning Board Meeting Transcripts	October 19, 2021 October 27, 2021
Police Activity Monthly Report	November 2021
Stormwater Management Plan	March 2005 (Revised November 2021)

Acknowledging Receipt of the following Correspondence:

#47- Butler & Butler 12.2.21 re: Complaint in Lieu of Prerogative Writs, Bonnie Burn Redevelopment, Revised 12/16/21

BOROUGH OF WATCHUNG
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DECEMBER 16, 2021 | 7:30 P.M.

CONSENT AGENDA RESOLUTIONS: The resolutions listed below were submitted to the Governing Body for review and will be adopted by one motion.

- R2: Authorizing Purchase Orders over \$2,000 – Foveonics Document Solutions (*Planning, Zoning & Construction Office File Scanning w/OCR*)
- R3: Authorizing Budget Appropriation Transfers
- R4: Authorizing Bill List

NON-CONSENT AGENDA ITEMS: Items listed below will be individually addressed and acted upon accordingly. Council reserves the right to refer an item to any Committee for further review and discussion.

- R5: Certification of the 2020 Annual Audit Review by the Governing Body
- R6: Authorizing One-year Contract for Animal Control Services – St. Hubert’s Animal Hospital
- R7: Authorizing Change Order #1 for Emergency Contract Awarded to Black Rock Enterprises for Repair and Replacement of Elsinore Drive Culvert and Roadway
- R8: Authorizing Execution of Redevelopment Agreement with Bonnie Burn Redevelopers Urban Renewal, LLC (formerly Sterling Watchung, LLC) as Redeveloper of Property Known As 291 Bonnie Burn Road, Block 7403/ Lots 5 and 10 and Block 7402/ Lots 19.01 and 19.02
- R9: Authorizing Winter Holiday Display Application – Watchung IDEA
- R10: Supporting Mayor’s Letter to NJ Department of Transportation Regarding Hillcrest Road, CR 531

PUBLIC PORTION - GENERAL DISCUSSION

*Individuals commenting virtually or from comments submitted in writing will be limited to 3 minutes per person, and will not be permitted to speak again until everyone has had an opportunity to speak. For those joining us through Zoom, please note that upon arrival you are automatically muted. If you wish to speak during a public portion, you will need to click on the “Raise your hand” feature. For those joining us through the conference call line, you will need to press *6 to unmute yourself. If a group is represented by an attorney, the attorney will be given 5 minutes to make the presentation for the group.*

ADJOURNMENT

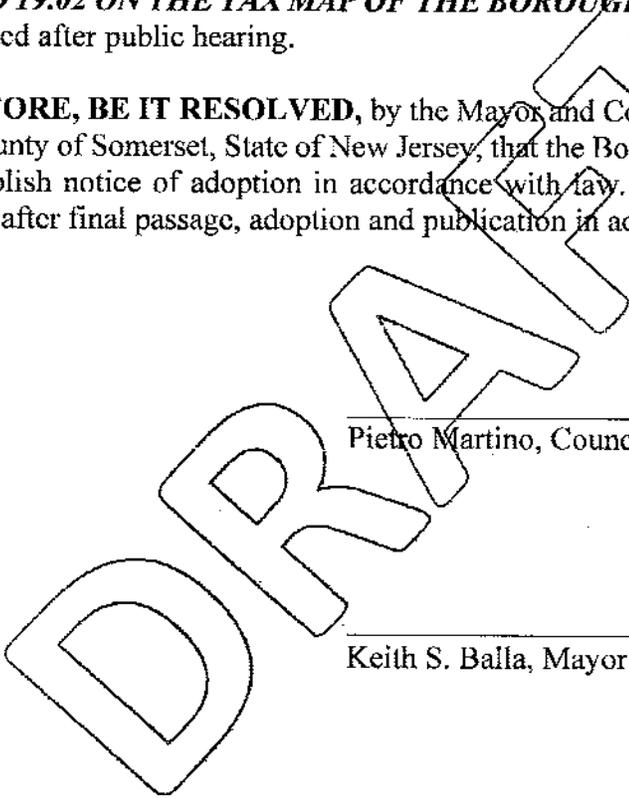
The next meeting of the Mayor and Council is the Re-Organization Meeting scheduled to be held on **Thursday, January 6, 2021 at 6:00 P.M.**

**BOROUGH OF WATCHUNG
RESOLUTION: RI**

BE IT RESOLVED that Ordinance **OR:21/12** entitled:

“AN ORDINANCE APPROVING THE FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF WATCHUNG AND BONNIE BURN REDEVELOPERS URBAN RENEWAL, LLC (FORMERLY STERLING WATCHUNG, LLC) UNDER THE LONG-TERM TAX EXEMPTION LAW (N.J.S.A. 40A:20-1, ET SEQ.) FOR AN INCLUSIONARY HOUSING PROJECT ON PROPERTY KNOWN AS 291 BONNIE BURN ROAD IDENTIFIED AS BLOCK 7403, LOTS 5 AND 10, AND BLOCK 7402, LOTS 19.01 AND 19.02 ON THE TAX MAP OF THE BOROUGH OF WATCHUNG” can now be adopted after public hearing.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey, that the Borough Clerk is hereby authorized to publish notice of adoption in accordance with law. This ordinance shall become effective after final passage, adoption and publication in accordance with law.



Pietro Martino, Council Member

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: CODE, PLANNING,
C: GENERAL CODE, C. TAYLOR
T. SNYDER, B. HANCE,

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

APPROVING THE FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF WATCHUNG AND BONNIE BURN REDEVELOPERS URBAN RENEWAL, LLC (formerly STERLING WATCHUNG, LLC) UNDER THE LONG-TERM TAX EXEMPTION LAW (N.J.S.A. 40A:20-1, ET SEQ.) FOR AN INCLUSIONARY HOUSING PROJECT ON PROPERTY KNOWN AS 291 BONNIE BURN ROAD IDENTIFIED AS BLOCK 7403, LOTS 5 AND 10 AND BLOCK 7402, LOTS 19.01 AND 19.02 ON THE TAX MAP OF THE BOROUGH OF WATCHUNG

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (“LRHL”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, the Borough acts as redevelopment entity for the purpose of implementing redevelopment plans and carrying out redevelopment within the Borough pursuant to the LRHL; and

WHEREAS, N.J.S.A. 40A:12A-8 authorizes the Borough to enter into contracts or agreements for the planning, construction or undertaking of any development or redevelopment work in an area in need of redevelopment; and

WHEREAS, the Long-Term Tax Exemption Law, N.J.S.A. 40A:20-1, et seq., as amended and supplemented (“LTTEL”), establishes a payment in lieu of taxes program for the use of municipalities and urban renewal entities to assist with the development of projects in areas in need of redevelopment including inclusionary housing projects; and

WHEREAS, N.J.S.A. 40A:20-8 authorizes the Mayor of the Borough to receive tax exemption applications on behalf of the Borough and submit them with a recommendation to the Borough of Watchung Council (the “Council”) for final approval; and

WHEREAS, Karka Investments, Inc. (“Karka”) and Phillip Properties, Inc. (“Phillip”) are the owners of the property (collectively “Property Owners”) known as 291 Bonnie Burn Road, Watchung, New Jersey, and identified as Block 7403 Lots 5 and 10 and Block 7402 Lots 19.01 and 19.02 on the tax maps of the Borough of Watchung (collectively referred to as “the Property”), specifically Karka is the owner of the portion of the Property designated as Block 7402, Lots 19.01 and 19.02 and Block 7403 Lot 5 and Phillip is the owner of the portion of the Property designated as Block 7403, Lot 10; and

WHEREAS, on June 7, 2018, pursuant to the authority granted to it in Resolution R10:06/07/18, the Council entered into a settlement agreement with Fair Share Housing Center, Inc. in the matter captioned In the Matter of the Borough of Watchung (Mt. Laurel), Docket No.

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

SOM-L-902-15, to confirm Watchung's compliance with its affordable housing obligations, which designated the Property as a site for affordable housing and the Borough's primary affordable housing compliance mechanism (the "Affordable Housing Settlement Agreement"); and

WHEREAS, on June 7, 2018, pursuant to Resolution No. R11:06/07/18, the Mayor and Council directed the Borough of Watchung Planning Board (the "Planning Board") to conduct a preliminary investigation to determine whether the Property should be designated as an area in need of redevelopment according to the criteria set forth in the LRIL; and

WHEREAS, on August 21, 2018, the Planning Board held a properly noticed public hearing at which the Borough planner presented findings resulting in a determination to recommend to the Council that the Property be designated as a non-condemnation area in need of redevelopment, memorialized by Resolution No. PB18-R06, adopted on September 18, 2018; and

WHEREAS, on October 4, 2018, pursuant to Resolution No. R11:10/04/18, the Council designated the Property as an Area in Need of Non-Condensation Redevelopment (the "Redevelopment Area"); and

WHEREAS, on December 6, 2018 via Ordinance No. OR:18/20, the Borough adopted a redevelopment plan (the "Redevelopment Plan"), providing for the redevelopment of the Redevelopment Area; and

WHEREAS, the Property is in the Redevelopment Plan area and is subject to the Redevelopment Plan; and

WHEREAS, on December 6, 2018 pursuant to Resolution No. R9:12/06/18, the Borough conditionally designated BNE-Watchung, LLC ("BNE") as the redeveloper of the Property conditioned upon the Borough and BNE entering into a Redevelopment Agreement and a Financial Agreement; and

WHEREAS, on April 18, 2019 via Ordinance No. OR:19/05, the Council amended the Redevelopment Plan to address comments of the Planning Board (as amended, the "Redevelopment Plan"); and

WHEREAS, on or about May 9, 2019 BNE filed a site plan application for the Property with the Planning Board designated as PB19-01 ("Application"), which was subsequently

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

deemed complete and Planning Board hearings related to the Application commenced thereafter;
and

WHEREAS, prior to the conclusion of the Planning Board hearings for the Application on or about May 5, 2020, BNE's counsel advised the Planning Board that BNE terminated its contract with the Property Owners; and

WHEREAS, on May 19, 2020, the Planning Board voted to dismiss the Application without prejudice and adopted a resolution confirming same on June 16, 2020; and

WHEREAS, as a result of the foregoing the Borough and BNE did not enter into a Redevelopment Agreement under the LHR or a Financial Agreement under the LTTEL; and

WHEREAS, on July 13, 2020, the Property Owners filed an action against the Planning Board as a result of the dismissal of the Application in the matter captioned Karka Investments, Inc. and Phillip Properties Inc. v. The Borough of Watchung Planning Board, Docket No. SOM-L-806-20 ("Litigation"); and

WHEREAS, at the request of the Property Owners on November 19, 2020, by way of Resolution R8:11/19/20, the Borough conditionally designated the Property Owners as redeveloper of the Property for purposes of the Application and the approval process; and

WHEREAS, at the request of the Property Owners on December 17, 2020 via Ordinance No. OR 20/06, the Borough adopted an Ordinance further amending and clarifying the Redevelopment Plan; and

WHEREAS, on February 23, 2021, the Property Owners and the Planning Board entered into a settlement agreement to dismiss the Litigation and allow the Application to continue to be heard by the Planning Board; and

WHEREAS, thereafter, the Property Owners entered into a contract of sale to sell the Property to Sterling Watchung, LLC (now Bonnie Burn Redevelopers Urban Renewal, LLC); and

WHEREAS, on March 12, 2021 Sterling Watchung, LLC provided the Mayor and Council with information regarding its development experience and qualifications; and thereafter, advised the Council of its proposal to develop an inclusionary housing project containing six residential buildings, consisting of not more than 230 total rental units, of which not more than 184 will be market-rate units and not more than 46 will be affordable housing units with one clubhouse building; and related improvements on the Property (the "Project"); and

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

WHEREAS, by way of correspondence dated April 12, 2021, Karka and Phillips and Sterling Watchung, LLC requested that the Borough conditionally designate Sterling Watchung, LLC as Redeveloper of the Redevelopment Area; and

WHEREAS, on May 20, 2021, pursuant to Resolution No. R5:05/20/2021, the Borough conditionally designated Sterling Watchung, LLC (now Bonnie Burn Redevelopers Urban Renewal, LLC) ("Conditional Redeveloper") as the redeveloper of the Property; and

WHEREAS, pursuant to Resolution No. R5:05/20/2021, Conditional Redeveloper was permitted to convert to an urban renewal entity or assign said redeveloper selection and designation to an urban renewal entity controlled by Conditional Redeveloper; and

WHEREAS, pursuant to Resolution No. R5:05/20/2021, designation was conditioned upon the Conditional Redeveloper and the Borough entering into a Redevelopment Agreement and Financial Agreement under the LTTEL (Payment in Lieu of Taxes Program) including the adoption of any authorizing Resolution or Ordinance, acceptable to both parties within ninety (90) days of the adoption of Resolution No. R5:05/20/2021; and

WHEREAS, after receiving the approval of the State of New Jersey, Conditional Redeveloper converted to the urban renewal entity named Bonnie Burn Redevelopers Urban Renewal, LLC (the "Redeveloper"), and

WHEREAS, the Conditional Redeveloper designation as redeveloper was transferred to Redeveloper by operation of law and as authorized by Council Resolution No. R5:05/20/2021; and

WHEREAS, on June 8, 2021 the Redeveloper filed an Application for the Approval of a 30-year long term tax exemption for the Project under the LTTEL seeking a payment in lieu of taxes program based upon 10% of annual gross revenue (AGR) generated by the Project for years 1 through 10; 11% of AGR for years 11 through 16; 12% of AGR for years 17 through 22; 13% of AGR for years 23 through 28; and 14% of AGR for years 29 and 30, all subject to the statutory staged increases as required by the LTTEL; and

WHEREAS, at the request of the Redeveloper, on June 17, 2021 via Ordinance No. 21:08, the Council adopted an Ordinance further amending and clarifying the Redevelopment Plan; and

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

WHEREAS, on October 28, 2021 the Redeveloper obtained from Planning Board a preliminary site plan approval authorizing the development of the Project as an inclusionary housing project; and

WHEREAS, on November 3, 2021, after consultation and collaboration with the Borough and its professionals, Redeveloper filed an Amended and Restated Application seeking the approval of a 30-year long term tax exemption for the Project under the LTTEL with a payment in lieu of taxes program based upon 13% of AGR generated by the Project for years 1 through 15, and 15% of AGR for years 16 through 30, all subject to the statutory staged increases as required by the LTTEL (the "Amended Application"); and

WHEREAS, the Amended Application contains documentation with respect to the Project, estimated total development costs, estimated time schedule for commencement and completion of the Project, and conceptual plans; and

WHEREAS, the Council evaluated the Amended Application together with the information provided by Redeveloper regarding its qualifications, capabilities, experience, and expertise; and

WHEREAS, the Borough determined that the Project qualifies for the long-term tax exemption under the LTTEL; and

WHEREAS, the Mayor recommended the approval of the Amended Application; and,

WHEREAS, pursuant to Resolution No. R8:12/02/21, adopted on December 2, 2021, the Council approved the Amended Application; and

WHEREAS, the Redeveloper submitted with the Amended Application, a proposed Financial Agreement to be entered into by Redeveloper and the Borough (the "Financial Agreement") setting forth the payment in lieu of taxes program applicable to the Project and the rights, responsibilities and obligations of Redeveloper and the Borough under the LTTEL; and

WHEREAS, the Council has reviewed the Financial Agreement and makes the following findings in accordance with N.J.S.A. 40A:20-11(a) and N.J.S.A. 40A:20-11(b) regarding the relative benefits and costs of granting the tax exemption for the Project, the importance of the tax exemption in realizing the development of the Project and complying with the Affordable Housing Settlement Agreement:

- I. the tax exemption granted pursuant to the Financial Agreement will benefit the Borough and the community by assuring the successful redevelopment

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

- of the Property, which has exhibited the statutorily recognized redevelopment criteria for years;
- II. the benefits of granting the tax exemption will substantially outweigh the costs, if any, associated with the tax exemption;
 - III. the Project is the Borough's primary mechanism for complying with its Third-Round affordable housing obligation as memorialized in the Affordable Housing Settlement Agreement; therefore, granting the tax exemption is critically important to the Borough, the Redeveloper and the proposed occupants of the Project because without the incentive of the Financial Agreement, it is unlikely that the Project would be undertaken;
 - IV. the high costs associated with the development and construction of the Project and the real estate taxes that would otherwise be levied upon the Project would operate as a disincentive to the redevelopment of the Property, and would therefore frustrate the goals and objectives of the Redevelopment Plan, the Affordable Housing Settlement Agreement, and would make the Project materially less competitive in the marketplace;
 - V. the relative stability and predictability of the Annual Service Charges set forth in the Financial Agreement will make the Project more attractive to lenders and investors needed to finance the Project;
 - VI. the relative stability and predictability of the Annual Service Charges set forth in the Financial Agreement will allow the Redeveloper to stabilize its operating budget, allowing a high level of maintenance to the complex over the life of the Project, which will attract tenants to the Project and insure the likelihood of the success of the Project;
 - VII. the Project will contribute to the economic growth of businesses in the surrounding area;
 - VIII. the Project will further the overall redevelopment objectives of the Redevelopment Plan and the Affordable Housing Settlement Agreement;
 - IX. the current real estate taxes on the Property generate revenue of approximately \$8,000 of total taxes of which the Borough receives approximately \$2,500, whereas, the Annual Service Charge as estimated in

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

the Financial Agreement, will generate revenue of \$833,000 to the Borough and an additional sum of approximately \$33,000 to Somerset County; and

- X. it is anticipated that the Project will create construction jobs and new permanent jobs.

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

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

B. The Mayor and Borough Clerk are hereby authorized to execute a Financial Agreement, which shall include at a minimum the following terms and conditions:

1. Term: the earlier of thirty (30) years from Substantial Completion of the Project or thirty-five (35) years from the execution of the Financial Agreement;

2. Annual Service Charge: each year the greater of:

(i) the Minimum Annual Service Charge; (ii)(a) 13% of Annual Gross Revenue each year for years 1 through 15 of the Financial Agreement (e.g. in year 1 such amount would be \$865,681 based on the projected Annual Gross Revenue of \$6,659,087); (b) 15% of Annual Gross Revenue each year for years 16 through 30 of the Financial Agreement (e.g. in year 16 such amount would be \$1,344,338 based on the projected Annual Gross Revenue of \$8,962,254); and (iii) and which shall be subject to statutory staged increases under N.J.S.A. 40A:20-12.b (2) as specifically set forth in the Financial Agreement;

3. Administrative Fee: 2% of the prior year's Annual Service Charge which sum is estimated to be \$17,000;

4. County Payment: the Borough to remit 5% of the Annual Service Charge received and collected to Somerset County which sum is estimate to be \$33,000;

C. The Borough Clerk shall deliver a certified copy of the Ordinance and executed Financial Agreement to the Tax Assessor and Director of the Division of Local Government Services.

**BOROUGH OF WATCHUNG
ORDINANCE 21/12**

D. The Amended Application together with the Financial Agreement is on file with the office of the Borough Clerk. The Financial Agreement to be executed shall be in substantially the form on file in the Office of the Borough Clerk, subject to such modification, as the Mayor, Financial Consultant, Borough Administrator and/or Borough Counsel deems appropriate or necessary.

E. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

F. This ordinance shall take effect at the time and in the manner provided by law.

INTRODUCED: MARTINO
PASSED: DECEMBER 2, 2021
PUBLISHED: DECEMBER 9, 2021
ADOPTED:

INDEX: CODE, PLANNING,
C: GENERAL CODE, C.TAYLOR
C. TAYLOR, CODE

ATTEST:

APPROVED:

Edith G. Gil, Borough Clerk

Keith S. Balla, Mayor

PUBLIC HEARING 2ND READING

**BOROUGH OF WATCHUNG
RESOLUTION: R2**

WHEREAS, Section 2-25.13 of the Code of the Borough of Watchung requires that contracts for purchases or services involving more than two thousand dollars be awarded by a resolution of the Mayor and Council.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey, that the Purchasing Agent be authorized to issue Purchase Orders as follows:

Vendor: Foveonics Document Solutions, 999 Willow Grove St, Hackettstown, NJ 07840
Item: Planning, Zoning, and Code Enforcement Files to Scan w/OCR Tech
Total Price: \$40,899.77
Charged to: 1-01-610-204 and 1-01-165-281

Vendor:
Item:
Total Price:
Charged to:

Wendy Robinson, Council President

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: PURCHASING
C: B. HANCE

**BOROUGH OF WATCHUNG
RESOLUTION: R3**

WHEREAS, N.J.S. 40A:4-58 provides for budget appropriation transfers during the last two months of the fiscal year (excluding appropriations for Contingent Expenses, Deferred Charges, Reserve for Uncollected Taxes, Capital Improvement Fund, and Interest and Debt Redemption Charges); and

WHEREAS, a need has arisen to expend amounts in excess of the original amounts appropriated therefore;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Watchung, County of Somerset, State of New Jersey that the Chief Financial Officer be, and is hereby authorized to make the following transfers:

<u>To:</u>	<u>Amount</u>
Telephone OE	\$20,000.00
Total:	\$20,000.00
<u>From:</u>	<u>Amount</u>
Legal OE	\$20,000.00
Total:	\$20,000.00

DRAFT

Wendy Robinson, Council President

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: FINANCE-MISC.
C: B. HANCE,

**BOROUGH OF WATCHUNG
RESOLUTION: R4**

BE IT RESOLVED, by the Mayor and Council of the Borough of Watchung,
that the Borough Treasurer be, and is hereby directed to pay bills in the amount of
\$1,237,696.93 per the attached bill list. The expenditures can be broken down into
the following categories:

Grant Fund	\$	849.32
Animal Control	\$	3.60
Developer Escrow	\$	8,005.50
Other Escrow	\$	64,492.00
Capital Fund	\$	148,213.75
Current Fund	\$	1,016,132.76
Total:	\$	1,237,696.93

Wendy Robinson

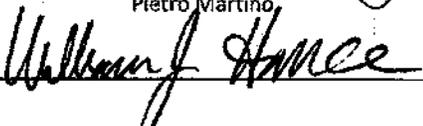
Daryl Eisenberg Knekten

Lindsay Goodloe

Ronald Jubin

Pietro Martino

Freddie Hayeck


William J. Hance, CFO

Keith Balla, Mayor

James Damato, Administrator

Date: December 16, 2021

Index: Finance

BOROUGH OF WATCHUNG
RESOLUTION: R5

GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the fiscal year ended **December 31, 2020** has been filed by a Registered Municipal Accountant with the Borough Clerk pursuant to N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

**BOROUGH OF WATCHUNG
RESOLUTION: R5**

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, that the Governing Body of the Borough of Watchung, County of Somerset, State of New Jersey hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Ronald Jubin, Council Member

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: FINANCE BUDGET
C: DLGS, B. FINANCE

***I HEREBY CERTIFY THAT THIS IS A TRUE COPY OF A RESOLUTION PASSED AT
THE MAYOR AND COUNCIL MEETING HELD ON DECEMBER 16, 2021.***

EDITH G. GIL, RMC

**BOROUGH OF WATCHUNG
RESOLUTION: R6**

WHEREAS, N.J.S.A. 40:48-5.1 mandates that under certain specified circumstances a municipality must enter into negotiations with an animal control service for the collecting, keeping, redemption and destroying of stray animals with the municipality; and

WHEREAS, said statute provides that the municipality may enter into a contract for the provision of services with such a humane society without advertisement for public bids; and

WHEREAS, pursuant to the provisions of said statute, the Borough of Watchung has entered into negotiations with Washington Humane Society dba St. Hubert's Animal Welfare Center, which meets the requirements of N.J.S.A. 40:48-5.1; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this contract in the Animal Control Trust Fund and the municipal budget; and

Chief Financial Officer

WHEREAS, the Mayor and Council have determined that it is in the best interest of the municipality to enter into a one-year contract with Washington Humane Society dba St. Hubert's Animal Welfare Center.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey does hereby authorize the execution of a one-year contract, in the form annexed hereto, effective **January 1, 2022 through December 31, 2022** in the amount of **\$16,839.00**

Ronald Jubin, Council Member

Keith S. Balla, Mayor

DATE: DECEMBER 16, 2021
INDEX: AWARDS,
CC: FINANCE, BD OF HEALTH, POLICE CHIEF

**BOROUGH OF WATCHUNG
RESOLUTION: R7**

WHEREAS, the Borough of Watchung awarded a contract to Black Rock Enterprises, LLC, 1316 Englishtown Road, Old Bridge, NJ 08857, on October 7, 2021, via resolution R6 for "Elsinore Drive Culvert Emergency Repair and Replacement Project" in the amount of \$200,000.00; and

WHEREAS, the Borough's Professional Engineers, CME Associates, have recommended the approval of Change Order #1, increasing the original contract by \$13,500.00 to provide for unforeseen labor, material, and equipment necessary to continue with the renovation as designed, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, the Chief Financial Officer of the Borough of Watchung has certified that funds are available in the following account: Bond Ordinance OR21/04

William J. Hance, CFO

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey that **Change Order #1** to the Contract of Black Rock Enterprises, LLC for a net increase of \$13,500.00, is hereby approved and the contract sum, including this Change Order, is \$213,500.00.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to sign the Change Order form.

BE IT FURTHER RESOLVED, that a true copy of this Resolution be forwarded to: Black Rock Enterprises, LLC., the Borough Engineer and the Borough Chief Financial Officer.

Daryl Eisenberg Knekten, Council Member

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: AWARDS, ROADS, FINANC-MISC
C: B. HANCE, ENG.

**BOROUGH OF WATCHUNG
RESOLUTION: R8**

AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT WITH BONNIE BURN REDEVELOPERS URBAN RENEWAL, LLC (formerly STERLING WATCHUNG, LLC) AS REDEVELOPER OF THE PROPERTY KNOWN AS 291 BONNIE BURN ROAD IDENTIFIED AS BLOCK 7403, LOTS 5 AND 10 AND BLOCK 7402, LOTS 19.01 AND 19.02 ON THE TAX MAP OF THE BOROUGH OF WATCHUNG

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented ("LRHL"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, the Borough acts as redevelopment entity for the purpose of implementing redevelopment plans and carrying out redevelopment within the Borough pursuant to the LRHL; and

WHEREAS, Karka Investments, Inc. ("Karka") and Phillip Properties, Inc. ("Phillip") are the owners of the property (collectively "Property Owners") known as 291 Bonnie Burn Road, Watchung, New Jersey, and identified as Block 7403 Lots 5 and 10 and Block 7402 Lots 19.01 and 19.02 on the tax maps of the Borough of Watchung (collectively referred to as "the Property"), specifically Karka is the owner of the portion of the Property designated as Block 7402, Lots 19.01 and 19.02 and Block 7403 Lot 5 and Phillip is the owner of the portion of the Property designated as Block 7403, Lot 10; and

WHEREAS, on June 7, 2018, pursuant to Resolution R10:06/07/18, the Council authorized the Mayor and Council to enter into a settlement agreement with Fair Share Housing Center, Inc. in the matter captioned In the Matter of the Borough of Watchung (Mt. Laurel), Docket No. SOM-L-902-15, to confirm Watchung's compliance with its affordable housing obligations, which designated the Property as a site for affordable housing and the Borough's primary affordable housing compliance mechanism ("Settlement Agreement"); and

WHEREAS, on June 7, 2018, pursuant to Resolution No. R11:06/07/18, the Mayor and Council directed the Borough of Watchung Planning Board (the "Planning Board") to conduct a preliminary investigation to determine whether the Property should be designated as an area in need of redevelopment according to the criteria set forth in the LRHL; and

WHEREAS, on August 21, 2018, the Planning Board held a properly noticed public hearing at which the Borough planner presented findings resulting in a determination to recommend to the Council that the Property be designated as a non-condemnation area in need of redevelopment, memorialized by Resolution No. PB18-R08, adopted on September 18, 2018; and

WHEREAS, on October 4, 2018, pursuant to Resolution No. R11:10/04/18, the Council designated the Property as an Area in Need of Non-Condensation Redevelopment (the "Redevelopment Area"); and

WHEREAS, on December 6, 2018 via Ordinance No. OR:18/20, the Borough adopted a redevelopment plan (the "Redevelopment Plan"), providing for the redevelopment of the Redevelopment Area; and

WHEREAS, the Property is in the Redevelopment Plan area and is subject to the Redevelopment Plan; and

WHEREAS, on December 6, 2018 pursuant to Resolution No. R9:12/06/18, the Borough conditionally designated BNE-Watchung, LLC ("BNE") as the redeveloper of the Property conditioned upon the Borough and BNE entering into a Redevelopment Agreement and a Financial Agreement; and

**BOROUGH OF WATCHUNG
RESOLUTION: R8**

WHEREAS, on April 18, 2019 via Ordinance No. OR:19/05, the Council amended the Redevelopment Plan to address comments of the Planning Board (as amended, the "Redevelopment Plan"); and

WHEREAS, on or about May 9, 2019 BNE filed a site plan application for the Property with the Planning Board designated as PB19-01 ("Application"), which was subsequently deemed complete and Planning Board hearings related to the Application commenced thereafter; and

WHEREAS, prior to the conclusion of the Planning Board hearings for the Application on or about May 5, 2020, BNE's counsel advised the Planning Board that BNE terminated its contract with the Property Owners; and

WHEREAS, on May 19, 2020, the Planning Board voted to dismiss the Application without prejudice and adopted a resolution confirming same on June 16, 2020; and

WHEREAS, the Borough and BNE did not enter into a Redevelopment Agreement under the LIIRL or a Financial Agreement under the LTTEL; and

WHEREAS, on July 13, 2020, the Property Owners filed an action against the Planning Board as a result of the dismissal of the Application in the matter captioned Karka Investments, Inc. and Phillip Properties Inc. v. The Borough of Watchung Planning Board, Docket No. SOM-L-806-20 ("Litigation"); and

WHEREAS, at the request of the Property Owners on November 19, 2020, by way of Resolution R8:11/19/20, the Borough conditionally designated the Property Owners as redeveloper of the Property for purposes of the Planning Board Application and the approval process; and

WHEREAS, at the request of the Property Owners on December 17, 2020 via Ordinance No. OR 20/06, the Borough adopted an Ordinance further amending and clarifying the Redevelopment Plan; and

WHEREAS, on February 23, 2021, the Property Owners and the Planning Board entered into a settlement agreement to dismiss the Litigation and allow the Planning Board Application to continue to be heard by the Planning Board; and

WHEREAS, thereafter, the Property Owners entered into a contract of sale to sell the Property to Sterling Watchung, LLC (now Bonnie Burn Redevelopers Urban Renewal, LLC); and

WHEREAS, on or about March 12, 2021 Sterling Watchung, LLC provided the Mayor and Council with information regarding its development experience and qualifications; and thereafter, advised the Council of its proposal to develop an inclusionary housing project containing six (6) residential buildings, consisting of not more than two hundred thirty (230) total rental units, of which not more than one hundred eighty-four (184) will be market-rate units and not less than forty-six (46) will be affordable housing units; one clubhouse building; and other related improvements on the Property (the "Project") consistent with the Redevelopment Plan; and

WHEREAS, by way of correspondence dated April 12, 2021, Karka and Phillips and Sterling Watchung, LLC requested that the Borough conditionally designate Sterling Watchung, LLC as Redeveloper of the Redevelopment Area; and

**BOROUGH OF WATCHUNG
RESOLUTION: R8**

WHEREAS, on May 20, 2021, pursuant to Resolution No. R5:05/20/2021, the Borough conditionally designated Sterling Watchung, LLC (now Bonnie Burn Redevelopers Urban Renewal, LLC) ("Conditional Redeveloper") as the redeveloper of the Property; and

WHEREAS, pursuant to Resolution No. R5:05/20/2021, Conditional Redeveloper was permitted to convert to an urban renewal entity or assign said redeveloper selection and designation to an urban renewal entity controlled by Conditional Redeveloper; and

WHEREAS, pursuant to Resolution No. R5:05/20/2021, designation was conditioned upon the Conditional Redeveloper and the Borough entering into a Redevelopment Agreement and Financial Agreement under the LTTEL (Payment in Lieu of Taxes Program) including the adoption of any authorizing Resolution or Ordinance, acceptable to both parties within ninety (90) days of the adoption of Resolution No. R5:05/20/2021; and

WHEREAS, after receiving the approval of the State of New Jersey, Conditional Redeveloper converted to the urban renewal entity named Bonnie Burn Redevelopers Urban Renewal, LLC (the "Redeveloper"); and

WHEREAS, the Conditional Redeveloper designation as redeveloper was transferred to Redeveloper by operation of law and as authorized by Council Resolution No. R5:05/20/2021; and

WHEREAS, on June 8, 2021 the Redeveloper filed an Application for the Approval of a 30-year long term tax exemption for the Project under the LTTEL, seeking a payment in lieu of taxes program; and

WHEREAS, at the request of the Redeveloper, on June 17, 2021 via Ordinance No. 21:08, the Council adopted an Ordinance further amending and clarifying the Redevelopment Plan; and

WHEREAS, on October 28, 2021 the Redeveloper obtained from Planning Board a preliminary site plan approval authorizing the development of the Project as an inclusionary housing project; and

WHEREAS, on November 3, 2021, after consultation and collaboration with the Borough and its professionals, Redeveloper filed an Amended and Restated Application seeking the approval of a 30-year long term tax exemption for the Project under the LTTEL with a payment in lieu of taxes program; and

WHEREAS, on November 22, 2021, pursuant to Resolution No. R10:11/22/2021, the Borough extended the conditional redeveloper designation until December 3, 2021; and

WHEREAS, the Council evaluated the Amended Application together with the information provided by Redeveloper regarding its qualifications, capabilities, experience, and expertise, and the Mayor's Report, and under all of the circumstances, the Borough determined that the Project qualified for the long term tax exemption under the LTTEL; and

WHEREAS, on December 2, 2021, pursuant to Resolution Nos. R8:12/02/2021 and R9:12/02/2021, the Borough approved the Amended and Restated Application, extended the conditional redeveloper designation until January 31, 2022 and adopted on first reading Ordinance No. OR:21/12, entitled "*AN ORDINANCE APPROVING THE FINANCIAL AGREEMENT BETWEEN THE BOROUGH OF WATCHUNG AND BONNIE BURN REDEVELOPERS URBAN RENEWAL, LLC (formerly STERLING WATCHUNG, LLC) UNDER THE LONG-TERM TAX EXEMPTION LAW (N.J.S.A. 40A:20-1, ET SEQ.) FOR AN INCLUSIONARY HOUSING PROJECT ON PROPERTY*"

**BOROUGH OF WATCHUNG
RESOLUTION: R8**

KNOWN AS 291 BONNIE BURN ROAD IDENTIFIED AS BLOCK 7403, LOTS 5 AND 10 AND BLOCK 7402, LOTS 19.01 AND 19.02 ON THE TAX MAP OF THE BOROUGH OF WATCHUNG"; and

WHEREAS, the Borough and the Redeveloper have engaged in negotiations, and the Borough has determined that in furtherance of compliance with the Settlement Agreement, and the Borough's goals and objectives to implement the Redevelopment Plan, it is in the Borough's best interest to enter into an agreement with the Redeveloper to redevelop the Redevelopment Area in accordance with the requirements of the Settlement Agreement, the Redevelopment Plan and the Act ("Redevelopment Agreement"); and

WHEREAS, N.J.S.A. 40A:12A-8 authorizes the Borough to enter into contracts or agreements for the planning, construction or undertaking of any development or redevelopment work in an area in need of redevelopment.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey that it hereby authorizes the execution of a Redevelopment Agreement between the Borough of Watchung and Bonnie Burn Redevelopers Urban Renewal, LLC in substantially the form attached hereto; and

BE IT FURTHER RESOLVED by the Council of the Borough of Watchung does hereby authorize the Mayor and the Borough Clerk to execute a Redevelopment Agreement on behalf of the Borough of Watchung with Bonnie Burn Redevelopers Urban Renewal, LLC, in a final form subject to the approval of the Mayor and Borough Administrator.

Pietro Martino, Council Member

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: PLANNING BD, AWARDS, FINANCE-
C: C. TAYLOR, T. SNYDER
B. HANCE, ENG.

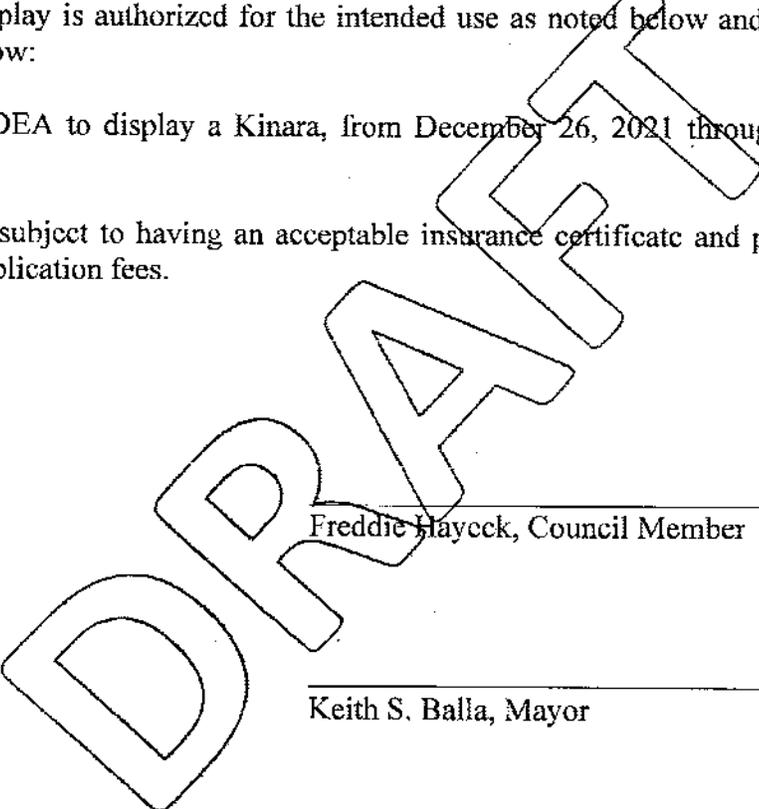
**BOROUGH OF WATCHUNG
RESOLUTION: R9**

WHEREAS, the Borough of Watchung has received a Winter Holiday Display Application which has been reviewed by the Borough's Zoning Officer and Borough Clerk; and

WHEREAS, Governing Body of the Borough of Watchung, County of Somerset, State of New Jersey wishes to authorize said display application at the recommendation of the Borough.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey that the use of the Village Green for a Winter Holiday Display is authorized for the intended use as noted below and is hereby approved as noted below:

1. Watchung IDEA to display a Kinara, from December 26, 2021 through January 1, 2022.
2. Approval is subject to having an acceptable insurance certificate and payment of all Borough application fees.



Freddie Hayeck, Council Member

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: MISC.,
C: LM, PD

**BOROUGH OF WATCHUNG
RESOLUTION: R10**

WHEREAS, the governing body of the Borough of Watchung is ever concerned with the accidents on Hillcrest Road, CR 531 within the proximity of Borough borders; and

WHEREAS, over a period of years, the governing body has voiced concerns to County Officials with no real remedy and residents repeatedly question the apparent inaction of Borough, County and State Representatives each time another accident occurs.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Watchung, County of Somerset, State of New Jersey that it hereby supports the Mayor's efforts in issuing a letter to Commissioner Diane Gutierrez-Scaccetti to urge the New Jersey Department of Transportation to take the appropriate measures necessary to assist the Borough in their efforts to make Hillcrest Road, CR 531 a safer road.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to NJ Department of Transportation, NJ Transportation Planning Authority, Congressman Tom Malinowski, Senator Thomas H. Kean, Jr., Assemblyman Jon M. Bramnick, and Assemblywoman Nancy F. Munoz, Township of Warren and the Somerset County Commissioners.

Wendy Robinson, Council President

Keith S. Balla, Mayor

ADOPTED: DECEMBER 16, 2021
INDEX: MISC., ROADS,
C: NJDOT, COUNTY, ENG.,