



BOROUGH OF CALDWELL

Resolution No: 7-172

Date of Adoption: July 13, 2021

TITLE:

RESOLUTION RATIFYING THE FILING OF LITIGATION AGAINST THE BOROUGH OF ROSELAND REGARDING THE NON-PAYMENT OF CERTAIN SEWER UTILITY OBLIGATIONS

Recommended for approval by:

Thomas Banker, Administrator

Approved as to form and legality by:

Title:

Whereas, the Borough of Roseland, NJ ("Roseland") is a customer of the Caldwell Sewer Utility (the "Utility"); and

Whereas, the Utility regularly bills Roseland for services provided by the Utility, which primarily consists of wastewater treatment; and

Whereas, the Utility's budget depends on the timely collection of the amounts due from its customers, including Roseland; and

Whereas, the lack of collection of such amounts is likely to cause the Utility to be unable to meet its obligations for the payments required by the Utility to provide such services from its own revenues, which situation would then require the Borough of Caldwell ("Caldwell") to provide funding to the Utility from other sources; and

Whereas, if that were to occur, the State of New Jersey could require Caldwell to assume legal responsibility for the debt obligations of the Utility, with negative consequences for Caldwell; and

Whereas, Roseland has failed to make timely payment on multiple bills presented to Roseland by the Utility; and

Whereas, Roseland has continued such non-payment after multiple notices by the Utility of Roseland's obligations; and

Whereas, in order to compel Roseland to correct this problem it will be necessary to seek an order of a court of competent jurisdiction requiring such corrective action; and

Whereas, time is of the essence in this matter due to the large amount that is unpaid by Roseland and the significant potential for that lack of payment to have serious negative consequences to the finances of Caldwell; and

Whereas, in order to expedite the pursuit of such a court order, the Mayor authorized the filing of a legal action on behalf of Caldwell seeking to compel Roseland to make the outstanding payments;

Now Therefore, be it Resolved by the Mayor and Council of the Borough of Caldwell, New Jersey that:

1. The action taken by the Mayor in authorizing the legal action against Roseland is hereby ratified retroactive to the date on which such action was taken; and

2. Such counsel as may be designated to represent Caldwell in this matter is hereby authorized to pursue the action in such manner as they deem necessary, with such determinations to be made in cooperation between that counsel, the Borough Attorney and the Borough Administrator; and

3. To the extent that the pursuit of collection of any and all amounts due to the Utility by Roseland requires the taking of additional legal actions, such actions are hereby authorized, with the Borough Administrator designated as the representative of the Borough to specifically approve such additional actions, with any such approval to be done in writing, with notice of such actions provided to all members of the governing body.

RECORD OF COUNCIL VOTE

_____ presented the following resolution - Seconded by: _____

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Schmidt						Lace				
Rodgers						DePalma-Iozzi				
Cole						Gates				

Brittany Heun, Deputy Clerk

John Kelley, Mayor

This resolution, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.