

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

January 9, 2018

PRESENT: Mayor John Coiro, presiding, Council President Lou D'Angelo, Councilwoman Carolyn Fontanella, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Councilman John Capo, Municipal Clerk Joseph Wassel and Municipal Attorney Kristin Corrado.

ABSENT: Councilman William Bucher.

Mayor John Coiro called the meeting to order and asked the Municipal Clerk to call the roll.

Municipal Clerk Wassel recited the Prayer of the Meeting followed with the Pledge of Allegiance to the Flag with the public participating.

Mayor Coiro asked the Clerk to read the statement of the meeting.

The Municipal Clerk read the following statement: This meeting of the Mayor and Council held on this day is being held in accordance with Chapter 231, P.L. 1975 of the State of New Jersey as amended. The agenda for this meeting has been prepared and distributed to the Mayor and Council and a copy has been on file in the Office of the Municipal Clerk.

Mayor Coiro asked if any members of the Council, the Municipal Clerk or the Municipal Attorney wished to address the Council.

Councilwoman Andriani: 1) Congratulated Kristin Corrado who was sworn in to a full term as Senator; 2) Thanked Cyndia's for the cookies and hot chocolate that she donated for the Annual Tree Lighting in December and asked that a thank you letter be sent.

Councilman D'Angelo: Said that he attended the Eagle Scout award ceremony on Saturday for Justin Martin.

At this point Mayor Coiro announced that he will change the order of the meeting in order to make the presentation to Eagle Scout Justin Martin.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilman Capo, seconded by Councilman Picarelli to adopt the following Proclamation In Honor And Recognition Of Eagle Scout Justin Martin. On roll call vote, all members of the Council present voted in the affirmative.

PROCLAMATION IN HONOR AND RECOGNITION OF EAGLE SCOUT JUSTIN MARTIN

WHEREAS, Justin Martin is a member of St. James Boy Scout Troop #26, St. James Church, Totowa, New Jersey; and

WHEREAS, Justin Martin began his Scouting career in First Grade and has been an active member dedicating his time and efforts to earning over 30 Merit Badges; and

WHEREAS, Justin Martin has dedicated himself to fulfilling the necessary requirements to attain the rank of Eagle Scout and has learned many skills while working to obtain the required merit awards and has also learned valuable life lessons through volunteering with Scouting; and

WHEREAS, for his community service project, Justin Martin refinished the kitchen for the Borough of Totowa Fire Rescue Squad located on Mitchell Avenue and this project included new sheet rock, painting, new cabinets, flooring, electrical and plumbing work; and

WHEREAS, Justin Martin's participation, service to the community and merit awards have fulfilled the requirements leading to the award of the rank of Eagle Scout, the highest honor bestowed upon a Scout member.

NOW, THEREFORE, BE IT PROCLAIMED that the Mayor and Council of the Borough of Totowa, County of Passaic and State of New Jersey do hereby give special recognition to Justin Martin upon achieving the rank of Eagle Scout and congratulate Justin Martin on obtaining this prestigious honor.

BE IT FURTHER PROCLAIMED that this Proclamation be made a part of the permanent records of the Borough of Totowa and that a copy of said Proclamation be presented to Justin Martin and his family.

Mayor Coiro called Justin to the front of the dais and thanked him for his donation to Fire Rescue and said that it takes a special person to become an Eagle Scout. Read some excerpts from the Proclamation and presented it to Justin. Members from Fire Rescue also came to the front of the room and presented Justin with a plaque.

There was a motion by Councilman Capo, seconded by Councilman Picarelli to approve Raffle License Application No. 2071 for the Passaic Valley Band Association for an On-Premise 50/50 to be held on February 3, 2018 at the Totowa Elks Lodge. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Capo, seconded by Councilman Picarelli to approve Raffle License Application Nos. 2072, 2073 & 2074 for FOWA Rescue, Inc. for a Tricky Tray, On-Premise 50/50 and Off-Premise 50/50 to be held on April 26, 2018 at The Bethwood. On roll call vote, all members of the Council present voted in the affirmative.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to approve the Minutes of the Mayor and Council for the meeting of December 12, 2017. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to approve the Minutes of the Mayor and Council for the Reorganization Meeting of January 1, 2018. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON FINANCE:

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to approve Resolution No. 2018-02 for the payment of bills. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following resolution authorizing the Tax Collector to waive and eliminate any credits or balances for any account under \$10.00 for the year 2017. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION

WHEREAS, there are taxpayers who have minor credits or balances (under \$10.00) on their accounts regarding property taxes for the year 2017; and

WHEREAS, the Borough is permitted to waive payment of these small credits or balances.

NOW, THEREFORE, BE IT RESOLVED, that the Tax Collector is hereby authorized to waive and eliminate any credits or balances for any account under \$10.00 for the year 2017.

A letter was received from the employees of the Municipal Complex requesting permission to switch the following holidays: Election Day, Tuesday, November 6th for the day after Thanksgiving, Friday, November 23, 2018. There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to approve the request. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON PUBLIC SAFETY:

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to adopt the following Resolution Authorizing The Submission Of A Strategic Plan For The Governor's Council On Alcoholism And Drug Abuse Fiscal Year 2019 Grant Cycle July 1, 2018 To June 30, 2019. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 28-2018

RESOLUTION AUTHORIZING THE SUBMISSION OF A STRATEGIC PLAN
FOR THE GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE
FISCAL YEAR 2019 GRANT CYCLE JULY 1, 2018 TO JUNE 30, 2019

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, the Mayor and Council of the Borough of Totowa, County of Passaic, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Mayor and Council of the Borough of Totowa further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Mayor and Council of the Borough of Totowa has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Passaic.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa, County of Passaic, State of New Jersey hereby recognizes the following:

1. The Mayor and Council of the Borough of Totowa do hereby authorize submission of a strategic plan for the Totowa Municipal Drug Alliance grant for the period of July 1, 2018 to June 30, 2019 (FY2019) in the amount of:

DEDR	\$22,440.00
Cash Match	\$ 5,610.00
In-Kind	\$16,830.00

2. The Mayor and Council of the Borough of Totowa acknowledge the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

COMMITTEE ON PUBLIC WORKS:

There was a motion by Councilman Capo, seconded by Councilman Picarelli to approve Payment Estimate No. 1 in the amount of \$42,800.00 to Longo Electrical-Mechanical, Inc. for the SCADA System. On roll call vote, all members of the Council present voted in the affirmative.

A letter was received from DPW Superintendent Jim Niland requesting permission to switch the following holidays: Lincoln's Birthday, Monday, February 12th for Christmas Eve, Monday, December 24th; and Election Day, Tuesday, November 6th for the day after Thanksgiving, Friday, November 23, 2018. There was a motion by Councilman Capo, seconded by Councilman Picarelli to approve the request. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was no report.

COMMITTEE ON LIAISON & INSPECTION:

There was a motion by Councilwoman Andriani, seconded by Councilman Capo to adopt the following Resolution Authorizing The Issuance Of A Non-Recourse Redevelopment Area Bond (NJDC Project) Of The Borough Of Totowa, In The County Of Passaic, New Jersey In An Aggregate Principal Amount Of \$300,000. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 29-2018

RESOLUTION AUTHORIZING THE ISSUANCE OF A NON-RECOURSE REDEVELOPMENT AREA BOND (NJDC PROJECT) OF THE BOROUGH OF TOTOWA, IN THE COUNTY OF PASSAIC, NEW JERSEY IN AN AGGREGATE PRINCIPAL AMOUNT OF \$300,000

WHEREAS, pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law" or the "Act"), and that certain redevelopment plan adopted by ordinance of the Council (the "Borough Council") of the Borough of Totowa, a public body corporate and politic of the State of New Jersey (the "Borough") on February 23, 2016, as amended through April 25, 2017 (as the same may be further amended from time to time, the "Redevelopment Plan"), the Borough and NJDC Urban Renewal, LLC (the "Redeveloper") entered into that certain Redevelopment Agreement, dated June 15, 2017 (as the same may be further amended from time to time, the "Redevelopment Agreement") with respect to the property known as Block 154, Lot 19 and Block 154.01, Lot 1 on the Borough's tax map (the "Project Area") and designated by resolution of the Borough Council as an "area in need of redevelopment" in accordance with the Redevelopment Law; and

WHEREAS, pursuant to the Redevelopment Agreement, the Redeveloper will construct, on the Project Area, a project consisting of a data center along with supporting parking and related improvements (collectively, the “Project”); and

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

WHEREAS, on November 28, 2017, the Borough Council adopted Ordinance No. 12-2017(the “Financial Agreement Ordinance”), approving the Redeveloper’s application for tax exemption in connection with the Project pursuant to the Long Term Tax Exemption Law, in exchange for which the Redeveloper agreed to make payments to the Borough of an annual service charge in lieu of taxes; and

WHEREAS, pursuant to the Financial Agreement Ordinance, dated November 28, 2017, the Borough and the Redeveloper entered into that certain Financial Agreement (the “Financial Agreement”) pursuant to which the Redeveloper will make the above-described payments to the Borough, known as an “annual service charge” in the amounts and at the times set forth in the Financial Agreement (the “Annual Service Charge”); and

WHEREAS, pursuant to the Redevelopment Area Bond Financing Law, *N.J.S.A. 40A:12A-64 et seq.* (the “RAB Law”), a municipality may issue bonds to finance redevelopment projects pursuant to a redevelopment plan within an area in need of redevelopment, which bonds may be secured by an annual service charge; and

WHEREAS, pursuant to *N.J.S.A. 40A:12A-29(A)(3)* and *N.J.S.A.40A:12A-67(G)*, the Borough Council authorized by resolution the application to the Local Finance Board of a \$300,000.00 Non-Recourse Redevelopment Area Bond (the “Bond”); and

WHEREAS, on December 13, 2017, the Local Finance Board met, reviewed and approved the application by the Borough Council for the Bond; and

WHEREAS, as an inducement to the Redeveloper to construct the Project, and in furtherance of the purposes of the Act and the RAB Law, the Borough intends to issue a Non-Recourse Redevelopment Area Bond (NJDC Project), in the principal amount of \$300,000.00, in one series, which Bond shall be secured by a pledge of the Annual Service Charge in the amount of \$10,000.00 per year for each year in which the Annual Service Charge is paid in full; and

WHEREAS, the Bond is hereby authorized to be issued and executed and secured by a pledge of the Annual Service Charge for the payment of the principal of the Bond.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF TOTOWA, IN THE COUNTY OF PASSAIC, NEW JERSEY, AS FOLLOWS:

Section 1. Determination to Issue. To accomplish the purposes and objectives of the Redevelopment Law and the RAB Law, the Borough hereby determines to finance a portion of the costs of the Project. In order to finance the Project as set forth herein, the Bond is hereby authorized to be issued in the principal amount of \$300,000.00. The Bond will be secured by a pledge of the payments in lieu of taxes (the "PILOTs") to be generated within a portion of the Borough's Redevelopment Area. The Bonds will not be a general obligation to the Borough. The Bond shall be issued in the form, shall mature and shall have such other details and provisions as are set forth in the form of the Bond attached hereto as Exhibit A.

Section 2. Bond Constitutes a Special, Limited Obligation. The Bond shall be a special, limited obligation of the Borough, payable solely out of the Annual Service Charge, and all such Annual Service Charge is hereby irrevocably pledged to the payment of the Bond. The payment of the principal of the Bond shall be secured by the pledge and assignment of the Annual Service Charge and certain rights of the Borough as provided in the Financial Agreement. Neither the members of the Borough Council nor any person executing the Bond issued pursuant to this Resolution, the Redevelopment Law and the RAB Law shall be liable personally for the Bond by reason of the issuance thereof. The Bond shall not be in any way a debt or liability of the Borough other than to the limited extent set forth herein. NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE BOROUGH IS PLEDGED TO THE PAYMENT OF, THE PRINCIPAL OF THE BOND.

Section 3. Authorization and Execution of Bond. (a) The Bond shall mature not more than 30 years from the date of its issuance and, in any event, not prior to the termination of the Financial Agreement and shall be issued in an aggregate principal amount of \$300,000.00. The Bond shall not bear interest. A certificate evidencing the terms of the sale of the Bond to the purchaser (the "Purchaser") shall be executed by the Chief Financial Officer (the "Award Certificate"). The Bond shall be sold as a direct private purchase to the Redeveloper or an affiliate of the Redeveloper.

(b) The Mayor, Borough Clerk and Chief Financial Officer (each an "Authorized Officer") are each hereby authorized to execute and deliver the Bond on behalf of the Borough. The Bond shall be executed by the Mayor, the Chief Financial Officer and the Clerk of the Borough and shall be issued in the form of one physical certificate registered in the name of the Purchaser.

Section 4. Delivery of the Bond. Following execution of the Bond, each Authorized Officer is each hereby authorized to deliver the Bond to the Purchaser against receipt of the purchase price or unpaid balance thereof. The proceeds from the sale and issuance of the Bond shall be retained by the Borough for the Project.

Section 5. Limitations of Liability of Borough. The Borough shall not incur any responsibility in respect of the Bond other than in connection with the duties or obligations explicitly set forth herein, in the Bond and the Financial Agreement. No provision of this Resolution, the Bond, the Financial Agreement or any agreement, document, instrument or certificate executed, delivered or approved in connection with the issuance, sale, delivery or administration of the Bond shall require the Borough to expend or risk its own general funds, the obligations and liabilities of the Borough hereunder being payable solely from the Annual Service Charge. In the event of any default by the Borough hereunder, the liability of the Borough to the Bondholder shall be enforceable only against the Annual Service Charge that may be made available for such purposes under the RAB Law, and there shall be no other recourse for damages by the Bondholder against the Borough, its officers, members, agents and employees, or any of the property now or hereafter owned by it or them.

Section 6. The Borough covenants to take such action as the Bondholder shall reasonably request, in order that the Bondholder may realize the benefits of the right to receive the Annual Service Charge; such actions may include, but shall not be limited to, conducting an in rem tax foreclosure action in accordance with the provisions of *N.J.S.A. 54:5-1 et seq.* Upon the happening and continuance of any Default under the Financial Agreement beyond applicable cure periods and upon receipt of the written request of the Bondholder, the Borough shall proceed to protect and enforce its rights and the rights of the Bondholder under the laws of the State and the terms of the Financial Agreement, by such suits, actions or special proceedings in equity or at law, including, without limitation, directing the Borough to commence an *in rem* tax foreclosure pursuant to the Financial Agreement or mandamus, or by proceedings in the office of any board or office having jurisdiction, either for the specific performance of any covenant, condition or agreement contained in the Bond or the Financial Agreement or for the enforcement of any proper legal or equitable remedy. If the Bondholder shall have proceeded to enforce the rights of the Bondholder under the Bond and Financial Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Bondholder, then the Bondholder shall be restored to its position and rights hereunder, and all rights, remedies and powers of the Bondholder shall continue as though no such proceedings had taken place.

Section 7. Incidental Action. Each Authorized Officer is hereby authorized to execute and deliver such other papers, instruments, certificates, opinions, affidavits and documents, including, without limitation, the pledge and assignment of the Annual Service Charge, and to take such other action as may be necessary or appropriate in order to carry out the purpose of this Resolution, including effectuating the execution and delivery of any closing certificates required in connection with the issuance of the Bond, and the issuance and sale of the Bond, all in accordance with the foregoing sections hereof.

Section 8. Independent Determination by Purchaser. The Bond authorized herein is being issued to the Purchaser with the understanding that it is being held for the Purchaser's own account and that the Purchaser has made its own independent investigation and judgment about the credit and security for the payment of such Bond. Any sale or assignment by the Purchaser of such Bond shall be on the same terms and conditions as set forth herein. The Borough will act as the paying agent for the Bond. Pursuant to the terms of the Financial Agreement, the Borough will collect the Annual Service Charge in quarterly installments on February 1, May 1, August 1 and November 1 and, on each date and upon receipt of each such quarterly installment, will deposit one-fourth of the debt secured of the Bond into a separate trust account for the benefit of the Purchaser. The Borough shall make payment to the Purchaser of the principal amount of the Bond due, out of the Annual Service Charge. In the event of a Payment Default resulting from the failure of the Entity (as defined in the Financial Agreement) to pay the Annual Service Charge payment then due and owing, the Borough will determine the amount of the Annual Service Charge shortfall and shall deposit a pro rata amount of the quarterly Annual Service Charge into the trust account for the benefit of the Purchaser.

Section 9. Construction. In case any one of more of the provisions of this Resolution or the Bond issued hereunder shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution and the Bond shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 10. Effective Date. This Resolution shall take effect immediately upon adoption.

There was a motion by Councilwoman Andriani, seconded by Councilman Capo to adopt the following Resolution Authorizing An Agreement With Sterling Consultants, LLC For The Development Of A Community Forestry Management Plan. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 30-2018

RESOLUTION AUTHORIZING AN AGREEMENT WITH
STERLING CONSULTANTS, LLC FOR THE DEVELOPMENT OF
A COMMUNITY FORESTRY MANAGEMENT PLAN

WHEREAS, by Ordinance No. 05-2004 adopted March 9, 2004, the Mayor and Council of the Borough of Totowa established a Shade Tree Commission for the Borough of Totowa, to preserve and enhance the Borough's physical and aesthetic appearance and develop standards governing the planting of all trees, brush, vines, shrubs and ground cover upon Borough-owned land; and

WHEREAS, the Borough of Totowa Shade Tree Commission has recommended that the Mayor and Council of the Borough of Totowa retain the services of a licensed and certified arborist to develop a Community Forestry Management Plan ("CMFP") for the Borough of Totowa that will meet the Borough's needs along with the requirements of the New Jersey Shade Tree and Community Forestry Assistance Act; and

WHEREAS, the Borough of Totowa Shade Tree Commission solicited proposals from licensed and certified arborists to provide the necessary consulting services to develop a CMFP; and

WHEREAS, Sterling Consultants LLC, 35 Mickeljohn Avenue, Little Falls, New Jersey 07424, has submitted a proposal to provide the consulting services for the sum of \$2,125.00, a copy of which is on file in the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, the Mayor and Council of the Borough of Totowa did on January 9, 2018 examine the proposal submitted by Sterling Consultants LLC; and

WHEREAS, pursuant to the applicable New Jersey State laws, these professional services may be authorized without public bidding.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize Sterling Consultants LLC to provide the consulting arborist services and develop a Community Forestry Management Plan for the Borough of Totowa.

BE IT FURTHER RESOLVED, that the Municipal Council of the Borough of Totowa does hereby authorize the Mayor and Municipal Clerk to execute any and all necessary instruments relating thereto.

There being no further business to come before the Council, there was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

Joseph Wassel, RMC
Municipal Clerk