

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

November 12, 2019

PRESENT: Mayor John Coiro, presiding, Council President Lou D'Angelo, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Councilman John Capo, Councilwoman Lisa Palazzo, 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.

Mayor Coiro: Congratulated Lou and John on their re-election to the Council.

Councilman D'Angelo: 1) Congratulated his running mate John on his re-election to the Council; 2) Announced that there will be a Holiday Parade on November 30th.

Councilwoman Andriani: Announced that the Board of Recreation's first Turkey Trot will be held on November 24th and there is still time to sign up to run/walk.

CITIZENS HEARD:

Robert Allen, Property Manager of Petco Shopping Center: Said that he is concerned about the abandoned Exxon Gas Station and asked if the town could have the building demolished. He said besides it being an eyesore, it has made it difficult for them to secure quality tenants. Mayor Coiro: Explained that when the New Jersey Department of Transportation (DOT) re-configured the Route 46/Union Boulevard interchange, they purchased the site and were suppose to demolish the building and then they sold it. We'll look into it with the current owner.

Mike Mahometa, 269 Lincoln Avenue: 1) Congratulated Lou and John on their re-election and said it is nice to have them back on the Council; 2) Said the last time that he was here we talked about having some more pines or pin oaks planted. DPW Superintendent Jim Niland: Responded that we have planted a bunch already and have two more to be planted behind Mike's house; 3) Asked about speed bumps on Lincoln Avenue. Mayor Coiro: Replied that the DOT frowns on them on hills.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Andriani to approve the Minutes of the Mayor and Council for the meeting of October 22, 2019. 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. 2019-23 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 Settlement Of The 2016, 2017, 2018 And 2019 Tax Appeals Entitled Totowa Plaza Assoc. LLC V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 116-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2016, 2017, 2018 AND 2019 TAX APPEALS ENTITLED TOTOWA PLAZA ASSOC. LLC V. BOROUGH OF TOTOWA

WHEREAS, there have been appeals of the real property tax assessments for the stated tax years; and

WHEREAS, each Block and Lot listed therein was assessed at the amount stated therein; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, the settlement of these matters on the attached list are in the best interest of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa, New Jersey, as follows:

1. The Borough's Tax Appeal Attorney, Raymond B. Reddin, Esq. is authorized to execute the Stipulation of Settlement on behalf of the Borough of Totowa with respect to the tax appeals on the attached list which are currently pending in the Tax Court of New Jersey.
2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing Settlement Of The 2017, 2018 And 2019 Tax Appeals Entitled Itkin V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 117-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2017, 2018 AND 2019 TAX APPEALS ENTITLED ITKIN V. BOROUGH OF TOTOWA

WHEREAS, there have been appeals of the real property tax assessments for the stated tax years; and

WHEREAS, each Block and Lot listed therein was assessed at the amount stated therein; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, the settlement of these matters on the attached list are in the best interest of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa, New Jersey, as follows:

1. The Borough's Tax Appeal Attorney, Raymond B. Reddin, Esq. is authorized to execute the Stipulation of Settlement on behalf of the Borough of Totowa with respect to the tax appeals on the attached list which are currently pending in the Tax Court of New Jersey.
2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing Settlement Of The 2018 And 2019 Tax Appeals Entitled John Ambrose V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 118-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2018 AND 2019 TAX APPEALS ENTITLED JOHN AMBROSE V. BOROUGH OF TOTOWA

WHEREAS, there have been appeals of the real property tax assessments for the stated tax years; and

WHEREAS, each Block and Lot listed therein was assessed at the amount stated therein; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, the settlement of these matters on the attached list are in the best interest of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa, New Jersey, as follows:

1. The Borough's Tax Appeal Attorney, Raymond B. Reddin, Esq. is authorized to execute the Stipulation of Settlement on behalf of the Borough of Totowa with respect to the tax appeals on the attached list which are currently pending in the Tax Court of New Jersey.
2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing Settlement Of The 2018 And 2019 Tax Appeals Entitled Morgan DeMarco V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 119-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2018 AND 2019 TAX APPEALS ENTITLED MORGAN DEMARCO V. BOROUGH OF TOTOWA

WHEREAS, there have been appeals of the real property tax assessments for the stated tax years; and

WHEREAS, each Block and Lot listed therein was assessed at the amount stated therein; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, the settlement of these matters on the attached list are in the best interest of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa, New Jersey, as follows:

1. The Borough's Tax Appeal Attorney, Raymond B. Reddin, Esq. is authorized to execute the Stipulation of Settlement on behalf of the Borough of Totowa with respect to the tax appeals on the attached list which are currently pending in the Tax Court of New Jersey.
2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing Settlement Of The 2018 And 2019 Tax Appeals Entitled West End Realty V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 120-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2018 AND 2019 TAX APPEALS ENTITLED WEST END REALTY V. BOROUGH OF TOTOWA

WHEREAS, there have been appeals of the real property tax assessments for the stated tax years; and

WHEREAS, each Block and Lot listed therein was assessed at the amount stated therein; and

WHEREAS, the proposed Stipulation of Settlement, a copy of which is incorporated herein as if set forth at length, has been reviewed and recommended by the Borough Tax Assessor and Borough Tax Expert; and

WHEREAS, the settlement of these matters on the attached list are in the best interest of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa, New Jersey, as follows:

1. The Borough's Tax Appeal Attorney, Raymond B. Reddin, Esq. is authorized to execute the Stipulation of Settlement on behalf of the Borough of Totowa with respect to the tax appeals on the attached list which are currently pending in the Tax Court of New Jersey.

2. All municipal officials are hereby authorized to take whatever action may be necessary to implement the terms of this Resolution and authorizes the Special Tax Counsel to enter into the Stipulation of Settlement as provided by Taxpayer.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to adopt the following Resolution Calling For Study Commission To Review The Open Public Records Act. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 121-2019

RESOLUTION CALLING FOR STUDY COMMISSION TO REVIEW THE OPEN PUBLIC RECORDS ACT

WHEREAS, the Borough of Totowa strongly believes in and supports open, transparent government, and that citizens and residents have the right to be informed about the workings of government in order to best participate in a democracy; and

WHEREAS, on January 8, 2002 then Acting Governor DiFrancesco signed into law the Open Public Records Act (OPRA) which mandates that government records shall be available, with limited exceptions, for public access and simplifying the procedures for requesting such specific records; and

WHEREAS, the intent of the law was to provide the public with easy access to government records with an uncomplicated process for obtaining the records and eliminating bureaucratic red tape; and

WHEREAS, over the course of 18 years OPRA has been a positive light, but it has also been fraught with abuse and misuse, and has become an unanticipated financial cost to the taxpayers of New Jersey; and

WHEREAS, the Borough of Totowa has labored under a well-intended law that has spiraled out of control, due to the volume and nature of requests, the cost to taxpayers in responding to the requests, and the potential liability in having to pay disproportionate prevailing party attorney's fees should the requests turn into litigated matters, as well as the liability in determining which documents shall be released, with or without redaction, while attempting to maintain individual privacy; and

WHEREAS, it is not only the volume of OPRA requests that challenge our resources, but it is also the cost associated with reviewing, retrieving, and processing the OPRA request(s) by public entity personnel and counsel and possibly defending our action(s) before the Government Records Council or in Superior Court; and

WHEREAS, the Borough of Totowa received and responded to approximately 480 OPRA requests in 2017, approximately 520 OPRA requests in 2018, and to date has received and responded to approximately 360 OPRA requests as of September 1, 2019; and

WHEREAS, the Borough of Totowa municipal staff has spent approximately 1,080 hours responding to OPRA requests received in 2019 to date, and a yearly average of approximately 1,500 hours since 2017; and

WHEREAS, due to the often conflicting case law and Government Records Council decisions, as well as the unique characteristics of OPRA request(s), the Borough of Totowa must often times rely on the municipal attorney to review certain OPRA requests, resulting in additional fees; and

WHEREAS, with limited exceptions OPRA has not been amended to address the clear and apparent advancement in technology that has changed the way government records are created, stored, and/or transmitted; the various interpretive decisions; privacy concerns; abuse for commercial gain; and/or the ever increasing cost to taxpayers; and

WHEREAS, as the current law approaches its twentieth (20th) anniversary it has outgrown its original intended use and has become ripe for comprehensive review and reform.

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Totowa appeals to the legislature to form a Commission comprised of Mayors, Municipal Clerks, Municipal Managers, Attorneys, Police Chiefs, open government advocates, privacy experts, members of the media, citizens and other appropriate stakeholders, to review and examine the effects of OPRA on local government and the needs to be fulfilled by the law, and use the Commission's findings to perform a comprehensive reform of OPRA.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to Senator Kristin M. Corrado, Assemblyman Kevin J. Rooney, Assemblyman Christopher P. DePhillips, Assembly Speaker Craig Coughlin, Senate President Stephen Sweeney, Senator Loretta Weinberg, Executive Director of the Government Records Council, the Governor of the State of New Jersey, the Municipal Clerks Association of New Jersey and New Jersey State League of Municipalities.

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to acknowledge receipt of the Best Practices Inventory CY 2019/SFY 2020. Municipal Clerk Wassel announced that we scored a 39.00 and a score of 30 + results in no aid being withheld from the municipality. The Worksheet was certified by Chief Administrative Officer/Municipal Clerk Joseph Wassel (C-0791) and Chief Financial Officer Lisa Nash (N-931). 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 authorize the Borough Attorney to prepare and the Borough Clerk to advertise for the RFP's for 2020 Professional Services. 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 Councilman Capo to approve payment of the Fire Department Clothing Allowance for 2019. On roll call vote, all members of the Council present voted in the affirmative.

A letter from the Fire Department Secretary providing a sample copy of the ballot for the Fire Chief Election was received and filed.

COMMITTEE ON PUBLIC WORKS:

There was no report.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was a motion by Councilman Capo, seconded by Councilwoman Andriani to accept the following bids for the purchase of property located at 98 Gordon Avenue, Block 41, Lot 8. On roll call vote, all members of the Council present voted in the affirmative.

<u>Property Owner</u>	<u>Amount Bid</u>
Bosko Boskovski 94 Gordon Avenue	\$5,600.00

There was a motion by Councilman Capo, seconded by Councilwoman Andriani to adopt the following Resolution Authorizing The Private Sale Of 98 Gordon Avenue, Block 41, Lot 8. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 122-2019

RESOLUTION AUTHORIZING THE PRIVATE SALE OF
98 GORDON AVENUE, BLOCK 41, LOT 8

WHEREAS, the Borough of Totowa owns property located at 98 Gordon Avenue and identified as Block 41, Lot 8 on the official Tax Map of the Borough of Totowa (the "Property"); and

WHEREAS, the Property is undersized and cannot be developed without the approval of variances; and

WHEREAS, it has been determined by the Borough Engineer that there is no public purpose for the Borough of Totowa to retain the Property; and

WHEREAS, there are 3 contiguous parcels located adjacent to the Borough's property and N.J.S.A. 40A:12-13(b)(5) allows the sale at fair market value to the highest bidder from among all such owners at private auction; and

WHEREAS, by Ordinance No. 12-2019 adopted August 13, 2019, the Mayor and Council of the Borough of Totowa authorized the sale of the Property subject to the following conditions and restrictions:

1. The Property shall be sold for not less than \$5,500.00, the fair market value thereof, along with the payment of any and all expenses incurred by the Borough in connection with the sale and transfer of the title of the Property, including but not limited to the payment by purchaser of the Borough's legal, survey, title and environmental fees, if any;
2. The purchaser shall take all necessary steps to formally merge the Property with its property and provide the Borough with proof thereof;
3. The purchaser or any subsequent owner shall not be permitted to construct any structures on the Property without the required approvals.
4. The deed transferring the Property to the purchaser shall incorporate the restrictions set forth in item 3 above;
5. The Property shall be sold "as is" with regard to any and all conditions, including but not limited to environmental and title issues;
6. The Purchaser of the Property shall be required to provide ten percent of the fair market value of the Property with a signed contract via cash or certified funds, which percentage shall be deemed a non-refundable deposit;
7. The purchaser of the Property shall be required to execute a contract of sale in connection with the payment of the deposit; and
8. At the time of closing, the Borough shall provide a quitclaim deed in connection therewith; an affidavit of title will not be provided.

WHEREAS, the Borough of Totowa did receive sealed bids at its Municipal Building on November 7, 2019; and

WHEREAS, the lone bid was submitted by Bosko Boskovski, 94 Gordon Avenue, Totowa, New Jersey 07512 in the amount of \$5,600.00, 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 desire to accept the bid submitted by Mr. Boskovski for the purchase of the Property and memorialize the terms and conditions of the sale of the Property in a Real Estate Sales Contract; and

WHEREAS, the Mayor and Council of the Borough of Totowa further desire to authorize the sale of this Property subject to the aforementioned terms.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the private sale of property located at 98 Gordon Avenue in the Borough of Totowa and identified as Block 41, Lot 8 on the official Tax Map of the Borough of Totowa.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa authorize the Borough of Totowa to enter into a Real Estate Sales Contract with Bosko Boskovski for the sale of said Property.

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 instruments relating thereto.

COMMITTEE ON LIAISON & INSPECTION:

There was no report.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to approve Raffle License Application No. 2183 for the BPOE #2111 Passaic Valley Elks for an Off-Premise 50/50 to be held on January 10, 2020. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to approve Raffle License Application No. 2184 for the St. Joseph's Home For The Elderly Of The Little Sisters Of The Poor for an Off-Premise 50/50 to be held on March 17, 2020. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to add the following item to the agenda. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to approve the Petition To Extend Licensed Premises for Anthony Murphy, Inc. for November 27 & 30, 2019. On roll call vote, all members of the Council present voted in the affirmative.

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

Joseph Wassel, RMC
Municipal Clerk