

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

September 11, 2012

PRESENT: Mayor John Coiro, presiding, Council President Phil Puglise, Councilman John Waryas, Councilman Lou D'Angelo, Councilwoman Carolyn Fontanella, Councilwoman Debra Andriani, Municipal Clerk Joseph Wassel and Municipal Attorney Robert Corrado.

ABSENT: None.

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 announced that in honor of the 11th Anniversary of the attacks on America and even though we just held a short ceremony outside by our 9-11 memorial monument, he asked that everyone remain standing and offer a moment of silence for all the 9-11 victims and their families.

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.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to dispense with the regular order of business in order to accept the letter of resignation from Councilman James Niland, accept the nominees and appoint a person to fill the vacancy of Council; and to hold a public hearing on Ordinance Nos. 08-2012, 09-2012, 10-2012 & 11-2012 as advertised. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel advised the Mayor and Council that he was in receipt of a letter of resignation from Councilman James Niland and then Councilman Puglise read the letter as follows:

September 4, 2012

Honorable Mayor and Council
Borough of Totowa
Municipal Complex
537 Totowa Road at Cherba Place
Totowa, New Jersey 07512

Dear Mayor and Council Members:

It is with deep regret that I am submitting my resignation from my position as a Councilman of the Borough of Totowa due to personal reasons. My resignation is effective immediately. It has been an honor and privilege to serve as a Councilman for the past nine years and my pleasure to serve the residents of the Borough of Totowa.

I am proud to have had the opportunity to be a Councilman in the Borough of Totowa and for the work we have done together. I have enjoyed the time spent working with each and every one of you and I would like to thank you for your friendship as well. I would further like to thank the residents of the Borough of Totowa who have allowed me to serve them. I am committed to serving you and our community for many years to come.

Very truly yours,
James Niland

There was a motion by Councilman Puglise, seconded by Councilman Waryas to accept Councilman Niland's resignation with regrets. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel advised the Mayor and Council that he was in receipt of the following letter from Peter A. Murphy, Chairman of the Totowa Borough Republican Club, Inc. regarding the submission of eligible nominees—as unanimously selected by the Totowa Republican County Committee—to fill the vacancy of Council that was created by the resignation of Councilman James Niland.

September 6, 2012

Joseph Wassel, RMC
Borough of Totowa Municipal Clerk
Municipal Complex
537 Totowa Road at Cherba Place
Totowa, New Jersey 07512

RE: (A) Resignation of Councilman James Niland
(B) Appointment of Successor Councilperson

Dear Joe:

In response to the resignation of Councilman James Niland which became effective on September 4, 2012, I am pleased to submit to the Mayor and Council of the Borough of Totowa three (3) nominees selected by the members of the Totowa Republican County Committee to fill the vacant Council position. Each of the nominees is a member of the Republican Party and has the requisite qualifications that are required by statute. The nominees are as follows:

1. Anthony Picarelli
13 Craig Court, Totowa, New Jersey 07512
2. Lynn Kabana
25 Meadow Drive, Totowa, New Jersey 07512
3. Giovanni D'Ambrosio
138 Gordon Avenue, Totowa, New Jersey 07512

The above nominees were unanimously selected by the Totowa Republican County Committee members at a meeting duly called for that purpose.

The Council of the Borough of Totowa shall, within thirty (30) days after the occurrence of the vacancy, appoint one (1) of the nominees as the successor to fill the vacancy.

Very truly yours,
Peter A. Murphy, Chairman

Municipal Clerk Wassel read the names of the three (3) nominees who are all members of the Republican Party and have met the qualifications as required by statute.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to acknowledge receipt of the letter from Peter A. Murphy, Chairman of the Totowa Borough Republican Club, Inc. and accept the names of the three (3) nominees to fill the vacancy of Council as submitted by the Totowa Republican County Committee. On roll call vote, all members of the Council present voted in the affirmative.

Councilman Puglise nominated Anthony Picarelli to fill the vacancy for Council of the Borough of Totowa. The nomination was seconded by Councilman Waryas. There were no other nominations.

There being no further nominations, there was a motion by Councilman Puglise, seconded by Councilman Waryas to appoint Anthony Picarelli as Councilman of the Borough of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro advised everyone that there will be a swearing in ceremony for new Councilman Anthony Picarelli at the next regularly scheduled Council Meeting to be held on Tuesday, September 25, 2012.

Municipal Clerk Wassel announced that Ordinance Nos. 08-2012, 09-2012, 10-2012 & 11-2012 have been advertised for public hearing for Tuesday, September 11, 2012.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 08-2012.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens wished to be heard on Ordinance No. 08-2012.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 08-2012 by title:

ORDINANCE NO. 08-2012

A CAPITAL ORDINANCE APPROPRIATING THE SUM OF \$568,250 FOR THE MAKING OF VARIOUS SANITARY SEWER, STORM SEWER AND ROAD IMPROVEMENTS BY THE BOROUGH OF TOTOWA AND TO APPROPRIATE \$208,250 FROM A COMMUNITY DEVELOPMENT BLOCK GRANT, \$175,000 FROM A NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT, \$107,000 FROM THE RESERVE FOR LAND SALE PROCEEDS AND \$78,000 PROVIDED FOR IN THE 2012 CURRENT FUND BUDGET

There was a motion by Councilman Puglise, seconded by Councilman Waryas to adopt Ordinance No. 08-2012 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 09-2012.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens wished to be heard on Ordinance No. 09-2012.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 09-2012 by title:

ORDINANCE NO. 09-2012

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 61 ENTITLED, "OFFICERS AND EMPLOYEES", ARTICLE XII,
"ADDITIONAL POSITIONS", SECTION 43, "POSITIONS OF EMPLOYMENT"**

There was a motion by Councilman Puglise, seconded by Councilman Waryas to adopt Ordinance No. 09-2012 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 10-2012.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens wished to be heard on Ordinance No. 10-2012.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 10-2012 by title:

ORDINANCE NO. 10-2012

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 22 ENTITLED "COURT, MUNICIPAL"**

There was a motion by Councilman Puglise, seconded by Councilman Waryas to adopt Ordinance No. 10-2012 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 11-2012.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to open the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Mayor Coiro asked if any citizens wished to be heard on Ordinance No. 11-2012.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to close the public hearing. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read Ordinance No. 11-2012 by title:

ORDINANCE NO. 11-2012

**AN ORDINANCE TO AMEND AN ORDINANCE FIXING THE ANNUAL SALARIES
AND WAGES OF THE OFFICIALS, EMPLOYEES AND THE APPOINTEES OF THE
BOROUGH OF TOTOWA, COUNTY OF PASSAIC, STATE OF NEW JERSEY**

There was a motion by Councilman Puglise, seconded by Councilman Waryas to adopt Ordinance No. 11-2012 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to revert to the regular order of business. On roll call vote, all members of the Council present voted in the affirmative.

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

Councilman Waryas: 1) Advised that this Sunday at St. James Church at 10:00 a.m. there will be a 9-11 ceremony to honor the police, fire and first aid squad; 2) The library expansion is in its final stages; 3) There will be a library fundraiser brunch on September 30th at The Brownstone; 4) Thanked everyone for their support this past Sunday at the Republican Club Picnic.

Councilman D'Angelo: Said he attended the 9-11 ceremony for Father Mychal Judge at Holy Sepulchre Cemetery.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to approve the Minutes of the Mayor and Council for the meeting of August 28, 2012. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON FINANCE:

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to approve Resolution No. 2012-19 for the payment of bills. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON PUBLIC SAFETY:

A retirement letter was received from Police Sergeant Duke J. Naples, effective November 15, 2012. There was a motion by Councilman Puglise, seconded by Councilman Waryas to accept his retirement. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to adopt the following resolution authorizing the submission of an application for the Totowa Mayor and Council Municipal Alliance grant for calendar year 2013 in the amount of \$24,625.00. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 95-2012

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

WHEREAS, the Mayor and Council 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 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 does hereby authorize submission of an application for the Totowa Mayor And Council Municipal Alliance grant for calendar year 2013 in the amount of \$24,625.00.
2. The Mayor and Council acknowledges 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 Puglise, seconded by Councilwoman Andriani to approve Change Order No. 1 for a net decrease of \$5,232.50 and Payment Estimate No. 2 (Final) in the amount of \$11,898.18 to S. Batata Construction, Inc. for the Hudson Avenue Improvements. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Puglise, seconded by Councilwoman Andriani to accept the following bids for the Storm Sewer Check Valve Project. On roll call vote, all members of the Council present voted in the affirmative.

<u>Company</u>	<u>Base Bid</u>
Rock Solid Construction, Inc. Newark, N.J. 07105	\$111,428.00
Matina & Son, Inc. Hackensack, N.J. 07601	\$113,000.00
Coppola Services, Inc. Ringwood, N.J. 07456	\$113,699.00
JoGi Construction, Inc. Livingston, N.J. 07039	\$129,000.00
Ferraro Construction Corp. Franklin, N.J. 07416	\$167,067.00
Montana Construction Corp. Lodi, N.J. 07644	\$181,500.00
Hutton Construction. LLC Cedar Grove, N.J. 07009	\$257,227.00

Upon the recommendation of the Engineer, there was a motion by Councilman Puglise, seconded by Councilwoman Andriani to adopt the following resolution to award the contract to the lowest responsible bidder. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 96-2012

RESOLUTION AWARING CONTACT FOR THE BOROUGH OF TOTOWA
STORM SEWER CHECK VALVE PROJECT

WHEREAS, in August of 2011, the Borough of Totowa suffered the devastating effects of Hurricane Irene which resulted in unprecedented flooding throughout the community; and

WHEREAS, the Borough of Totowa Municipal Engineer has recommended the installation of check valves on the storm sewer outfalls located along the Passaic River between the Hillery Street Bridge and Willard Avenue to prevent future flooding; and

WHEREAS, the Mayor and Council of the Borough of Totowa did advertise for receipt of sealed bids for its Storm Sewer Check Valve Project in accordance with its specifications entitled "Specifications, Proposal and Contract Documents for Borough of Totowa Storm Sewer Check Valves, Borough of Totowa, Passaic County, New Jersey, Contract No. 2012-2"; and

WHEREAS, the Borough of Totowa did receive bids at its Municipal Building on September 6, 2012; and

WHEREAS, the Mayor and Council of the Borough of Totowa on September 11, 2012 did examine all bids for materials and services called for; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that the lowest responsible bid was submitted by Rock Solid Construction, Inc., 83 Clifford Street, Newark, New Jersey 07105 with a bid in the amount of One Hundred Eleven Thousand Four Hundred Twenty-Eight and 00/100 Dollars (\$111,428.00), a copy of which is on file in the office of the Municipal Clerk; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that the bid submitted by Rock Solid Construction, Inc. be accepted as the lowest responsible bid.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby accept the bid of Rock Solid Construction, Inc. for the Borough of Totowa Storm Sewer Check Valve Project as the lowest responsible bid for the total sum of One Hundred Eleven Thousand Four Hundred Twenty-Eight and 00/100 Dollars (\$111,428.00).

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.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to adopt the following Resolution Granting Permission To Fiber Technologies Networks, LLC To Locate, Operate And Maintain Fiber Optic Cable Within The Municipal Right-Of-Way. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 97-2012

RESOLUTION GRANTING PERMISSION TO FIBER TECHNOLOGIES NETWORKS, LLC TO LOCATE, OPERATE AND MAINTAIN FIBER OPTIC CABLE WITHIN THE MUNICIPAL RIGHT-OF-WAY

WHEREAS, Fiber Technologies Networks, LLC is a telecommunications utility authorized by the New Jersey Board of Public Utilities (BPU) to provide local telecommunications services throughout the State of New Jersey; and

WHEREAS, Fiber Technologies Networks, LLC, has requested approval to install telecommunications facilities aerially on existing utility poles or in underground conduits in the Borough of Totowa's municipal right-of-way for the purpose of owning, constructing, installing, operating, repairing and maintaining a telecommunications system; and

WHEREAS, the Mayor and Council of the Borough of Totowa has deemed it to be in the best interests of the community to grant consent to Fiber Technologies Networks, LLC to occupy said municipal right-of-way; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to enter into an agreement with Fiber Technologies Networks, LLC setting forth the terms and conditions of this consent.

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

1. Permission and authority are hereby granted to Fiber Technologies Networks, LLC to install telecommunication facilities on utility poles or within underground conduits located within the public right-of-way in the

Borough, in order to provide telecommunication services to the public and to operate, maintain and repair said facilities, subject to the following:

- A. The facilities shall be installed in underground conduit and/or onto utility poles in the public right-of-way.
- B. Fiber Technologies Networks, LLC, its successors and assigns, shall adhere to all applicable Federal, State and Local laws regarding safety requirements for the use of the public right-of-way.
- C. Fiber Technologies Networks, LLC, its successors and assigns, shall comply with all Federal, State and Local laws requiring permits prior to beginning construction.
- D. Such permission shall be and is hereby given upon the condition and provision that Fiber Technologies Networks, LLC, its successors and assigns, not only indemnify and save harmless the Borough, its officers, agents and servants from any claims arising from or in any way connected to the acts or omissions of Fiber Technologies Networks, LLC in use of the public right-of-way but shall agree on behalf of the Borough to defend any action at law or equity which may be brought against the Borough upon such claim or claims arising during the construction period, excluding in all instances claims arising out of the gross negligence or willful misconduct on the part of the Borough.
- E. In addition to the aforesaid indemnity agreement, Fiber Technologies Networks, LLC, its successors and assigns, shall at its own cost and expense procure and keep at all times in full force and effect paid up policies for Comprehensive General Liability Insurance in favor of the Borough in the amount of \$1,000,000.00 covering liability for any death, personal injury, property damage or other liability arising out of the construction and operation of the telecommunication services contemplated herein and an excess liability (or "umbrella") policy in the amount of \$5,000,000.00. Proof of said coverage, naming the Borough as an additional insured and including the indemnification coverage required in Section D, shall be filed with the Borough Clerk prior to commencing with any construction or installation work. The Borough shall have the right to increase the amount of Comprehensive General Liability Insurance and to alter the terms of the insurance called for under this Section. Fiber Technologies Networks, LLC shall provide the Borough with thirty (30) days written notice of modification,

cancellation or non-renewal of said insurance policy.

- F. Such permission shall be and is hereby given upon the further condition that in the use of the public right-of-way Fiber Technologies Networks, LLC, its successors and assigns, shall become subject to any lawful Ordinance or Resolution now or hereafter adopted by the Borough.
- G. Such permission shall be and is hereby given upon the further condition that Fiber Technologies Networks, LLC shall obtain all applicable permits which may be required by the Borough and shall comply with and bear the expenses of all applicable Borough requirements regarding traffic control and police supervision while any work in the public right-of-way is occurring.
- H. Fiber Technologies Networks, LLC shall be responsible for the repair of any damage to paving, existing utility lines or any surface or subsurface installations, etc., arising from the construction, installation or maintenance of said telecommunication facilities.
- I. This instrument shall be adopted on behalf of the Borough by the Borough Council and attested to by the Borough Clerk who shall affix the Borough Seal thereto. Said execution, approval and filing thereof shall constitute the existence of public notification.
- J. The permission and authority granted herein shall be for a period of fifty (50) years from the effective date of this Resolution. However either party may cancel such permission and authority with a minimum of one (1) year prior written notice to each other.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Borough of Totowa to enter into an agreement with Fiber Technologies Networks, LLC memorializing the aforementioned terms.

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.

COMMITTEE ON LIAISON & INSPECTION:

A letter of resignation was received from Board of Health Commissioner Louis Elia. There was a motion by Councilwoman Andriani, seconded by Councilman Waryas to accept his resignation and send him a letter of thanks for his years of service. On roll call vote, all members of the Council present voted in the affirmative.

A letter from the North Jersey Developmental Center inviting the Mayor and Council to attend the Zerbini Family Circus at their facility on Thursday, September 20, 2012 was received and filed.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to approve the Application For Special Permit For Social Affair from the State Of New Jersey Division Of Alcoholic Beverage Control for the BPOE #2111 Passaic Valley Elks for September 22, 2012 from 1:00 p.m.—10:00 p.m. and October 14, 2012 from 11:00 a.m.—10:00 p.m. 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 Puglise, seconded by Councilman Waryas that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

Joseph Wassel, RMC
Municipal Clerk