

## **BOROUGH OF TOTOWA**

### **MINUTES OF THE MAYOR AND COUNCIL**

**February 12, 2013**

**PRESENT:** Mayor John Coiro, presiding, Councilman John Waryas, Councilman Lou D'Angelo, Councilwoman Carolyn Fontanella, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Municipal Clerk Joseph Wassel and Municipal Attorney Robert Corrado.

**ABSENT:** Council President Phil Puglise.

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 John Coiro acknowledged Passaic County Sheriff Richard Berdnik, Passaic County Clerk Kristin Corrado, Passaic County Freeholder Pat Lepore, Woodland Park Mayor Keith Kazmark and Woodland Park Police Chief Anthony Galletti in the audience.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to dispense with the regular order of business in order to have a swearing in ceremony to administer the Oath of Allegiance and Office to Joseph Flynn, Douglas Spinella and Thomas Bevacqua appointed as Probationary Patrolman of the Borough of Totowa Police Department and to hold a public hearing on Ordinance No. 03-2013 as advertised. On roll call vote, all members of the Council present voted in the affirmative.

Mayor John Coiro asked Joseph Flynn, Douglas Spinella and Thomas Bevacqua to approach the dais to take the Oath of Allegiance and Office. Councilman John Waryas, a member of the Public Safety Committee and Police Chief Robert Coyle also joined the Mayor.

Mayor Coiro explained the testing process that started with a written examination, and then was followed by a physical test and oral interviews, which produced our top three candidates. He said that we are very proud to have them join our police department.

Mayor John Coiro administered the Oath of Allegiance and Office to Joseph Flynn whose mother Diane held the Bible, Douglas Spinella whose mother Cheryl held the Bible and Thomas Bevacqua whose grandfather Phil held the Bible.

A badge symbolic to the rank of Patrolman was presented to Patrolman Joseph Flynn, Patrolman Douglas Spinella and Patrolman Thomas Bevacqua by Police Chief Robert W. Coyle.

Police Chief Coyle thanked the Mayor and Council, the Borough Clerk, Borough Attorney and the administration for moving forward with these appointments. Chief Coyle then proceeded to provide a little background information on each recruit.

Patrolman Bevacqua thanked the Mayor and Council for this lifelong career opportunity, along with his family and friends for their support.

Patrolman Spinella thanked the Mayor and Council, his family and friends and said that he looks forward to working with this great department.

Patrolman Flynn thanked the Mayor and Council, his family and friends and said that he can't wait to work for Totowa.

Congratulations were extended to Patrolman Joseph Flynn, Patrolman Douglas Spinella and Patrolman Thomas Bevacqua. Mayor Coiro called for a recess, so all in attendance could also offer their congratulations to the new Patrolmen.

Municipal Clerk Wassel announced that Ordinance No. 03-2013 has been advertised for public hearing for Tuesday, February 12, 2013.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 03-2013.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo 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. 03-2013.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo 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. 03-2013 by title:

**ORDINANCE NO. 03-2013**

**AN ORDINANCE OF THE BOROUGH OF TOTOWA, IN THE COUNTY OF PASSAIC, NEW JERSEY, PROVIDING FOR THE LOCAL SHARE FOR THE REPLACEMENT OF A PORTION OF THE 24" SANITARY SEWER FORCE MAIN SHARED BY LITTLE FALLS, TOTOWA AND WOODLAND PARK IN AND FOR THE BOROUGH OF TOTOWA AND APPROPRIATING \$1,110,000 THEREFORE AND PROVIDING FOR THE ISSUANCE OF \$1,057,000 IN BONDS OR NOTES OF THE BOROUGH OF TOTOWA TO FINANCE THE SAME.**

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to adopt Ordinance No. 03-2013 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 Waryas, seconded by Councilman D'Angelo 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: Thanked the Mayor for issuing the snow message to residents about not parking on the streets and the DPW for the way they handled snow removal, but said that people still throw their snow back into the streets which means the DPW has to go back out to re-clear the roads.

#### CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to approve the Minutes of the Mayor and Council for the meeting of January 22, 2013. On roll call vote, all members of the Council present voted in the affirmative.

#### COMMITTEE ON FINANCE:

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to approve Resolution No. 2013-04 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 D'Angelo, seconded by Councilwoman Fontanella to adopt the following resolution authorizing the Treasurer to issue refunds to various property owners due to overpayment of 1<sup>st</sup> Quarter 2013 taxes. On roll call vote, all members of the Council present voted in the affirmative.

#### RESOLUTION

RE: Tax Overpayments  
1<sup>st</sup> Quarter 2013

WHEREAS, there has been overpayments of taxes on the properties listed below; and

WHEREAS, the taxpayers are entitled to a refund; and

WHEREAS, the chart sets forth the refunds as follows:

BLK	LOT	PROPERTY	OWNER	OVERPAYMENT	PAYABLE TO
146	22	1 Knollwood Road	Robert Porfido	\$1,757.70	Homeowner

NOW, THEREFORE, BE IT RESOLVED, that the overpayment shall be refunded to the taxpayer as stated above, and the Treasurer is authorized to issue separate checks for the refunds, which shall be paid to the stated property owner or taxing authority.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to table the Resolution Authorizing Execution Of The Consent Decree For The Settlement With State Plaintiffs In The Action Entitled New Jersey Department Of Environmental Protection V. Occidental Chemical Corporation, Et Al., for further review by the Borough Attorney. On roll call vote, all members of the Council present voted in the affirmative.

Upon the recommendation of the Committee, there was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to hire Casey Kabana as a Senior Citizen Bus Driver. 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 accept the Franchise Fees for calendar year 2012 from Cablevision in the amount of \$118,928.00. 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 accept the Franchise Fees for calendar year 2012 from Verizon in the amount of \$23,192.36. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON PUBLIC SAFETY:

There was a motion by Councilman Waryas, seconded by Councilwoman Fontanella to adopt the following Resolution Approving Participation With The State Of New Jersey In A Safe And Secure Communities Program Administered By The Division Of Criminal Justice, Department Of Law And Public Safety. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 30-2013

RESOLUTION APPROVING PARTICIPATION WITH THE  
STATE OF NEW JERSEY IN A SAFE AND SECURE COMMUNITIES PROGRAM  
ADMINISTERED BY THE DIVISION OF CRIMINAL JUSTICE,  
DEPARTMENT OF LAW AND PUBLIC SAFETY

WHEREAS, the Mayor and Council of the Borough of Totowa wishes to apply for a project under the Safe and Secure Communities Program (Grant # P-5860-13); and

WHEREAS, the Mayor and Council of the Borough of Totowa has reviewed the application and has approved said request; and

WHEREAS, the project is a joint effort between the Department of Law and Public Safety and the Borough of Totowa, for the purpose described in the application.

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

- 1) As a matter of public policy, the Mayor and Council of the Borough of Totowa wishes to participate to the fullest extent possible with the Department of Law and Public Safety.
- 2) The Attorney General of New Jersey will receive funds on behalf of the applicant.
- 3) The Division of Criminal Justice shall be responsible for the receipt and review of the applications for said funds.
- 4) The Division of Criminal Justice shall initiate allocations to the applicant as authorized by law.

There was a motion by Councilman Waryas, seconded by Councilwoman Fontanella to approve payment of additional contribution to the Borough Of Totowa First Aid Squad, Inc. in the amount of \$10,625.00 for their 2012 TSAP. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Waryas, seconded by Councilwoman Fontanella to approve fireman's applications, the purchase of fireman's equipment and authorize fireman's physicals for Rurik L. Ferro, Stephen A. Morley, Joseph N. Riccobono and Eric E. Schirner for Lincoln Fire Company. On roll call vote, all members of the Council present voted in the affirmative.

A letter from Assistant Prosecutor of Hudson County Nicole DePalma thanking Captain Scott Titus, Sergeant Keith Schaffer and Detective Carmen Veneziano for their assistance with a current trial in Hudson County was received and filed with a copy to be placed in their respective personnel jackets.

#### COMMITTEE ON PUBLIC WORKS:

Upon the recommendation of the Committee, there was a motion by Councilman Waryas, seconded by Councilman D'Angelo to hire Gregory Larose as a Department of Public Works Laborer—Grade 6, with a start date of Tuesday, February 19, 2013. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to adopt the following Resolution Waiving Interest Charges On An Adjusted Water Bill For Hickory Hill Home Owners Association. On roll call vote, all members of the Council present voted in the affirmative.

#### RESOLUTION NO. 31-2013

#### RESOLUTION WAIVING INTEREST CHARGES ON AN ADJUSTED WATER BILL FOR HICKORY HILL HOME OWNERS ASSOCIATION

WHEREAS, the Borough of Totowa Water Department bills its customers based on three cycles, four times a year; and

WHEREAS, the third quarter billing period for Cycle 2 for 2012 is August 1, 2012 to October 31, 2012; and

WHEREAS, Pulte Homes of NJ Ltd Partnership, Block 9.09, Lot 41.01 (a/k/a Hickory Hill Home Owners Association—HHHOA) is located in Cycle 2; and

WHEREAS, the meter reader inspected the meter which was being incorrectly read as a 1" meter and upon inspection noticed that the clubhouse meter is a 2" meter; and

WHEREAS, the third period billing has been adjusted to include \$8,535.98 to reflect the amount undercharged from 2005 first period to 2012 second period billing; and

WHEREAS, because of the inaccuracy of the water readings, the Water Registrar had requested a ninety (90) day interest free grace period on the adjusted billing; and

WHEREAS, the Mayor and Council of the Borough of Totowa on December 11, 2012 adopted Resolution No. 111-2012 approving the ninety (90) day grace period; and

WHEREAS, on February 1, 2013, Mayor John Coiro received a letter from Gary D. Wilkin, President of the Wilkin Management Group who represents HHHOA, advising that the owners pay their obligations through a budget process and since this additional charge was not budgeted for it presents a hardship to the HHHOA, and as a result requests that the Water Department accept payment of the \$8,535.98 over a twelve (12) month period beginning with their new budget year of June 1, 2013.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby approve the new twelve (12) month payment plan from June 1, 2013 to May 31, 2014 without interest.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Totowa that if the entire balance is not paid in full by May 31, 2014, then interest will be charged back to the original due date of June 1, 2013 on any unpaid balance.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Totowa that the Borough Clerk sends a copy of this resolution to the Water Registrar.

There was a motion by Councilman Waryas, seconded by Councilman D'Angelo to adopt the following Resolution Supporting The Delaying Of Draining Three (3) Reservoirs On Garret Mountain And Replacing Them With Large Concrete Tanks Until Updated Rules Are Released By The Environmental Protection Agency. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 32-2013

RESOLUTION SUPPORTING THE DELAYING OF DRAINING THREE (3)  
RESERVOIRS ON GARRETT MOUNTAIN AND REPLACING THEM WITH LARGE  
CONCRETE TANKS UNTIL UPDATED RULES ARE RELEASED BY THE  
ENVIRONMENTAL PROTECTION AGENCY

WHEREAS, in response to a federal Environmental Protection Agency mandate to cover all treated drinking water supplies, the Passaic Valley Water Commission is planning on draining the three (3) reservoirs on Garrett Mountain and replacing them with large concrete tanks; and

WHEREAS, the reservoirs are the Levine, New Street and the Great Notch, which happens to form about half of the western border of Rifle Camp County Park; and

WHEREAS, construction of the tanks would mar the landscape of the immediate area which straddles Paterson and Woodland Park and would cost upwards of \$100 million; and

WHEREAS, the cost would be passed on to the consumers; and

WHEREAS, being that local residents have been drinking this water for decades; and

WHEREAS, lawsuits filed against the mandate by New York City and Portland, Oregon have spurred the Environmental Protection Agency ("EPA") to revisit this requirement known as LT2 and the EPA is taking until 2016 to release an updated version; and

WHEREAS, the EPA has also granted New York City an extension for one particularly expensive reservoir replacement project; and

WHEREAS, the lease rights will include the right to install and maintain antennae for use in connection with radio transmitting and receiving equipment on the property; and

WHEREAS, based on this information, the Passaic County Planning Department would like to see the Passaic Valley Water Commission delay movement on the construction until the updated rules are released and less harmful solutions are explored; and

WHEREAS, these three sites abut residential neighborhoods and the introduction of the tanks would render them industrial in look while also raising the residents' water rates; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to demonstrate their support for the delay of this project until the updated rules are released; and

WHEREAS, this matter was discussed at a Regular Meeting of Governing Body of the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa, County of Passaic, State of New Jersey hereby urges the delay in movement of the tank construction project until the updated rules are released by the EPA.

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be forwarded to the Borough of Totowa's representatives.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing Agreement Modification No. 2 With The New Jersey Department Of Transportation For The Union Boulevard And Transitional Areas Revitalization And Streetscape Improvements—Phase II. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 33-2013

RESOLUTION AUTHORIZING AGREEMENT MODIFICATION NO. 2 WITH THE  
NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE UNION  
BOULEVARD AND TRANSITIONAL AREAS REVITALIZATION AND  
STREETSCAPE IMPROVEMENTS – PHASE II

WHEREAS, the Borough of Totowa has received a federally funded grant for the Union Boulevard and Transitional Areas Revitalization and Streetscape Improvements – Phase I and II, Federal Project #FS-B00S(984), State Project #7012309 for various improvements along Union Boulevard and transitional areas; and

WHEREAS, these improvements include but are not limited to the installation of curbs, brick pavers and street lighting; and

WHEREAS, as a condition of approval, the Borough of Totowa was required to enter into a Cost Reimbursement Agreement with the State of New Jersey Department of Transportation, Division of Local Aid and Economic Development (“NJDOT Local Aid Office”); and

WHEREAS, by Resolution No. 31-2012 dated February 9, 2010, the Mayor and Council of the Borough of Totowa authorized the Borough of Totowa to enter into Federal Aid Agreement No. 2010-DT-BLA1-16 with the NJDOT Local Aid Office in connection with the Union Boulevard and Transitional Areas Revitalization and Streetscape Improvements - Phase II, Federal Aid Project; and

WHEREAS, by Resolution No. 41-2012 dated February 28, 2012 the Mayor and Council of the Borough of Totowa authorized Agreement Modification No. 1; and

WHEREAS, the NJDOT Local Aid Office has requested that the Borough of Totowa enter into another agreement modification; and

WHEREAS, this modification increases the Grant amount by \$21,292.00; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to enter into this agreement modification with the NJDOT Local Aid Office and memorialize the terms thereof.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Borough of Totowa to enter into Modification No. 2 of the Federal Aid Agreement No. 2010-DT-BLA1-16 with the State of New Jersey Department of Transportation, Division of Local Aid and Economic Development in connection with the Union Boulevard and Transitional Areas Revitalization and Streetscape Improvements - Phase II, Federal Aid Project.

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 was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to approve Payment Estimate No. 1 in the amount of \$67,081.10 to Allstate Power Vac, Inc. for the Sanitary Sewer Lining Project—Phase I. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to approve Change Order No. 1 for a net increase of \$16,805.25 to Allstate Power Vac, Inc. to replace collapsed sanitary sewer main within Williams Place for the Sanitary Sewer Lining Project—Phase I. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to adopt the following Resolution Approving Amendment To The Sub-Recipient Agreement Between The County Of Passaic And The Borough Of Totowa For Community Development Block Grant Funds For The Sanitary Sewer Lining Project— Phase I. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 34-2013

RESOLUTION APPROVING AMENDMENT TO THE SUB-RECIPIENT AGREEMENT  
BETWEEN THE COUNTY OF PASSAIC AND THE BOROUGH OF TOTOWA FOR  
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR THE SANITARY  
SEWER LINING PROJECT – PHASE I

WHEREAS, the County of Passaic had applied for and received funds from the United States Government under Title I of the Housing and Community Development Act of 1974, as amended (“HCD Act”), Public Law 98-383; and

WHEREAS, the Borough of Totowa was awarded \$208,250.00 in funds through a FY 2011 Sub-Recipient Agreement with the County of Passaic pursuant to the funds authorized under the HCD Act for the lining of a sanitary sewer main within Jefferson Place between Union Boulevard and Franklin Place, a portion of the sanitary sewer main within Dewey Avenue between Stanley Street and Bogert Street, and a portion of the sanitary sewer main within Williams Place between Totowa Road and Jefferson Place; and

WHEREAS, the Passaic County Board of Chosen Freeholders adopted Resolution R-12-54 on January 24, 2012 to reallocate \$82,400.00 in FY 2011 Funding to the Borough of Totowa to implement a Sanitary Sewer Lining Project within Jefferson Place between Union Boulevard and Franklin Place, a portion of the sanitary sewer main within Dewey Avenue between Stanley Street and Bogert Street, and a portion of the sanitary sewer main within Williams Place between Totowa Road and Jefferson Place for a total grant amount of \$208,250.00; and

WHEREAS, the Borough of Totowa is now requesting an additional \$7,100.00 in Community Development Block Grant funding due to the recent discovery that a section of the sanitary sewer had collapsed and must be repaired immediately to prevent continued deterioration of the pipe and to allow the sewer lining project to continue; and

WHEREAS, the Passaic County Board of Chosen Freeholders adopted Resolution R-13-58 dated January 29, 2013 authorizing the addition of \$7,100.00 to the FY2011 grant; and

WHEREAS, this additional funding will result in a total FY2011 allocation amount of \$215,350.00 toward the Sanitary Sewer Lining Project.

NOW, THEREFORE, BE IT RESOLVED, that the County of Passaic and Borough of Totowa agree to the following:

1. The activities as outlined in the original Sub-Recipient Agreement are now to include the repair of the collapsed port of the sanitary sewer in addition to the Sewer Lining Project; and
2. The budget detailed in the original Sub-Recipient Agreement is now increased to \$215,350.00; and
3. The Borough of Totowa certifies that the activities carried out with funds provided under the original Sub-Recipient Agreement will meet one or more of the CDBG Program's National Objectives:
  - a. Benefit low/moderate income persons;
  - b. Aid in the prevention or elimination of slums or blight;
  - c. Meet community development needs having a particular urgency as defined in 24 CFR 570.208.
4. This Project meets the national objectives of the Community Development Block Grant Program, 24 CFR Part 570.208(a) (1) low/moderate income areas. The sewer line is located under streets that are located in CT 2238.00 Clock Group 2 whose population is 41.4% low income.

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 was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to adopt the following Resolution Authorizing The Leasing Of Real Property And Reservation Of Rights For A Portion Of A Water Tank Located On Block 75, Lot 22 In The Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 35-2013

RESOLUTION AUTHORIZING THE LEASING OF REAL PROPERTY AND  
RESERVATION OF RIGHTS FOR A PORTION OF A WATER TANK LOCATED ON  
BLOCK 75, LOT 22 IN THE BOROUGH OF TOTOWA

WHEREAS, the Borough of Totowa is the owner of a Water Tank located on Block 75, Lot 22 on the official tax map of the Borough of Totowa; and

WHEREAS, the Mayor and Council of the Borough have determined that this property is not needed for public use; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the public leasing of a portion of the Water Tank located on Block 75, Lot 22 on the official tax map of the Borough of Totowa; and

WHEREAS, the lease rights will include the right to install and maintain antennae for use in connection with radio transmitting and receiving equipment on the property; and

WHEREAS, bids will be solicited for an annual leasehold with rent to be paid in equal monthly installments; and

WHEREAS, pursuant to the provisions of N.J.S.A 40:A12-14(a), the governing body may fix a minimum rental with the reservation of the right to reject all bids where the highest bid is not accepted; and

WHEREAS, N.J.S.A. 40A: 12-14(a) further provides that upon completion of the bidding the highest bid may be accepted or all of the bids may be rejected.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the leasing of a portion of the Water Tank located on Block 75, Lot 22 on the official tax map of the Borough of Totowa.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby establish a minimum rental fee of Six Thousand and 00/100 Dollars (\$6,000.00) per month.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby reserve the right to reject all bids where the highest bid is not accepted.

BE IT FURTHER RESOLVED, that the advertisement for the public bidding of this lease shall include notice of the minimum rent and the reservation of rights.

There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to adopt the following Resolution Supporting A Bill to Amend The Definition Of Hazardous Substances Within The Spill Compensation And Control Act, N.J.S.A. 58:10-23.11(b). On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 36-2013

RESOLUTION SUPPORTING A BILL TO AMEND THE DEFINITION OF HAZARDOUS SUBSTANCES WITHIN THE SPILL COMPENSATION AND CONTROL ACT, N.J.S.A. 58:10-23.11(b)

WHEREAS, the Mayor and Council of the Borough of Totowa are a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Borough of Totowa is a named Third Party Defendant in the pending environmental litigation captioned NJDEP v. Occidental Chemical et al., bearing Docket No. ESX-L-9868-05; and

WHEREAS, in the pending litigation the Third Party Plaintiffs are seeking contribution, among other things, from the Borough of Totowa as a result of various alleged discharges of sewage and/or sewage sludge into the Arthur Kill, the Passaic River Basin, and Newark Bay Complex; and

WHEREAS, the Spill Compensation and Control Act (the "Act"), N.J.S.A. 58:10-23.11(b), currently contains a definition of hazardous substances that reads as follows:

"Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 [33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C. § 1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [33 U.S.C. 1317] of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. § 9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of P.L.1976, c.141(C.58:10-23.11 et seq.); and

WHEREAS, this definition has been held by the New Jersey Courts to only apply to domestic sewage and sewage sludge from a public sewer system or publicly operated sewerage treatment plant; and

WHEREAS, the legislative history for this section of the Act suggests that the Legislature intended for the definition to include all sewage and sewage sludge from a public sewer system or publicly operated sewerage treatment plant, whether domestic or commercial; and

WHEREAS, the Legislature is now proposing an Amendment to Act that would clarify the definition of hazardous substance to read as follows:

"Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 311 [33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C. § 1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [33 U.S.C. 1317] of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," Pub.L.96-510 (42 U.S.C. § 9601 et seq.); provided, however, that sewage and sewage sludge, including, but not limited to, any domestic, commercial, or industrial wastewater, sewage, or sewage sludge collected by or expelled from a sanitary sewer system or a public sewage treatment plant, shall not be considered as hazardous substances for the purposes of P.L.1976, c.141(C.58:10-23.11 et seq.); and

WHEREAS, the Legislature is also proposing an Amendment to Act that would define "Public sewage treatment plant" to read as follows:

"Public sewage treatment plant" means any publicly owned structure, device, or facility used to treat or process domestic, commercial, or industrial sewage, sewage sludge, or wastewater;

WHEREAS, the Borough of Totowa is in full support of the adoption of the proposed Amendment to the definition of hazardous substances under the Act and inclusion of a definition of "Public sewer treatment plant"; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa hereby supports the adoption of the amendment to N.J.S.A. 58:10-23.11(b), which clarifies the definition of hazardous substance by excluding any domestic, commercial and/or industrial sewage and sewage sludge discharged to or through a public sewage system or to or through a public sewage treatment plant from the definition; and

BE IT FURTHER RESOLVED, that the Municipal Clerk of the Borough of Totowa is hereby authorized to distribute copies of this Resolution to all appropriate officials and agencies including its Legislative Representatives, the Governor, and the Lieutenant Governor.

BE IT FURTHER RESOLVED, that no further action of the Mayor and Council of the Borough of Totowa shall be required in connection with this matter and this resolution shall take effect immediately.

A letter was received from the Friends of the Library requesting permission to use the Municipal Parking Lot adjacent to the Library for a "White Elephant Sale" fundraiser on Saturday, April 27, 2013 (rain date: Sunday, April 28, 2013). There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to grant permission, subject to the vendors executing a Hold Harmless Agreement. On roll call vote, all members of the Council present voted in the affirmative.

A letter was received from Library Director Anne Krautheim requesting permission to use the Borough of Totowa recreational areas at the PAL for their circus fundraiser on May 11, 2013. There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to grant permission, subject to the receipt of a Certificate of Liability Insurance. On roll call vote, all members of the Council present voted in the affirmative.

A letter was received from the Zerbini Family Circus requesting permission to place a sign on Borough Hall property at the corner of Cherba Place and Totowa Road from April 18 until May 13, 2013 to advertise the Library circus fundraiser. There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to grant permission. On roll call vote, all members of the Council present voted in the affirmative.

A letter was received from Murph's Tavern inviting the Mayor and Council to their annual celebration in honor of St. Patrick's Day on Saturday, March 9, 2013 (3:00 p.m.—1:00 a.m.) and Sunday, March 17, 2013 (3:00 p.m.—12:00 a.m.) and requesting permission to have Rosengren Avenue closed from Totowa Road to Union Boulevard on those dates and times. There was a motion by Councilwoman Fontanella, seconded by Councilman D'Angelo to approve the request. On roll call vote, all members of the Council present voted in the affirmative.

#### STREET CLOSING AUTHORIZED BY THE MAYOR

Under the authority vested in me as Mayor of the Borough of Totowa, County of Passaic, State of New Jersey, by virtue of N.J.S.A. 40:67-16.9 and the Code of the Borough of Totowa Chapter No. 398-42, I Mayor John Coiro, do hereby order and direct that Rosengren Avenue between Totowa Road and Union Boulevard be closed to vehicular traffic from 3:00 p.m. to 1:00 a.m. on Saturday, March 9, 2013 and from 3:00 p.m. to 12:00 a.m. on Sunday, March 17, 2013. I further direct that proper signs and barriers be erected at the intersections of Rosengren Avenue and Totowa Road and Rosengren Avenue and Union Boulevard and that the Totowa Police Department control and regulate, as well as enforce, this regulation.

#### COMMITTEE ON LIAISON & INSPECTION:

There was no report.

#### COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilman Picarelli, seconded by Councilwoman Andriani to approve the Petition To Extend Licensed Premises for Anthony Murphy, Inc. on Saturday, March 9, 2013. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilwoman Andriani to approve the Petition To Extend Licensed Premises for Anthony Murphy, Inc. on Sunday, March 17, 2013. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilwoman Andriani to adopt the following Resolution Proclaiming March 1, 2013 as NEA's Read Across America And Read Across America—NJ In The Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 37-2013

READ ACROSS AMERICA AND  
READ ACROSS AMERICA—NJ

WHEREAS, the citizens of the Borough of Totowa stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and

WHEREAS, the Borough of Totowa has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that educational investment is the key to the community's well-being and long-term quality of life; and

WHEREAS, NEA's Read Across America, a national celebration of reading, will be conducted on March 1, 2013, the day before what would have been the 109<sup>th</sup> birthday of Theodor Seuss Geisel, better known as Dr. Seuss; and

WHEREAS, Read Across America—NJ is being conducted statewide by the New Jersey Education Association, in partnership with the New Jersey State League of Municipalities, the New Jersey Library Association, and their local affiliates across the state to promote reading and adult involvement in the education of our community's students.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa calls on the citizens of Totowa to assure that every child is in a safe place reading together with a caring adult on March 1, 2013.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa enthusiastically endorses NEA's Read Across America and Read Across America—NJ, and recommits our community to engage in programs and activities to make America's children the best readers in the world.

There was a motion by Councilman Picarelli, seconded by Councilwoman Andriani to approve Raffle License Application Nos. 1694 & 1695 for Friends of Wayne Animals, Inc. for a Tricky Tray and On-Premise 50/50, respectively, to be held on March 21, 2013 at The Bethwood. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilwoman Andriani to approve Raffle License Application No. 1696 for Operation Graduation Passaic Valley Regional High School for a Casino Night to be held on March 9, 2013 at the Elks Lodge. 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 Waryas, seconded by Councilman D'Angelo that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

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Joseph Wassel, RMC  
Municipal Clerk