

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

November 15, 2011

PRESENT: Mayor John Coiro, presiding, Council President Phil Puglise, Councilman John Waryas, Councilman Jim Niland, Councilman Lou D'Angelo, Councilwoman Carolyn Fontanella, Councilwoman Debbie 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 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 Council President Puglise and rookie Councilwoman Andriani on their re-election to the Council for a new three year term.

Councilman Waryas: Announced that he attended the pre-construction meeting for the Dwight D. Eisenhower Library expansion project and that it will begin shortly.

CITIZENS HEARD:

Douglas Willer, Partner at Environmental Renewal: Said that he was here regarding the bid package for a lease of Maltese Drive property and that they had questions about the bid package and last year it was withdrawn. Stated that now this year you put out the same bid package and they have the same questions as last year and went on to state them all. He went on to mention that there are zoning problems, rent problems, use problems, the Borough's exemption for recycling, the Notice of Violation from the New Jersey Department of Environmental Protection, the clean-up of the property, ISRA requirements, etc. He went on to recite his interpretation of the Local Public Contracts Law. Then asked that the bid package be withdrawn. Mayor Coiro: Advised that he would leave the legal issues to the Borough Attorney, but had a few rebuttals because he sits on the Planning Board and said that we have many investors that purchase property first and then come in front of the board with the intent to change the zoning. Also informed him that construction of the building is optional to the successful bidder. Attorney Corrado: Responded that in my opinion it is an open bid and meets the requirements of a fair and open bid and if you don't like the bid package, then you shouldn't bid. A conversation ensued.

Joseph Ferrante, An Attorney representing various Class B Facilities, including WPAR: Said that he won't repeat everything that was just discussed, but that he is concerned about the Notice of Exemption filed by the Borough of Totowa, which raised a flag because WPAR went through a long and laborious process and thousands of dollars and they wouldn't be able to compete with an organization that can get an exemption that easily and that if it was the intent to use the property as a Class B recycling facility, then it should be stated in the bid package. Then cautioned that there could be litigation going forward. Mayor Coiro: Responded that the bid package doesn't have any restrictions on the type of use for the property, be it for office space or a recycling center. Attorney Corrado: Commented that you are making the assumption of the type of use. Mayor Coiro: Remarked that our only intent was to get as much money for the Borough of Totowa as possible for our excess property. We had previously leased the property to MGM Trucking. A conversation ensued.

Don Scine, Northern Realty: Said that his concern is with the building, which he would be interested in, except that the stipulation that the building would revert to the Borough of Totowa after the termination of the lease and insisted that no bank would lend money for this. Stated that he is a Totowa resident and thinks that the bid should be structured to bring in the most bidders, not the least, which would help the seniors including his mother and aunt with paying their taxes. Mayor Coiro: Responded that you are talking about a sale versus a lease and we just want to lease it so we still own it. Went on to say that if we did want to sell it, why would we sell it in the worst times for real estate—we are not looking to sell. Mr. Scine: Countered that it is actually a good time to sell. Councilman D'Angelo: Announced that he is in the mortgage business and disagreed

with Mr. Scine on the time to sell and agreed with the Mayor and reiterated that we are just looking to lease the property. A conversation ensued. Mayor Coiro: Explained that we are just trying to recoup the annual revenue that we lost by not leasing the land. Told Mr. Scine that with municipal budgeting we are better off having a steady stream of revenue (lease) versus a onetime payment (sale). Mr. Scine: Again said the bid should be simplified. Mayor Coiro: Informed him that if he is concerned about his mother's and aunt's taxes, that they should go to the tax office and get the application to freeze their taxes.

Mr. Ferrante: Said that based on the last speaker's comments, that he requests a 30 day delay to simplify the bid package in order to get more bidders. Attorney Corrado: Responded that he doesn't think that the bid package should be made any simpler than it is and that we are not restricting the use for the property.

There was a motion by Councilman Puglise, seconded by Councilman Waryas to approve the Minutes of the Mayor and Council for the meeting of October 25, 2011. 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. 2011-23 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 Waryas, seconded by Councilman D'Angelo to accept the following bids for Solid Waste Collection Services. On roll call vote, all members of the Council present voted in the affirmative.

<u>Company</u>	<u>Base Bid</u>	<u>Hickory Hill</u> <u>Alt. No. 1</u>	<u>Falls Bridge</u> <u>Alt. No. 2</u>	<u>River Garden</u> <u>Alt. No. 3</u>	<u>Base & Alt. No.</u> <u>1</u>
Future Sanitation					
Option 1:	277,466.00	10,500.00	8,313.60	1,247.00	287,966.00
Option 2:	832,399.00	31,500.00	24,940.80	3,741.00	863,899.00
Option 3:	1,387,320.00	52,500.00	41,568.00	6,235.00	1,439,820.00

Waste Management					
Option 1:	386,340.00	3,000.00	9,000.00	5,000.00	389,340.00
Option 2:	1,159,020.00	9,000.00	27,000.00	15,000.00	1,168,020.00
Option 3:	1,931,700.00	15,000.00	45,000.00	25,000.00	1,946,700.00
Marangi Waste					
Option 1:	304,728.00	\$ -	2,500.00	450.00	304,728.00
Option 2:	914,178.00	\$ -	7,500.00	1,350.00	914,178.00
Option 3:	1,536,915.00	\$ -	9,800.00	2,400.00	1,536,915.00
Gaeta Get-A-Can					
Option 1:	234,468.00	5,981.00	2,471.00	449.00	240,449.00
Option 2:	820,080.00	17,943.00	7,413.00	1,347.00	838,023.00
Option 3:	1,388,000.00	29,905.00	12,355.00	2,246.00	1,417,905.00
Suburban Disposal					
Option 1:	269,000.00	\$ -	\$ -	\$ -	269,000.00
Option 2:	906,000.00	\$ -	\$ -	\$ -	906,000.00
Option 3:	1,530,000.00	\$ -	\$ -	\$ -	1,530,000.00
B&B Disposal					
Option 1:	229,500.00	4,500.00	1,500.00	500.00	234,000.00
Option 2:	688,500.00	13,500.00	4,500.00	1,500.00	702,000.00
Option 3:	1,147,500.00	22,500.00	7,500.00	2,500.00	1,170,000.00

Upon the recommendation of the Committee, there was a motion by Councilman Waryas, seconded by Councilman D'Angelo to adopt the following Resolution Awarding Contract For Solid Waste Collection Services. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 95-2011

RESOLUTION AWARDDING CONTRACT FOR SOLID WASTE COLLECTION SERVICES FOR THE BOROUGH OF TOTOWA

WHEREAS, the Mayor and Council of the Borough of Totowa did advertise for receipt of sealed bids for residential and municipal solid waste collection services in accordance with its specifications entitled "Specifications and Proposal for Solid Waste Collection Services in the Borough of Totowa, County of Passaic, New Jersey 2011"; and

WHEREAS, the Borough of Totowa did receive bids at its Municipal Building on November 10, 2011; and

WHEREAS, the Mayor and Council of the Borough of Totowa on November 15, 2011 did examine all bids for the collection services called for in the specifications; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that the lowest responsible bid was submitted by B & B Disposals, LLC, 174 Blanchard Street, Newark, New Jersey 07105 with a base bid in the amount of Six Hundred Eighty-Eight Thousand Five Hundred and 00/100 Dollars (\$688,500.00) and a bid for Alternate Number 1 in the amount of Thirteen Thousand Five Hundred and 00/100 Dollars (\$13,500.00) for a total bid in the amount of Seven Hundred Two Thousand and 00/100 Dollars (\$702,000.00) for the period of January 1, 2012 through December 31, 2014; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that the bid submitted by B & B Disposals, LLC 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 B & B Disposals, LLC for solid waste collection services for the total sum of Seven Hundred Two Thousand and 00/100 Dollars (\$702,000.00) for the period of January 1, 2012 through December 31, 2014.

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 PUBLIC SAFETY:

A letter from Totowa Fire Department Secretary Donald Warnet submitting a copy of the sample ballot for the Fire Chief Election on November 22, 2011 was received and filed.

COMMITTEE ON PUBLIC WORKS:

There was a motion by Councilman Puglise, seconded by Councilman Niland to adopt the following Resolution To Amend Resolution No. 85-2011 To Adjust The Cost For The Purchase And Installation Of A Salt Spreader. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 96-2011

RESOLUTION TO AMEND RESOLUTION NO. 85-2011 TO ADJUST THE COST FOR THE PURCHASE AND INSTALLATION OF A SALT SPREADER

WHEREAS, the Borough of Totowa Department of Public Works Superintendent has recommended the purchase of one (1) salt spreader to be used by the Department of Public Works to maintain local roads during the winter months; and

WHEREAS, the Borough of Totowa Department of Public Works did solicit proposals for one (1) salt spreader; and

WHEREAS, by Resolution No. 85-2011 dated October 11, 2011, the Mayor and Council of the Borough of Totowa did accept the proposal submitted by Bristol-Donald Co., Inc., 50 Roanoke Avenue, Newark, New Jersey 07105 for the purchase and installation of one (1) Swenson Model MDV1044ESTSS B&S Stainless Steel spreader in the amount of Seven Thousand Nine Hundred Fifty and 00/100 Dollars (\$7,950.00) and one (1) 12" 14ga mild steel side extension kit in the amount of Four Hundred Sixty Five and 00/100 Dollars (\$465.00) for the total sum of Eight Thousand Four Hundred Fifteen and 00/100 Dollars (\$8,415.00); and

WHEREAS, Resolution No, 85-2011 inadvertently identified the wrong make and model numbers for the proposed Stainless Steel spreader and extension kit; and

WHEREAS, the Borough of Totowa Department of Public Works Superintendent had recommended the purchase of and installation of one (1) Swenson Model EV1001056 SS Stainless Steel Spreader and one (1) Swenson EVRGH Gas Engine Spreader Hydraulic System, along with the option to add a battery, attach hydraulic system tray to the spreader and run cab controls inside of cab for the Department of Public Works; and

WHEREAS, Bristol-Donald Co., Inc. has submitted a proposal for the purchase and installation of one (1) Swenson Model EV1001056 SS Stainless Steel Spreader in the amount of Nine Thousand Four Hundred Seventy-Five and 00/100 Dollars (\$9,475.00) and one (1) Swenson EVRGH Gas Engine Spreader Hydraulic System in the amount of Five Thousand Four Hundred Twenty-One and 00/100 Dollars (\$5,421.00) and the option listed above in the amount of Seven Hundred and 00/100 (\$700.00) for the total sum of Fifteen Thousand Five Hundred Ninety-Six and 00/100 Dollars (\$15,596.00); and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to amend Resolution No. 85-2011 to reflect the correct make, model number and cost of the equipment proposed by Bristol-Donald Co., Inc and recommended for purchase and installation by Totowa's Department of Public Works Superintendent.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby amend Resolution No. 85-2011 and authorize the purchase, delivery and installation of one (1) Swenson Model EV1001056 SS Stainless Steel Spreader in the amount of Nine Thousand Four Hundred Seventy-Five and 00/100 Dollars (\$9,475.00) and one (1) Swenson EVRGH Gas Engine Spreader Hydraulic System in the amount of Five Thousand Four Hundred Twenty-One and 00/100 Dollars (\$5,421.00) and the option listed above in the amount of Seven Hundred and 00/100 (\$700.00) for the total sum of Fifteen Thousand Five Hundred Ninety-Six and 00/100 Dollars (\$15,596.00).

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Municipal Clerk and Department of Public Works Superintendent 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 approve Change Order No. 1 for a net decrease of \$38,261.50 and Payment Estimate No. 5 in the amount of \$39,819.85 to Trino Associates, LLC for the Union Boulevard Curb and Sidewalk Replacement—Phase 2. 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 following bids for the Paving At Municipal Complex Rear Entrance Area. On roll call vote, all members of the Council present voted in the affirmative.

<u>Company</u>	<u>Base Bid</u>	<u>Alternate No. 1</u>
Joseph Cavalieri Contracting Paterson, NJ 07503	\$2,687.50	\$3,037.50
J. Alvino Paving, Inc. Wayne, NJ 07470	\$3,300.00	\$2,800.00
F. Antonucci & Sons, Inc. Paterson, NJ 07502	\$5,150.00	\$4,400.00

Upon the recommendation of the Committee, there was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to adopt the following Resolution Awarding Contract For The Paving At Municipal Complex Rear Entrance Area. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 97-2011

RESOLUTION AWARDING CONTRACT FOR PAVING AT MUNICIPAL COMPLEX REAR ENTRANCE AREA

WHEREAS, by Resolution No. 59-2010 dated June 15, 2010, the Mayor and Council of the Borough of Totowa authorized repairs to the rear entrance stairs located at the Borough of Totowa Municipal Complex; and

WHEREAS, these repairs have been substantially completed and the area surrounding the rear entrance stairs must also be graded and paved; and

WHEREAS, the Borough of Totowa solicited proposals from licensed professional contractors and paving companies to provide all necessary services, labor and tools to complete the necessary paving services; and

WHEREAS, the Mayor and Council of the Borough of Totowa did examine the proposals received for this paving project on November 15, 2011; and

WHEREAS, the lowest responsible bid was submitted by Joseph Cavalieri & Son, 15 East Railway Avenue, Paterson, New Jersey 07503 with a base bid in the amount of Two Thousand Six Hundred Eighty-Seven and 50/100 Dollars (\$2,687.50), a copy of which is on file in the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, the Borough of Totowa DPW Superintendent has reviewed the bid and recommended a contract be awarded to Joseph Cavalieri & Son; and

WHEREAS, pursuant to the applicable New Jersey State laws, the cost of these services will not exceed the public bidding threshold.

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that the bid submitted by Joseph Cavalieri & Son 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 proposal submitted by Joseph Cavalieri & Son for paving services for the rear entrance area located at the Borough of Totowa Municipal Complex in the amount of Two Thousand Six Hundred Eight-Seven and 50/100 Dollars (\$2,687.50).

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:

There was no report.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to adopt the following Resolution To Deny The Renewal Application For ABC License No. 1612-33-008-006 For The 2011-12 And 2012-13 License Term. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 98-2011

RESOLUTION TO DENY THE RENEWAL APPLICATION FOR ABC LIQUOR
LICENSE NO. 1612-33-008-006 FOR THE 2011-2012 AND 2012-2013
LICENSE TERMS

WHEREAS, IDP Associates, Inc. (formerly Hickory Hill Garden Country Club, Inc.) has applied to the Borough of Totowa for renewal of inactive Plenary Retail Consumption License No. 1612-33-008-006 for the 2011-2012 and 2012-2013 License Terms; and

WHEREAS, a Special Ruling to Permit Renewal of Inactive License Pursuant to N.J.S.A. 33:1-12.39 for the 2011-2012 and 2012-2013 License Terms was issued by the State of New Jersey Division of Alcoholic Beverage Control (“ABC”) on August 16, 2011; and

WHEREAS, pursuant to the Special Ruling, the Governing Body of the Borough of Totowa was authorized to consider the application for renewal of the subject inactive license for the 2011-2012 and 2012-2013 License Terms and to grant or deny the renewal application in the reasonable exercise of its jurisdiction; and

WHEREAS, the Mayor and Council of the Borough of Totowa have reviewed and considered the request to renew the subject License No. 1612-33-008-006; and

WHEREAS, the issuance, renewal and transfer of the liquor license rests in the sound discretion of the Borough of Totowa; and

WHEREAS, the Municipal Council of the Borough of Totowa after due and diligent consideration has determined that the request for renewal should be denied for the following reasons:

1. The licensed premises were a country club sold on or about June 3, 1998.
2. The license has been inactive since June 1, 1998.
3. By Resolution No. 107-2004 dated December 28, 2004, the Mayor and Council of the Borough of Totowa denied the renewal of Plenary Retail Consumption License No. 1612-33-008-006 on behalf of IDP.
4. In January of 2005, IDP appealed to the New Jersey Division of Alcoholic Beverage Control (“ABC”) for reversal of the Resolution and pursuant to N.J.S.A. 33:1-12.39, also petitioned the ABC for renewal of the license for any other terms too while the matter was pending.
5. The matter was transmitted to the Office of Administrative Law (“OAL”) for an Initial Decision which was rendered on May 6, 2009 reversing the Borough of Totowa’s denial and renewing the license for the 2001-2002, 2002-2003, 2003-2004 and 2004-2005 license terms.

6. On September 29, 2009, the ABC issued a Final Conclusion and Order and Special Ruling Granting Relief Pursuant to N.J.S.A. 33:1-12.39 for the 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010 and 2010-2011 License Terms affirming the May 6, 2009 OAL Initial Decision and granting IDP's pending petitions for relief pursuant to N.J.S.A. 33:1-12.39 for the 2005-2006, 2006-2007, 2007-2008, 2008-2009, and 2009-2010 License Terms.
7. Since the 2009-2010 license term already has begun, relief pursuant to N.J.S.A. 33:1-12.39 was also granted for the 2010-2011 License Term.
8. The Borough of Totowa was directed to renew the subject license for the 2005-2006, 2006-2007, 2007-2008 and 2008-2009 license terms nunc pro tunc and for the 2009-2010 License Terms which was done by Borough of Totowa Resolution No. 93-2009 dated October 13, 2009.
9. The September 2009 Final Conclusion and Order and Special Ruling also set forth the provision that the renewals contain a Special Condition requiring activation of the liquor license by June 30, 2011.
10. Borough of Totowa Resolution No. 93-2009 specifically set forth the Special Condition requiring activation of the liquor license by June 30, 2011.
11. IDP failed to comply with the September 2009 Final Conclusion and Order and Special Ruling which required activation of the liquor license by June 30, 2011.
12. IDP failed to comply with the Special Condition issued by the Borough of Totowa in Resolution No. 93-2009 which required activation of the liquor license by the June 30, 2011 deadline when ABC License No. 1612-33-008-006 was renewed in accordance with the September 2009 Final Conclusion and Order and Special Ruling.
13. The Borough of Totowa is a fully developed community consisting of approximately four (4) square miles with more than fifty (50%) percent of the lands devoted to public use.
14. There were approximately 10,804 residents based upon the 2010 census.
15. There are already eight (8) active plenary retail consumption licenses, two (2) plenary retail distribution licenses and three (3) club licenses authorized by the Borough.
16. The number of authorized licenses exceeds the permitted statutory limit.

17. IDP has failed to provide any information regarding the possible relocation of the license since the license became inactive in 1998.
18. Based upon the size and population of the Borough of Totowa, the number of existing authorized and active liquor licenses, the failure of IDP to comply with the September 2009 Final Conclusion and Order and Special Ruling which required activation of the liquor license by June 30, 2011, the failure of IDP to comply with the Special Condition issued by the Borough of Totowa in Resolution No. 93-2009 which required activation of the liquor license by the June 30, 2011 deadline, the failure of IDP to identify or provide any information regarding the possible relocation of the license in the past thirteen (13) years, it is in the best interest of the Borough of Totowa and for the public good and welfare to deny the renewal of this inactive license.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby deny the renewal of Plenary Retail Consumption License No. 1612-33-008-006 for the 2011-2012 and 2012-2013 license terms for the reasons set forth in this Resolution.

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to approve Raffle License Application No. 1608 for the New Jersey Association of Women Business Owners for an On-Premise 50/50 to be held on December 1, 2011 at The Bethwood. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to approve Raffle License Application Nos. 1609 & 1610 for the PTA Woodmont for a Tricky Tray and Off-Premise 50/50, respectively, to be held on February 12, 2012 at The Bethwood. 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