

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

August 13, 2019

PRESENT: Mayor John Coiro, presiding, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Councilman William Bucher, Councilman John Capo, Councilwoman Lisa Palazzo, Municipal Clerk Joseph Wassel and Municipal Attorney Kristin Corrado.

ABSENT: Council President Lou D'Angelo.

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.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli to dispense with the regular order of business in order to hold a public hearing on Ordinance No. 12-2019 as advertised.

Municipal Clerk Wassel announced that Ordinance No. 12-2019 has been advertised for public hearing for Tuesday, August 13, 2019.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 12-2019.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli 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. 12-2019.

CITIZENS HEARD:

Mike Mahometa, 269 Lincoln Avenue: Asked where the property is located. Borough Clerk Wassel: Responded 98 Gordon Avenue and it is only a 25' x 100' lot which is undersized and can't be built on.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli 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. 12-2019 by title:

ORDINANCE NO. 12-2019

AN ORDINANCE OF THE BOROUGH OF TOTOWA AUTHORIZING THE PRIVATE SALE OF MUNICIPAL OWNED PROPERTY LOCATED AT 98 GORDON AVENUE AND FURTHER IDENTIFIED AS BLOCK 41, LOT 8 ON THE OFFICIAL TAX MAP OF THE BOROUGH OF TOTOWA, PURSUANT TO N.J.S.A. 40A:12-13(B)

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli to adopt Ordinance No. 12-2019 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli 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.

Councilwoman Andriani: Advised that we rescheduled the Dominique and Julian Concert for Thursday, August 15th.

CITIZENS HEARD:

Mike Mahometa, 269 Lincoln Avenue: 1) Said that we dodged a bullet during last week's storm when a tree fell across the walking path and that most of it has already been cleaned up, but asked that the pine and some additional pin oaks be replanted; 2) Stated that along Riverview Drive between Lackawanna Avenue and the Hillery Street Bridge there is a ton of garbage and that it is a County road and why doesn't the County clean it up. Councilman Picarelli: Told him that he also noticed the garbage and already contacted our inspector John Waryas who has already contacted the County to clean it up.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli to approve the Minutes of the Mayor and Council for the meeting of July 23, 2019. On roll call vote, all members of the Council present voted in the affirmative. Councilwoman Palazzo abstained from the voting.

COMMITTEE ON FINANCE:

There was a motion by Councilman Picarelli, seconded by Councilman Capo to approve Resolution No. 2019-17 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 Capo to adopt the following Resolution Authorizing Settlement Of The 2017, 2018 And 2019 Tax Appeals Entitled North Jersey Federal Credit Union V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 90-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2017, 2018 AND 2019
TAX APPEALS ENTITLED NORTH JERSEY FEDERAL CREDIT UNION
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 Capo to adopt the following Resolution Authorizing Settlement Of The 2016, 2017, 2018 And 2019 Tax Appeals Entitled RJ Realty V. Borough Of Totowa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 91-2019

RESOLUTION AUTHORIZING SETTLEMENT OF THE 2016, 2017, 2018 AND 2019 TAX APPEALS ENTITLED RJ 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 Capo to adopt the following Resolution Authorizing Extension Of Due Date For Payment Of 3rd Quarter 2019 Taxes. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 92-2019

RESOLUTION AUTHORIZING EXTENSION OF DUE DATE FOR PAYMENT OF 3RD QUARTER 2019 TAXES

WHEREAS, the third quarter tax payment is normally due on August 1, with a 10 day grace period; and

WHEREAS, the Borough of Totowa will not be able to print and mail out the 2019 final/2020 preliminary tax bills on time because of a delay; and

WHEREAS, the Borough of Totowa by law must allow the taxpayers a period of 25 days from the date of the mailing of the tax bill to make payment.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council do hereby extend the due date for the 3rd quarter taxes to September 9, 2019 which is inclusive of the 10 day grace period.

BE IT FURTHER RESOLVED, that tax payments received after the extended grace period of September 9, 2019 will be charged interest back to the original due date of August 1, 2019 as required by law.

There was a motion by Councilman Picarelli, seconded by Councilman Capo to adopt the following resolution authorizing a tax refund for Javier Jordan, Block 133, Lot 21 due to a 100% Exemption for a 100% permanent and total disability. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 93-2019

WHEREAS, Javier Jordan has applied for a 100% exemption for a 100% permanent and total disability due to a wartime service connected disability; and

WHEREAS, Javier Jordan meets all the requirements for the exemption, and he took title to Block 133, Lot 21 on May 21, 2019 and is exempt from that date; and

WHEREAS, Javier Jordan paid the taxes from May 21, 2019 to June 30, 2019 in the amount of \$817.63 and is therefore entitled to a refund of \$817.63.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa that the Treasurer is authorized to refund \$817.63 to Javier Jordan, and upon paying the refund due to the Taxpayer, this property will be exempted from future tax payments. (see attached)

There was a motion by Councilman Picarelli, seconded by Councilman Capo to acknowledge receipt of the Report of Audit for the year ended December 31, 2018 and that the recommendations will be reviewed by the Governing Body. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Picarelli, seconded by Councilman Capo to adopt the following Resolution Approving Q-Star Memorandum Of Understanding Between The Borough Of Totowa And The Passaic County Department Of Health Services. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 94-2019

RESOLUTION APPROVING Q-STAR MEMORANDUM OF UNDERSTANDING
BETWEEN THE BOROUGH OF TOTOWA AND
THE PASSAIC COUNTY DEPARTMENT OF HEALTH SERVICES

WHEREAS, the Passaic County Department of Health Services, through its Office of Solid Waste & Recycling, believes a viable enforcement program is critical to the success of both the county and municipal solid waste and recycling programs; and

WHEREAS, the Passaic County Department of Health Services has purchased twenty (20) Q-Star Solar Powered FlashCam portable cameras with grant monies from the New Jersey Department of Environmental Protection (“NJDEP”) Recycling Enhancement Act Entitlement and from a New Jersey Clean Communities Entitlement; and

WHEREAS, it is the intent of the Passaic County Department of Health Services to gift and donate one (1) Q-Star Solar Powered FlashCam portable camera to each municipality in order to enhance the County environment by eradicating the illegal dumping of solid and hazardous waste, the theft of recyclables and other solid waste and recycling related offenses; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to enter into a Memorandum of Understanding with the Passaic County Department of Health Services for one (1) Q-Star Solar Powered FlashCam portable camera; and

WHEREAS, pursuant to the Memorandum of Understanding, the Borough of Totowa agrees to accept the Q-Star Solar Powered FlashCam portable cameras “as is” and will report to the County on a semi-annual basis to ensure the goal of enforcement, prosecution and prevention of illegal environmental activities; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to enter into Memorandum of Understanding with the Passaic County Department of Health Services 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 a Memorandum of Understanding with the Passaic County Department of Health Services for one (1) Q-Star Solar Powered FlashCam portable camera.

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:

After conferring with Police Chief Robert Coyle and upon the recommendation of the Committee, there was a motion by Councilman Capo, seconded by Councilman Bucher to appoint Damiano Dilorio and Matthew Cossari as Patrol Officers in the Borough of Totowa Police Department. On roll call vote, all members of the Council present voted in the affirmative.

MAYOR'S APPOINTMENT

I, Mayor John Coiro, with the advice and consent of the Council do hereby appoint Damiano Dilorio and Matthew Cossari as Patrol Officers in the Borough of Totowa Police Department, effective with the swearing in ceremony on September 10, 2019.

There was a motion by Councilwoman Andriani, seconded by Councilman Picarelli to confirm the appointments. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Capo, seconded by Councilman Bucher to approve Junior Firefighter Application for Matthew Mark Haddad for Volunteer Fire Company No. 1. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON PUBLIC WORKS:

There was a motion by Councilman Bucher, seconded by Councilwoman Palazzo to adopt the following Resolution Authorizing Road Opening Permit Fee Schedule For PSE&G For The Borough Of Totowa Gas Main Replacement Project. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 95-2019

RESOLUTION AUTHORIZING ROAD OPENING PERMIT FEE SCHEDULE FOR
PSE&G FOR THE BOROUGH OF TOTOWA GAS MAIN REPLACEMENT PROJECT

WHEREAS, PSE&G is accelerating the modernization of its aging gas pipes throughout the State of New Jersey in order to ensure the utility can continue to support a safe, clean and reliable gas system well into the future; and

WHEREAS, as of January 2019, PSE&G launched the second phase of the Gas System Modernization Program (GSMPII) which will invest about \$1.9 billion over five years to continue the accelerated replacement of aging gas pipes – supporting a safe, clean and reliable gas system; and

WHEREAS, PSE&G has advised the Borough of Totowa that they intend to replace numerous Gas Mains within the Borough of Totowa as part of their GSMPII and have provided a tentative Totowa Street List for 2019, a copy of which is attached hereto; and

WHEREAS, the Borough of Totowa and PSE&G have negotiated a Road Opening Permit Fee Schedule for the Gas Main Replacement Project in the Borough of Totowa which will be \$1.50 per liner foot of main installation; and

WHEREAS, the Road Opening Permit Fee Schedule rate of \$1.50 per liner foot of main installation will only apply to the PSE&G GSMPII Gas Main Replacement Project in the Borough of Totowa; and

WHEREAS, the PSE&G GSMPII Gas Main Replacement Project Road Opening Permit fees that will be collected by the Borough of Totowa will be allocated by the Borough of Totowa at the municipality's sole discretion to be determined at a later date; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the negotiated Road Opening Permit Fee schedule between the Borough of Totowa and PSE&G for the Gas Main Replacement Project in the Borough of Totowa which will be \$1.50 per liner foot of main installation.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the negotiated Road Opening Permit Fee schedule between the Borough of Totowa and PSE&G for the GSMPII Gas Main Replacement Project in the Borough of Totowa which will be \$1.50 per liner foot of main installation.

BE IT FURTHER RESOLVED, that the Mayor and Municipal Council of the Borough of Totowa do hereby authorize that the PSE&G GSMPII Gas Main Replacement Project Road Opening Permit fees collected by the Borough of Totowa will be allocated by the Borough of Totowa at the municipality's sole discretion to be determined at a later date.

There was a motion by Councilman Bucher, seconded by Councilwoman Palazzo to adopt the following Resolution Authorizing Professional Engineering Services For The 2018 And 2019 New Jersey Department Of Transportation Municipal Aid Grants – Winifred Drive, Adams Drive, Peterson Road, Young Avenue And Washington Place. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 96-2019

RESOLUTION AUTHORIZING PROFESSIONAL ENGINEERING SERVICES FOR THE 2018 AND 2019 NEW JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID GRANTS – WINIFRED DRIVE, ADAMS DRIVE, PETERSON ROAD, YOUNG AVENUE AND WASHINGTON PLACE

WHEREAS, the Mayor and Council of the Borough of Totowa desire to retain the services of a professional engineering firm to provide design services, prepare bid documents, assist in the bidding process and supervise construction of the 2018 and 2019 New Jersey Department Of Transportation (“NJDOT”) Municipal Aid Grants; and

WHEREAS, the 2018 and 2019 Road Resurfacing Program calls for improvements to sections of Winifred Drive, Adams Drive, Peterson Road, Young Avenue and Washington Place; and

WHEREAS, Richard A. Alaimo Engineering Associates has submitted a proposal dated July 25, 2019 to provide the design, bid assistance and construction supervision services for the roads selected at a cost not to exceed \$129,700.00, 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 on August 13, 2019 did examine the proposal submitted by Richard A. Alaimo Engineering Associates; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby accept the proposal submitted by Richard A. Alaimo Engineering Associates for professional engineering services for the 2018 and 2019 New Jersey Department Of Transportation (“NJDOT”) Municipal Aid Grants in the amount of \$129,700.00.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize Richard A. Alaimo Engineering Associates to perform the professional services as set forth in their proposal.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was a motion by Councilman Capo, seconded by Councilwoman Andriani to adopt the following Resolution Authorizing The Paving Of The New Parking Lot At 262 Totowa Road. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 97-2019

RESOLUTION AUTHORIZING THE PAVING OF THE NEW PARKING LOT
AT 262 TOTOWA ROAD

WHEREAS, the Borough of Totowa is the owner of real property located at 262 Totowa Road and identified as Block 26, Lot 2 on the official tax map of the Borough of Totowa; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that this property shall be the site of a new municipal parking lot; and

WHEREAS, the Borough of Totowa Department of Public Works (“DPW”) Superintendent did solicit proposals from licensed contractor’s to provide paving services for the new parking lot; and

WHEREAS, Alvino Asphalt, LLC, 19 Battle Ridge Trail, Totowa, New Jersey 07512 has submitted a proposal dated July 11, 2019 to pave the parking lot located at 262 Totowa Road and provide all related services in the amount of \$17,300.00, a copy of which is on file in the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, the Mayor and Council of the Borough of Totowa did on August 13, 2019 examine the proposal submitted by Alvino Asphalt, LLC; and

WHEREAS, pursuant to the applicable New Jersey State laws, these services may be authorized without public bidding since it will not exceed the public bidding threshold.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby accept the proposal submitted by Alvino Asphalt, LLC for the paving of the new parking lot located at 262 Totowa Road and provide all related services in the amount of \$17,300.00.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize Alvino Asphalt, LLC to perform the services as set forth in their proposal.

BE IT FURTHER RESOLVED, that Alvino Asphalt, LLC shall comply with all Federal, State and Local laws requiring permits prior to beginning paving and shall comply with all Federal, State and Local Ordinances and laws while performing the aforementioned services.

BE IT FURTHER RESOLVED, that Alvino Asphalt, LLC shall provide the Borough of Totowa with a standard warranty for the paving industry and/or 2 year maintenance bond on all workmanship and on all materials furnished for this project.

A letter was received from the St. James of the Marches Knights of Columbus #6574 requesting permission to use the Municipal Parking Lot on Friday, August 30, 2019 for a bus trip to Yankee Stadium. There was a motion by Councilman Capo, seconded by Councilwoman Andriani to grant permission. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON LIAISON & INSPECTION:

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution Of The Municipal Council Of The Borough Of Totowa, County Of Passaic, New Jersey, Consenting To The Transfer Of Certain Property Located Within The North Jersey Developmental Center Redevelopment Area. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 98-2019

RESOLUTION OF THE MUNICIPAL COUNCIL OF THE BOROUGH OF TOTOWA,
COUNTY OF PASSAIC, NEW JERSEY, CONSENTING TO THE TRANSFER OF
CERTAIN PROPERTY LOCATED WITHIN THE NORTH JERSEY DEVELOPMENTAL
CENTER REDEVELOPMENT AREA

WHEREAS, the municipal council of the Borough of Totowa in the County of Passaic, State of New Jersey (the "Borough"), a public body corporate and politic of the State of New Jersey, is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation and/or an area in need of redevelopment and to adopt and implement redevelopment plans; and

WHEREAS, in accordance with the Redevelopment Law, NJDC Urban Renewal, LLC (the "Redeveloper") was selected as and designated redeveloper of the North Jersey Developmental Center Redevelopment Area, consisting of property then commonly known on the Borough tax map as Block 154, Lot 19 (Block 154, Lot 19 and Block 154.01, Lot 1 on the tax assessment records) (the "Redevelopment Area"); and

WHEREAS, the Redeveloper and the Borough are parties to that certain Redevelopment Agreement dated June 15, 2017, as amended by that certain First Amendment to Redevelopment Agreement and as further amended by that certain Second Amendment to Redevelopment Agreement (collectively, the "Redevelopment Agreement") for the undertaking of a redevelopment project in the Redevelopment Area consisting of several components; and

WHEREAS, the Redeveloper is the owner of certain portions of the Redevelopment Area referred to as Block 154, Lot 19.05 ("Lot 19.05") and Block 154, Lot 19.06 ("Lot 19.06"); and

WHEREAS, the Redeveloper desires to convey Lot 19.05 and Lot 19.06 to JPMorgan Chase, National Association ("JPMorgan"), and JPMorgan intends to acquire same from Redeveloper; and

WHEREAS, pursuant to Section 12.1 of the Redevelopment Agreement, the Redeveloper must obtain the prior written consent of the Borough to convey any part of Redeveloper's interest in the Redevelopment Area.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF TOTOWA, NEW JERSEY AS FOLLOWS:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Municipal Council of the Borough of Totowa hereby consents to the conveyance of Lot 19.05 and Lot 19.06 from the Redeveloper to JPMorgan, provided, however, that the Borough's consent to such transfer is subject to and conditioned upon the execution of a first amendment to that certain Subsequent Redevelopment Agreement by and between the Borough and JPMorgan, which shall specify the terms and conditions applicable to the redevelopment of Lot 19.05 and Lot 19.06.

Section 3. The Mayor and Borough staff and professionals are hereby authorized to execute and deliver any documents and perform such other actions as the Mayor deems necessary or desirable to effectuate the purpose and intent of this Resolution.

Section 4. A copy of this Resolution shall be available for public inspection at the offices of the Borough Clerk.

Section 5. This Resolution shall take effect immediately.

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution Of The Municipal Council Of The Borough Of Totowa, County Of Passaic, New Jersey Authorizing A First Amendment To The Subsequent Redevelopment Agreement By And Between The Borough Of Totowa And JPMorgan Chase Bank, National Association For The Project Site Known As Block 154, Lot 19.04 In The North Jersey Developmental Center Redevelopment Area. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 99-2019

RESOLUTION OF THE MUNICIPAL COUNCIL OF THE BOROUGH OF TOTOWA,
COUNTY OF PASSAIC, NEW JERSEY AUTHORIZING A FIRST AMENDMENT TO
THE SUBSEQUENT REDEVELOPMENT AGREEMENT BY AND BETWEEN THE
BOROUGH OF TOTOWA AND JPMORGAN CHASE BANK, NATIONAL
ASSOCIATION FOR THE PROJECT SITE KNOWN AS BLOCK 154, LOT 19.04 IN
THE NORTH JERSEY DEVELOPMENTAL CENTER REDEVELOPMENT AREA

WHEREAS, the municipal council of the Borough of Totowa (the "Borough Council") in the County of Passaic, State of New Jersey (the "Borough"), a public body corporate and politic of the State of New Jersey (the "State"), is authorized pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") to determine whether certain parcels of land within the Borough constitute an area in need of rehabilitation and/or an area in need of redevelopment and to adopt and implement redevelopment plans; and

WHEREAS, on October 13, 2015, in accordance with the criteria set forth in the Redevelopment Law, the Borough accepted the recommendation of the Planning Board and adopted a resolution designating the property then commonly known on the Borough tax map as Block 154, Lot 19 (Block 154, Lot 19 and Block 154.01, Lot 1 on the tax assessment records) as an "area in need of redevelopment" (the "Redevelopment Area" or the "Property"); and

WHEREAS, by Ordinance No. 03-2016 adopted on February 23, 2016, in accordance with the criteria set forth in the Redevelopment Law, the Borough accepted the recommendation of the Planning Board and adopted the North Jersey Developmental Center (NJDC) Redevelopment Plan for the Redevelopment Area, as subsequently amended on April 25, 2017 by Ordinance 04-2017 (the "Redevelopment Plan"); and

WHEREAS, NJDC Urban Renewal, LLC (the "Redeveloper") was selected as, and designated, redeveloper of the Redevelopment Area and, as authorized by Resolution No. 82-2017 adopted on June 13, 2017, entered into that certain Redevelopment Agreement with the Borough dated June 15, 2017 (as amended by that certain First Amendment to Redevelopment Agreement and that certain Second Amendment to Redevelopment Agreement) (collectively, the "Redevelopment Agreement"); and

WHEREAS, by Resolution 95-2017, dated July 11, 2017, the Borough authorized: (i) that certain Purchase and Sale Agreement between the State and the Borough, dated August 14, 2017, for the Borough to acquire the Property and Block 154.02, Lot 1, all situated in the Borough, and (ii) that certain Purchase and Sale Agreement between the Borough and the Redeveloper, which is dated July 11, 2017, for the Borough to sell the Property only to the Redeveloper; and

WHEREAS, as further authorized by Resolution 32-2018 adopted January 23, 2018, on March 6, 2018, (i) the Borough closed on the sale of the Property to the Redeveloper and (ii) the Redeveloper perfected the subdivision of the Property, creating new parcels within the Redevelopment Area, including those identified as Block 154, Lot 19.05 (hereinafter "Lot 19.05") and Block 154, Lot 19.06 (hereinafter "Lot 19.06"); and

WHEREAS, as specifically permitted and authorized by the Redevelopment Agreement, the Redeveloper conveyed to JPMorgan Chase Bank, National Association (the "Subsequent Redeveloper") certain property within the Redevelopment Area, identified as Block 154, Lot 19.04 (the "Data Center Property") to be redeveloped by Subsequent Redeveloper with a data center; and

WHEREAS, the Borough and Subsequent Redeveloper entered into that certain Subsequent Redevelopment Agreement dated April 3, 2018 (the "Subsequent Redevelopment Agreement"), which designated Subsequent Redeveloper as the redeveloper of the Data Center Property and relieved the Redeveloper from the obligation to redevelop the Data Center Property; and

WHEREAS, the Redeveloper now intends to convey to Subsequent Redeveloper, and Subsequent Redeveloper intends to acquire from Redeveloper, Lot 19.05 and Lot 19.06; and

WHEREAS, the Borough and the Subsequent Redeveloper desire to amend the scope of the Subsequent Redevelopment Agreement to include Lot 19.05 and Lot 19.06 and to provide additional terms and conditions with respect to the redevelopment of Lot 19.05 and Lot 19.06, including provisions requiring Subsequent Redeveloper to make annual payments in lieu of delayed redevelopment (the "Delay Payments") to the Borough in the event that redevelopment projects on Lot 19.05 and Lot 19.06 are not completed in accordance with the project schedule (as set forth in greater detail in the form attached hereto as EXHIBIT A, the "First Amendment"); and

WHEREAS, the Borough Council wishes to approve the First Amendment and authorize the execution and delivery of the First Amendment; and

WHEREAS, upon execution of the First Amendment, the Subsequent Redeveloper shall assume the obligation to redevelop Lot 19.05 and Lot 19.06, and the Redeveloper shall be relieved from the obligation to redevelop same.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF TOTOWA, NEW JERSEY AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as though fully set forth at length.

Section 2. The Mayor is authorized to execute and deliver the First Amendment substantially in the form attached hereto as EXHIBIT A, and the same is hereby approved, together with any changes, insertions and omissions thereto as the Mayor, in consultation with counsel to the Borough, deems to be necessary or desirable for the execution thereof and/or as necessary to effectuate the intent and purpose of this Resolution. The Mayor is further authorized to extend or otherwise modify the date upon which Subsequent Redeveloper's obligation to make the Delay Payments shall commence, and/or to modify the amounts of the Delay Payments, as same may be deemed necessary or desirable, in consultation with counsel to the Borough, to effectuate the intent and purpose of this Resolution.

Section 3. Upon the execution of the First Amendment as contemplated in Section 2 hereof, the Mayor and Borough staff and professionals are hereby authorized and directed to (i) deliver the fully executed, attested and sealed document to the other parties thereto; (ii) perform such other actions as the Mayor deems necessary or desirable in relation to the execution and delivery of the First Amendment; and (iii) execute, deliver and accept the normal and customary documents in this regard and undertake all actions and/or refrain from taking actions as reasonably necessary to effectuate the purpose and intent of the First Amendment and this Resolution.

Section 4. A copy of this Resolution shall be available for public inspection at the offices of the Borough Clerk.

Section 5. This Resolution shall take effect immediately.

A letter of resignation was received from Board of Adjustment Commissioner Robert Korsakoff. There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to accept the resignation and send him a letter of thanks. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilwoman Palazzo, seconded by Councilman Picarelli to approve the Florist License Application for La Serra Gardens Incorporated. 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 Application For Social Affair Permit from the State Of New Jersey Division Of Alcoholic Beverage Control for the BPOE #2111 Passaic Valley Elks to be held on August 17, 2019 from 4:00 p.m. – 11:59 p.m. 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 Application For Social Affair Permit from the State Of New Jersey Division Of Alcoholic Beverage Control for the Macedonian Orthodox Church “St. Nikola” to be held on September 14, 2019 from 12:00 – 10:00 p.m. (rain date September 21, 2019) & September 15, 2019 from 12:00 – 8:00 p.m. (rain date September 22, 2019). 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 Bingo License Application No. 2167 & Raffle License Application No. 2168 for the Mental Health Clinic of Passaic for a Pocket Book Bingo and On-Premise 50/50 to be held on September 22, 2019 at The PAL. 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. 2169 for the DePaul Diocesan High School Parents Association for an On-Premise 50/50 to be held on September 5, 2019 at The Barnyard and Carriage House. 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 Councilwoman Andriani, seconded by Councilman Picarelli that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

Joseph Wassel, RMC
Municipal Clerk