

BOROUGH OF TOTOWA

MINUTES OF THE MAYOR AND COUNCIL

April 26, 2016

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

ABSENT: Councilman Anthony Picarelli.

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 Councilman Puglise, seconded by Councilman D'Angelo to dispense with the regular order of business in order to hold a public hearing on the 2016 Municipal Budget, the 2016 Passaic County Open Space and Farmland Preservation Trust Fund grant applications for the installation of new playground equipment at Kennedy Park, the PAL and Bogert Street Park and Ordinance Nos. 06-2016 & 07-2016 as advertised. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel announced that the 2016 Municipal Budget, the 2016 Passaic County Open Space and Farmland Preservation Trust Fund grant applications for the installation of new playground equipment at Kennedy Park, the PAL and Bogert Street Park and Ordinance Nos. 06-2016 & 07-2016 have been advertised for public hearing for Tuesday, April 26, 2016.

Municipal Clerk Wassel read the Municipal Budget Notice.

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to adopt the following Resolution To Waive The Reading In Full Of The 2016 Municipal Budget. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 60-2016

RESOLUTION TO WAIVE THE READING IN FULL OF THE
2016 MUNICIPAL BUDGET

WHEREAS, N.J.S.A. 40A:4-8 permits that the Budget as advertised may be read by its title providing that at least one week prior to the date of the hearing a complete copy of the approved budget shall:

- a) Be made available for public inspection in the free public library of the municipality; and
- b) Is made available to each person requesting the same during said week and during the public hearing; and

WHEREAS, the Borough of Totowa has complied with the aforesaid requirements.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council that the Borough of Totowa is hereby permitted to waive the reading in full, of the Municipal Budget for the year ending December 31, 2016.

There was a motion by Councilman Puglise, 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 the 2016 Municipal Budget.

CITIZENS HEARD:

There were no citizens who wished to be heard.

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

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to adopt Resolution No. 61-2016 To Adopt The 2016 Municipal Budget. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the Open Space Public Hearing Notice.

There was a motion by Councilman Puglise, 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 the 2016 Open Space grant applications.

CITIZENS HEARD:

Mike Mahometa, 269 Lincoln Avenue: Said that he received the certified letter because he is within 200' of the PAL and asked what specifically is being done. Mayor Coiro: Responded that the existing park and playground equipment will be replaced with new park and playground equipment in the same location.

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

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to adopt the following resolution endorsing submission of the 2016 Passaic County Open Space and Farmland Preservation Trust Fund grant applications for the installation of new playground equipment at Kennedy Park, the PAL and Bogert Street Park. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 62-2016

WHEREAS, the Mayor and Council of the Borough of Totowa are desirous of submitting three applications for funding through the Passaic County Open Space and Farmland Preservation Trust Fund for the installation of new playground equipment at each of the following locations: Kennedy Park (Block 166.02, Lot 11); Totowa PAL (Block 62, Lot 1); and Bogert Street Park (Block 134, Lot 1).

WHEREAS, pursuant to the State Shared Services Act, such funds may not be spent in a municipality without authorization by the Governing Body; and

WHEREAS, the aforesaid projects are in the best interest of the Borough of Totowa; and

WHEREAS, the Mayor and Council obtained public comments of the proposed application at their meeting held on April 26, 2016; and

WHEREAS, all property owners within a 200-foot radius of the proposed project sites were notified of the public hearing at least 10 days prior to its implementation.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby confirm endorsement of the aforesaid projects.

BE IT FURTHER RESOLVED, that the Mayor and Council certify the resolution for the applications to be presented to the Passaic County Department of Planning.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Department of Planning to be added to the applications by the Borough for the 2016 Open Space and Farmland Preservation Trust Fund, so that implementation of the aforesaid projects may be expedited.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 06-2016.

There was a motion by Councilman Puglise, 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. 06-2016.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, 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. 06-2016 by title:

ORDINANCE NO. 06-2016

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 38 ENTITLED "ETHICS, CODE OF"**

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to adopt Ordinance No. 06-2016 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

Municipal Clerk Wassel read the legal notice and the title of Ordinance No. 07-2016.

There was a motion by Councilman Puglise, 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. 07-2016.

CITIZENS HEARD:

There were no citizens who wished to be heard.

There was a motion by Councilman Puglise, 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. 07-2016 by title:

ORDINANCE NO. 07-2016

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

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to adopt Ordinance No. 07-2016 on second and final reading. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Puglise, seconded by Councilman 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.

Councilwoman Andriani: 1) Announced that the Board of Recreation Summer Camp and Pool registration dates will be May 18th & 25th from 6:30 – 9:00 p.m. at the Library; 2) Remarked that this Saturday, April 30th the Library will host a Trash to Treasure event and will also have a shredding truck and electronic waste disposal available; 3) Congratulated Totowa's own County Clerk Kristin Corrado who announced that she will be running for Senate.

CITIZENS HEARD:

Frank & Sharon Grosso, 131 Shepherds Lane: Said that cars speed up and down Shepherds Lane and they live right across the street from the school and asked that speed bumps be installed. Mayor Coiro: Advised them that we will have to take some steps first because the Department of Transportation does not like approving speed bumps on hills. Told them that Police Chief Robert Coyle is not here tonight, but asked Public Safety Chairman, Council President Puglise to have the Chief first set up the speed monitor—to deter and record speeding—and then to have officers stationed with radar. Sharon Grosso: Asked if the monitor notifies the Police Department at the time of speeding. Mayor Coiro: Replied that the monitor serves two purposes: 1) It gives us statistics on speeding, number of vehicles, time of day, etc.; and 2) It shows the driver their speed which would hopefully alert them to slow down.

There was a motion by Councilman Puglise, seconded by Councilman D'Angelo to approve the Minutes of the Mayor and Council for the meeting of April 12, 2016. 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. 2016-10 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 To Amend Resolution No. 14-2016 Designating Official Signatories For Municipal Court General Account And Bail Account Checks. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 63-2016

RESOLUTION TO AMEND RESOLUTION NO. 14-2016 DESIGNATING
OFFICIAL SIGNATORIES FOR MUNICIPAL COURT GENERAL ACCOUNT
AND BAIL ACCOUNT CHECKS

WHEREAS, there is a need to designate the Official Signatories for Municipal Court General Account and Bail Account Checks.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa that the Municipal Court Judge, Court Administrator and the Violations Clerk be hereby designated as the Official Signatories to sign all Municipal Court General Account and Bail Account Checks.

BE IT FURTHER RESOLVED, by the Mayor and Council of the Borough of Totowa that any two (2) of the above mentioned three (3) employees will be permitted to sign the checks at any given time.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to adopt the following resolution endorsing the submission of the 2016 Recycling Tonnage Grant Application and Recycling Tax Identification Statement to the New Jersey Department of Environmental Protection. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 64-2016

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the 2015 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and to indicate the assent of the Mayor and Council of the Borough of Totowa to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa hereby endorses the submission of the Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and designates Joseph Wassel, Certified Recycling Professional, 537 Totowa Road at Cherba Place, Totowa, NJ, 07512, to ensure that the application is properly filed.

BE IT FURTHER RESOLVED, that the monies received from the Recycling Tonnage Grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

There was a motion by Councilman D'Angelo, seconded by Councilwoman Fontanella to authorize the Borough Clerk and Borough Attorney to re-advertise for RFP's for 2016 Tax Appeal Consultant Services. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON PUBLIC SAFETY:

There was a motion by Councilman Puglise, seconded by Councilwoman Fontanella to adopt the following Resolution Authorizing The Purchase And Delivery Of Two Vehicles For The Borough Of Totowa Police Department. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 65-2016

RESOLUTION AUTHORIZING THE PURCHASE AND DELIVERY OF TWO VEHICLES FOR THE BOROUGH OF TOTOWA POLICE DEPARTMENT

WHEREAS, the Borough of Totowa Police Chief has requested that two new police vehicles be purchased and added to the Borough of Totowa fleet; and

WHEREAS, the Mayor and Council of the Borough of Totowa have determined that there is a need for two new police vehicles in order to maintain and keep the fleet updated; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the purchase of these vehicles; and

WHEREAS, Morris County Cooperative Pricing Council Contract No. 15-A has been awarded to Beyer Ford, 170 Ridgedale Avenue, Morristown, New Jersey 07962 for the purchase of the two 2016 Ford Police Interceptor Sedans and related equipment; and

WHEREAS, pursuant to the applicable New Jersey State laws, the purchase of the police vehicles may be authorized without public bidding.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the purchase of two 2016 Ford Police Interceptor Sedans from Beyer Ford in the amount of \$24,511.00 per vehicle for a total cost of \$49,022.00

BE IT FURTHER RESOLVED, that the Mayor and Municipal Council of the Borough of Totowa do hereby authorize the Municipal Clerk and Police Chief to execute any and all instruments relating thereto.

There was a motion by Councilman Puglise, seconded by Councilwoman Fontanella to approve the fireman's application, the purchase of fireman's equipment and authorize a fireman's physical for Brian J. Cappadonna for Fire Rescue Company No. 4. On roll call vote, all members of the Council present voted in the affirmative.

A letter from the Passaic County Prosecutor inviting the Mayor and Council to attend the 19th Annual Candlelight Vigil to be held on Sunday, May 1, 2016 from 3:00—5:00 p.m. at the Passaic County Community College was received and filed.

COMMITTEE ON PUBLIC WORKS:

There was a motion by Councilman D'Angelo, seconded by Councilman Puglise to accept the following bids for the Hobart Place Improvements. On roll call vote, all members of the Council present voted in the affirmative.

<u>Company</u>	<u>Total Bid</u>
Midwest Construction, Inc. Warren, NJ 07059	\$194,816.15
4 Clean-Up, Inc. North Bergen, NJ 07047	\$197,964.50

Cifelli & Son General Construction, Inc. Nutley, NJ 07110	\$206,843.30
Mike Fitzpatrick Equipment Co., Inc. Oak Ridge, NJ 07438	\$211,404.35
Marini Brothers Construction Co. Hackensack, NJ 07601	\$215,579.00
Your Way Construction, Inc. Irvington, NJ 07111	\$229,099.70
D&L Paving Contractors, Inc. Nutley, NJ 07110	\$243,457.35
Smith-Sondy Paving Contractors Wallington, NJ 07057	\$266,456.65

Upon the recommendation of the Committee, there was a motion by Councilman D'Angelo, seconded by Councilman Puglise to adopt the following resolution to award the contract to the lowest responsible bidder for the Hobart Place Improvements. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 66-2016

RESOLUTION AWARDING CONTRACT FOR HOBART PLACE IMPROVEMENTS

WHEREAS, the Borough of Totowa has received a Municipal Aid Grant from the New Jersey Department of Transportation ("NJDOT") for various improvements for Hobart Place including the installation of replacement concrete vertical curb, installation of ADA compliant curb ramps, the milling and resurfacing of the roadway and associated site improvements; and

WHEREAS, by Resolution No. 111-2015 dated September 8, 2015, the Mayor and Council of the Borough of Totowa authorized the Borough of Totowa Municipal Engineer, Richard A. Alaimo Engineering Associates to provide design services, prepare bid documents, assist in the bidding process and supervise construction of the Hobart Place Improvement Project; and

WHEREAS, the Mayor and Council of the Borough of Totowa did advertise for receipt of sealed bids in accordance with the specifications entitled "Borough of Totowa, NJDOT Municipal Aid Program, Hobart Place Improvements, Contract No. 2016-1"; and

WHEREAS, the Borough of Totowa did receive sealed bids at its Municipal Building on April 14, 2016; and

WHEREAS, the apparent low bid was submitted by Midwest Construction, Inc. 23 Dead River Road, Warren, New Jersey 07059 in the amount of \$194,816.15, 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 have determined that the bid submitted by Midwest Construction, Inc. be accepted as the lowest responsible bid.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby accept the bid of Midwest Construction, Inc. for the Hobart Place Improvements as the lowest responsible bid for the total sum of \$194,816.15.

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.

BE IT FURTHER RESOLVED, that the award of this contract is subject to the approval of the New Jersey Department of Transportation.

Upon the recommendation of DPW Superintendent Jim Niland, there was a motion by Councilman D'Angelo, seconded by Councilman Puglise to approve a grade increase for DPW Laborer Domenick Coiro from Grade 5 to Grade 4, effective April 27, 2016. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman D'Angelo, seconded by Councilman Puglise to adopt the following Resolution Authorizing Additional Environmental Services For 43 Norwood Terrace For The CDBG-DR Program. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 67-2016

RESOLUTION AUTHORIZING ADDITIONAL ENVIRONMENTAL SERVICES FOR 43 NORWOOD TERRACE FOR THE CDBG-DR PROGRAM

WHEREAS, the Borough of Totowa has received a grant from Passaic County as a sub-grantee of the State of New Jersey from funding provided by the United States Department of Housing and Urban Development Hurricane Irene Disaster Recovery Program and a grant from the State of New Jersey Department of Environmental Protection Green Acres Program to implement the Community Development Block Grant – Disaster Recovery (“CDBG-DR”) Program; and

WHEREAS, more specifically, the Borough of Totowa will use the funds to acquire up to five (5) homes which were damaged by Hurricane Irene and will be demolished and converted to open space for community-wide use in perpetuity; and

WHEREAS, by Resolution No. 117-2015 dated September 22, 2015, the Mayor and Council of the Borough of Totowa awarded a contract to Sadat Associates, Inc., 1545 Lambertson Road, Trenton, New Jersey 08611 to provide Environmental Preliminary Assessments of the various properties in a manner consistent with all regulations; and

WHEREAS, Sadat Associates, Inc. has prepared an Environmental Preliminary Assessment for the property located at 43 Norwood Terrace, Totowa, New Jersey 07512; and

WHEREAS, the Assessment identified potential areas of concern and included a recommendation that a Historical Fill Investigation be performed at this site; and

WHEREAS, pursuant to Green Acres regulations, the Borough of Totowa must address the area of concern to the Department’s satisfaction before Green Acres can disburse funding; and

WHEREAS, the Borough of Totowa has solicited proposals from firms licensed to perform Historical Fill Investigations in the State of New Jersey; and

WHEREAS, the lowest proposal was submitted by T.Slack Environmental Services, Inc. (“TSES”), 180 Market Street, Kenilworth, New Jersey 07033 for the lump sum cost of \$1,100.00, a copy of which is on file in the office of the Borough of Totowa Municipal Clerk; 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 T.Slack Environmental Services, Inc. for Historical Fill Investigation Services for 43 Norwood Terrace, Totowa, New Jersey for the CDBG-DR Program in the amount of \$1,100.00.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize T.Slack Environmental Services, Inc. to perform the professional services as set forth in their proposal.

BE IT FURTHER RESOLVED, that the Municipal Council of the Borough of Totowa does hereby authorize the Mayor and Municipal Clerk to execute any and all necessary instruments relating thereto.

COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to approve Payment Estimate No. 4 in the amount of \$14,602.00 to Envirocon, Inc. for the Municipal Complex Generator Project. 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 Authorizing Professional Engineering Services For The Tennis Court At Lincoln Fields. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 68-2016

RESOLUTION AUTHORIZING PROFESSIONAL ENGINEERING SERVICES
FOR THE TENNIS COURT AT LINCOLN FIELDS

WHEREAS, the Borough of Totowa has applied for and received Passaic County Open Space grants for the construction of a new tennis court at the Borough of Totowa Lincoln Fields; and

WHEREAS, the proposed Project will consist of the removal of the existing deteriorated pavement and construction of a new tennis court and appurtenant improvements; and

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 construction plans, specifications and bid documents, assist in the bidding process and supervise construction of the Project; and

WHEREAS, Richard A. Alaimo Engineering Associates has submitted a proposal dated April 14, 2016 to provide the design, bid assistance and construction supervision services for the Tennis Court at Lincoln Fields Project at a cost not to exceed \$26,190.00, 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 April 26, 2016 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 Tennis Court at Lincoln Fields in the amount of \$26,190.00.

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.

Upon the recommendation of the Committee, there was a motion by Councilwoman Andriani, seconded by Councilman Bucher to hire Pam Steinhilber-Daub as pool secretary. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilwoman Andriani, seconded by Councilman Bucher to adopt the following Resolution To Reject The Engineer's Recommendation For On-Site Improvements Performance Bond—Reduction No. 1 For Digital Realty Trust. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 69-2016

RESOLUTION TO REJECT THE ENGINEER'S RECOMMENDATION FOR ON-SITE IMPROVEMENTS PERFORMANCE BOND – REDUCTION NO. 1 FOR DIGITAL REALTY TRUST

WHEREAS, Digital Totowa, LLC, a subsidiary of Digital Realty Trust with offices at 451 D Street, Suite 912, Boston, Massachusetts 02210, is the owner of real property commonly known and designated as Block 173, Lot 17 on the official Tax and Assessment Map of the Borough of Totowa and is located at 701 Union Boulevard in the I-3 Restricted Industry District; and

WHEREAS, Digital Totowa, LLC filed an application for development with the Borough of Totowa Planning Board for preliminary and final site plan approval for the 701 Union Boulevard property; and

WHEREAS, the Borough of Totowa Planning Board at its public meetings held on April 11, 2013, April 25, 2013 and May 9, 2013 granted preliminary and final site plan approval for the application filed by Digital Totowa, LLC for the 701 Union Boulevard property, subject to certain conditions and restrictions; and

WHEREAS, by Resolution No. 76-2013 dated June 25, 2013, the Mayor and Council of the Borough of Totowa authorized the Borough of Totowa to enter into a Developer's Agreement with Digital Totowa, LLC; and

WHEREAS, the Borough of Totowa and Digital Totowa, LLC entered into a Developer's Agreement effective July 23, 2013; and

WHEREAS, pursuant to the approvals granted and the terms of the Developer's Agreement, Digital Totowa, LLC was required to post a performance bond for the purpose of insuring proper construction of all on-site and off-site improvements; and

WHEREAS, in accordance with the Developer's Agreement, Digital Totowa, LLC posted the required performance guarantee by submitting two surety bonds, more specifically, Performance Surety Bond dated August 9, 2013 bearing Bond No. CMS0269914 issued by RLI Insurance Company, 161 Gaither Drive, Suite 104, Mt. Laurel, New Jersey 08054, in the amount of \$5,672,332.80 and Performance Surety Bond dated August 9, 2013 bearing Bond No. CMS0269915 issued by RLI Insurance Company, 161 Gaither Drive, Suite 104, Mt. Laurel, New Jersey 08054, in the amount of \$261,856.80; and

WHEREAS, by letter dated February 2, 2016, Digital Realty Trust on behalf of their subsidiary Digital Totowa, LLC requested a reduction of the performance bonds posted for the aforementioned project; and

WHEREAS, the Municipal Engineer has inspected the work completed to date and by letter dated March 22, 2016 recommended a reduction of the bonds subject to certain conditions including the requirement that the Developer address to the satisfaction of the Borough Council the schedule for completion of the remaining portions of the development; and

WHEREAS, the Mayor and Council of the Borough of Totowa must review the Municipal Engineer's recommendation and adopt a resolution approving or rejecting the recommendation within 45 days of the letter; and

WHEREAS, Digital Realty Trust has failed to provide a schedule of completion in response to the condition set forth in the Municipal Engineer's recommendation for a reduction of the performance guarantee within the specified time period.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby reject the recommendation of the Municipal Engineer for the reduction of the On-Site Improvements Performance Bond for Digital Realty Trust.

COMMITTEE ON LEGISLATION & ORDINANCES:

There was a motion by Councilman Bucher, seconded by Councilman Puglise to introduce on first reading, refer to the Planning Board for their review and comments and advertise for public hearing the following entitled ordinance. On roll call vote, all members of the Council present voted in the affirmative.

ORDINANCE NO. 08-2016

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 415 ENTITLED "ZONING AND LAND USE", ARTICLE XVIII,
"R-AH AFFORDABLE HOUSING DISTRICT"**

There was a motion by Councilman Bucher, seconded by Councilman Puglise to introduce on first reading, refer to the Planning Board for their review and comments and advertise for public hearing the following entitled ordinance. On roll call vote, all members of the Council present voted in the affirmative.

ORDINANCE NO. 09-2016

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 415 ENTITLED "ZONING AND LAND USE", ARTICLE XIX,
"AHD ADULT HOUSING DISTRICT OVERLAY ZONE"**

There was a motion by Councilman Bucher, seconded by Councilman Puglise to introduce on first reading and advertise for public hearing the following entitled ordinance. On roll call vote, all members of the Council present voted in the affirmative.

ORDINANCE NO. 10-2016

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA
CHAPTER 75 ENTITLED "POLICE DEPARTMENT", ARTICLE XII,
"GENERAL RULES", SECTION 80, "OUTSIDE EMPLOYMENT REGULATED;
EMPLOYMENT OF OFF-DUTY POLICE"**

There was a motion by Councilman Bucher, seconded by Councilman Puglise to approve Raffle License Application Nos. 1927 & 1928 for St. Peter's Haven for a Tricky Tray and Off-Premise 50/50, respectively, to be held on June 2, 2016 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 D'Angelo that the meeting be adjourned. On roll call vote, all members of the Council present voted in the affirmative.

Joseph Wassel, RMC
Municipal Clerk