

## BOROUGH OF TOTOWA

### MINUTES OF THE MAYOR AND COUNCIL

January 27, 2015

**PRESENT:** Mayor John Coiro, presiding, Council President Phil Puglise, Councilman Lou D'Angelo, Councilwoman Carolyn Fontanella, Councilwoman Debra Andriani, Councilman Anthony Picarelli, Councilman William Bucher, 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.

Councilman D'Angelo: Thanked the DPW for their handling of the ice storm and the snow storms and the Volunteer Fire Department for their stand-by.

CITIZENS HEARD:

Mike Mahometa, 269 Lincoln Avenue: 1) Agreed that the DPW did a fantastic job with the storms; 2) Asked about the data processing facility on Union Boulevard and whether or not it is still going on. Mayor Coiro: Advised that the company lost their client, so it is currently on hold.

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 January 13, 2015. On roll call vote, all members of the Council present voted in the affirmative.

COMMITTEE ON FINANCE:

There was a motion by Councilman Picarelli, seconded by Councilman D'Angelo to approve Resolution No. 2015-03 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 D'Angelo to adopt the following resolution authorizing payment to the State of New Jersey for the settlement of the Passaic River litigation. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 28-2015

RESOLUTION AUTHORIZING PAYMENT TO THE STATE OF NEW JERSEY FOR THE SETTLEMENT WITH STATE PLAINTIFFS IN THE ACTION ENTITLED NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION V. OCCIDENTAL CHEMICAL CORPORATION, ET AL.

WHEREAS, certain claims have been asserted against the Borough of Totowa (the "Borough") in the action entitled New Jersey Department of Environmental Protection v. Occidental Chemical Corporation, et al., Docket No. ESX-L-9868-05 pending in the Superior Court of New Jersey, Essex County (the "Litigation") regarding alleged environmental contamination at the Newark Bay Complex ("Newark Bay Complex"); and

WHEREAS, certain Third-Party Defendant Municipalities and municipal utilities authorities, including the Borough of Totowa, are members of a group known as the Municipal Joint Defense Group in the Litigation; and

WHEREAS, the Municipal Joint Defense Group on behalf of its members engaged in settlement negotiations with the State of New Jersey (State "Plaintiffs") towards the resolution of the Litigation through the entry of a Consent Judgment; and

WHEREAS, by Resolution No. 41-2013 dated March 12, 2013, the Governing Body of the Borough of Totowa authorized execution of the Consent Judgment with the State Plaintiffs in settlement of the claims against the municipality, a copy of which is on file in the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, the terms of the settlement require the Borough of Totowa to pass a resolution authorizing its participation in the settlement and authorizing the appropriation of the payment in the sum of \$95,000.00 representing the Settlement Funds as that term is defined by the Consent Judgment; and

WHEREAS, in 2014 the sum of \$386.25 was deducted from the Borough of Totowa's Consolidated Municipal Property Tax Relief Act ("CMPTRA") funding; and

WHEREAS, the balance due from the Borough of Totowa to the State of New Jersey in settlement of the Passaic River litigation is \$94,613.75; and

WHEREAS, pursuant to a Court Order entitled "Order on Future Third-Party Defendant Settlement Payments" signed by the Honorable Judge Sebastian P. Lombardi, J.S.C. and dated December 16, 2014, all future settlement fund payments shall be made by check payable by to the Treasurer, State of New Jersey.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize payment to the State of New Jersey in the amount of \$94,613.75 which represents the balance of the settlement amount due from the Borough of Totowa in accordance with the Consent Judgment.

BE IT FURTHER RESOLVED, that nothing contained within this Resolution shall preclude or prevent the Borough from pursuing recovery and reimbursement for the whole or any portion of the Settlement Funds from any insurance carrier(s) identified now or in the future.

COMMITTEE ON PUBLIC SAFETY:

There was no report.

COMMITTEE ON PUBLIC WORKS:

There was a motion by Councilman D'Angelo, seconded by Councilman Puglise to adopt the following Resolution Rescinding Award Of Contract For Project/Construction Manager For The CDBG-DR Program. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 29-2015

RESOLUTION RESCINDING AWARD OF CONTRACT FOR  
PROJECT/CONSTRUCTION MANAGER 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 Department of Community Affairs ("NJDCA") from funding provided by the United States Department of Housing and Urban Development Hurricane Irene Disaster Recovery 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 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, the Mayor and Council of the Borough of Totowa desire to retain the services of a Project Manager to assist the municipality with coordination of services from a variety of professionals for the purchase and demolition of the 5 properties in a manner consistent with all regulations; and

WHEREAS, the Mayor and Council of the Borough of Totowa did advertise for receipt of sealed proposals in accordance with the specifications entitled "Notice and Solicitation of Proposals for Project Manager Community Development Block Grant – Disaster Recovery Program"; and

WHEREAS, the Borough of Totowa did receive sealed proposals at its Municipal Building on November 13, 2014, copies of which are on file in the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, by Resolution No. 110-2014 dated December 9, 2014, the Mayor and Council of the Borough of Totowa awarded a contract to Millennium Strategies LLC, 60 Roseland Avenue, Caldwell, New Jersey 07006 to serve as the Project Manager for the CDBG-DR Program for the Borough of Totowa; and

WHEREAS, NJDCA has determined that the procurement process did not comply with State procurement regulations, NJSA 40A:11-4.1 et seq. and NJAC 5:34-4.1 et seq. (NJ Local Public Contracts Law) and therefore does not comply with federal HUD 24 CFR Part 85 and OMB Circular A-87; and

WHEREAS, NJDCA has instructed the Borough of Totowa to re-solicit proposals by a competitive process in conformance with 40A:11-1 et seq., LPCL and the federal regulations; and

WHEREAS, the Mayor and Council desire to reject all of the proposals received for Project Manager for the CDBG-DR Program for the Borough of Totowa for the aforementioned reasons and authorize the re-solicitation of this service in connection with the purchase and demolition of 5 homes which were damaged by Hurricane Irene.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby rescind award of the contract between the Borough of Totowa and Millennium Strategies LLC to serve as the Project Manager for the CDBG-DR Program for the Borough of Totowa.

BE IT FURTHER RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby authorize the Municipal Clerk and Municipal Attorney to re-solicit proposals by a competitive process in conformance with 40A:11-1 et seq., LPCL and the federal regulations.

There was a motion by Councilman D'Angelo, seconded by Councilman Puglise to adopt the following Resolution Of The Borough Of Totowa Authorizing The Payment Of Terminal Leave Benefits To James M. Moscarelli. On roll call vote, all members of the Council present voted in the affirmative.

#### RESOLUTION NO. 30-2015

#### RESOLUTION OF THE BOROUGH OF TOTOWA AUTHORIZING THE PAYMENT OF TERMINAL LEAVE BENEFITS TO JAMES M. MOSCARELLI

WHEREAS, James Moscarelli began his employment with the Borough of Totowa as a Laborer – Grade 5 in the Department of Public Works on August 11, 1986; and

WHEREAS, James Moscarelli retired from the Borough of Totowa Department of Public Works as a Laborer – Grade 1 effective January 1, 2015; and

WHEREAS, the policy of the Borough of Totowa is that employees with twenty-five (25) years of service are entitled to a maximum of one hundred thirty (130) days of Terminal Leave to be paid upon retirement; and

WHEREAS, the Terminal Leave amount is calculated at the amount of sick day benefits, not to exceed one hundred thirty (130) days or eighty-seven (87) days for those employees under the Pitman/12 Hour Shift Schedule, at the daily rate of pay of the last twelve (12) months of service upon retirement; and

WHEREAS, James Moscarelli has accumulated forty-eight (48) unused sick days and has completed more than twenty-five (25) years of service as an employee of the Borough of Totowa; and

WHEREAS, James Moscarelli does hereby waive any other claim and/or claims for any salary, benefits and/or other compensation.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Totowa that James Moscarelli is granted forty-eight (48) days of accumulated sick leave (Terminal Leave) for a total amount of Nineteen Thousand Two Hundred Forty-Three and 00/100 (\$19,243.00). Said monies are given in full and final consideration of any and all claims that James Moscarelli may have against the Borough of Totowa.

**COMMITTEE ON ENGINEERING & PUBLIC PROPERTY:**

There was a motion by Councilwoman Fontanella, seconded by Councilwoman Andriani to adopt the following Resolution Authorizing The Purchase Of A Model DM-T15 Dimminutor Open Channel Comminutor For William Place Pump Station. On roll call vote, all members of the Council present voted in the affirmative.

**RESOLUTION NO. 31-2015**

**RESOLUTION AUTHORIZING THE PURCHASE OF A MODEL DM-T15 DIMMINUTOR  
OPEN CHANNEL COMMUNOTOR FOR THE WILLIAM PLACE PUMP STATION**

WHEREAS, the Borough of Totowa Sewer Department Superintendent has advised the Mayor and Council of the Borough of Totowa that the dimminutor comminutor at the William Place Pump Station has been severely damaged, is not working satisfactorily and must be repaired and/or replaced as soon as possible; and

WHEREAS, the Pump Station services the residents of the Borough of Totowa by collecting sanitary sewerage waste from individual users throughout the municipality where it is processed and conveyed to the Passaic Valley Sewerage Commissioners located in Newark, New Jersey for proper treatment and disposal; and

WHEREAS, this situation adversely affects the public health, safety or welfare of the residents of the Borough of Totowa and requires the immediate repair of this equipment; and

WHEREAS, the Borough of Totowa Sewer Department Superintendent has recommended that the Borough of Totowa replace the dimminutor comminator with a make and model that is compatible with the existing Pump Station equipment; and

WHEREAS, Franklin Miller, Inc., 60 Okner Parkway, Livingston, New Jersey 07039 has submitted a proposal for a Model DM-T15 Dimminutor Open Channel Comminutor and related equipment in the amount of Twenty-Five Thousand Seven Hundred Seventy-Three and 00/100 Dollars (\$25,773.00), a copy of which is on file on the office of the Borough of Totowa Municipal Clerk; and

WHEREAS, Franklin Miller, Inc. is the sole manufacturer of the Model DM-T15 Dimminutor Open Channel Comminutor for which they also hold the patent and trademark; and

WHEREAS, the Mayor and Council of the Borough of Totowa desire to authorize the purchase of this necessary equipment for the William Place Pump Station for the general health, safety and well-being of the residents of the Borough of Totowa; and

WHEREAS, pursuant to the applicable N.J.S.A. 40A:11-5(1)(i), this emergency equipment purchase constitutes an extraordinary unspecifiable service and may be authorized and by the Borough of Totowa 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 Franklin Miller, Inc. for a Model DM-T15 Dimminutor Open Channel Comminutor and related equipment in the amount of Twenty-Five Thousand Seven Hundred Seventy-Three and 00/100 Dollars (\$25,773.00).

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

A letter was received from the Zerbini Family Circus requesting permission to put up a banner across Union Boulevard at Church Street from April 19 to May 14, 2015 to advertise the fundraiser for St. James R.C. Church. There was a motion by Councilwoman Fontanella, 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 no report.

**COMMITTEE ON LEGISLATION & ORDINANCES:**

There was a motion by Councilman Bucher, seconded by Councilman Picarelli 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. 01-2015**

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

There was a motion by Councilman Bucher, seconded by Councilman Picarelli 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. 02-2015**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA  
CHAPTER 61 ENTITLED "OFFICERS & EMPLOYEES",  
ARTICLE IX, "DIRECTOR OF FIRST AID"**

There was a motion by Councilman Bucher, seconded by Councilman Picarelli 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. 03-2015**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA  
CHAPTER 66 ENTITLED "PARKING UTILITY"**

There was a motion by Councilman Bucher, seconded by Councilman Picarelli 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. 04-2015**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF TOTOWA  
CHAPTER 361 ENTITLED "STREETS AND SIDEWALKS",  
ARTICLE I, "OPENINGS & EXCAVATIONS"**

There was a motion by Councilman Bucher, seconded by Councilman Picarelli to adopt the following Resolution Authorizing A Massage Establishment License For Bong Kyu Jung For Pure Healing Spa. On roll call vote, all members of the Council present voted in the affirmative.

**RESOLUTION NO. 32-2015  
RESOLUTION AUTHORIZING A MASSAGE ESTABLISHMENT LICENSE  
FOR BONG KYU JUNG FOR PURE HEALING SPA**

WHEREAS, Pure Healing Spa, Inc., submitted an application to the Borough of Totowa Zoning Board of Adjustment for a use variance approval to operate a massage establishment in a portion of the premises located at 79 Union Boulevard, Totowa, New Jersey; and

WHEREAS, a public hearing was held on the application before the Borough of Totowa Zoning Board of Adjustment on May 9, 2012; and

WHEREAS, the Borough of Totowa Zoning Board of Adjustment approved the application subject to certain terms and conditions which were memorialized in a Resolution dated June 13, 2012; and

WHEREAS, the terms and conditions include complying with all requirements set forth in Chapter 250 entitled "Massage Establishments" in the Borough of Totowa Code Book and obtaining a license for a massage establishment to be issued by the Borough of Totowa Municipal Clerk; and

WHEREAS, Bong Kyu Jung has now submitted an application dated November 17, 2014 to the Borough of Totowa for a Massage Establishment License for Pure Healing Spa, Inc.; and

WHEREAS, the Borough of Totowa Police Department has conducted a thorough investigation of the applicant in accordance with Section 250-6 of the Borough of Totowa Code Book; and

WHEREAS, on January 27, 2014, Bong Kyu Jung appeared with his attorney Matthew Jeon, Esq. at a regular meeting of the Mayor and Council of the Borough in connection with the application; and

WHEREAS, after reviewing the application and report issued by the Borough of Totowa Police Department and after hearing the testimony of the applicant, the Mayor and Council of the Borough of Totowa have determined that the Bong Kyu Jung has complied with all the requirements for a Massage Establishment License in the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby approve the Massage Establishment License application on behalf of Bong Kyu Jung for Pure Healing Spa, Inc. and authorize the Borough of Totowa Municipal Clerk to issue a Massage Establishment License effective January 28, 2015 through June 30, 2015.

BE IT FURTHER RESOLVED, that Pure Healing Spa is required to continue to comply with all terms and conditions set forth in the aforementioned Resolution dated June 13, 2102 as well as all applicable laws, ordinances, rule and regulations and said license must be renewed annually on or before July 1<sup>st</sup> each year.

There was a motion by Councilman Bucher, seconded by Councilman Picarelli to adopt the following Resolution Authorizing A Massage Therapist License For Taifen Jung For Pure Healing Spa. On roll call vote, all members of the Council present voted in the affirmative.

RESOLUTION NO. 33-2015

RESOLUTION AUTHORIZING A MASSAGE THERAPIST LICENSE  
FOR TAIFEN JUNG FOR PURE HEALING SPA

WHEREAS, Pure Healing Spa, Inc., submitted an application to the Borough of Totowa Zoning Board of Adjustment for use variance approval to operate a massage establishment in a portion of the premises located at 79 Union Boulevard, Totowa, New Jersey; and

WHEREAS, a public hearing was held on the application before the Borough of Totowa Zoning Board of Adjustment on May 9, 2012; and

WHEREAS, the Borough of Totowa Zoning Board of Adjustment approved the application subject to certain terms and conditions which were memorialized in a Resolution dated June 13, 2012; and

WHEREAS, the terms and conditions include complying with all requirements set forth in Chapter 250 entitled "Massage Establishments" in the Borough of Totowa Code Book and obtaining a Massage Establishment License for the business and Massage Therapist Licenses for employees to be issued by the Borough of Totowa Municipal Clerk; and

WHEREAS, Bong Kyu Jung has now submitted an application dated November 17, 2014 to the Borough of Totowa for a Massage Establishment License for Pure Healing Spa, Inc.; and

WHEREAS, by Resolution No. 32-2015 dated January 27, 2015, the Mayor and Council of the Borough of Totowa authorized the issuance of a Massage Establishment License application on behalf of Bong Kyu Jung for Pure Healing Spa, Inc. effective January 28, 2015 through June 30, 2015; and

WHEREAS, Taifen Jung, 45-64 196<sup>th</sup> Street, Flushing, New York 11358 has submitted an application for a Massage Therapist License as an employee for Pure Healing Spa, Inc., 79 Union Boulevard, Totowa, New Jersey; and

WHEREAS, Taifen Jung has submitted proof of her clinical training in compliance with Section 250-7 of the Borough of Totowa Code Book; and

WHEREAS, the Borough of Totowa Police Department has conducted a thorough investigation of the applicant in accordance with Section 250-6 of the Borough of Totowa Code Book; and

WHEREAS, after reviewing the application and report issued by the Borough of Totowa Police Department and after hearing the testimony of the applicant, the Mayor and Council of the Borough of Totowa have determined that Taifen Jung has complied with all the requirements for a Massage Therapist License in the Borough of Totowa.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Totowa do hereby approve the Massage Therapist License application for Taifen Jung as an employee of Pure Healing Spa, Inc. and authorize the Borough of Totowa Municipal Clerk to issue a Massage Therapist License effective January 28, 2015 through June 30, 2015.

BE IT FURTHER RESOLVED, that Taifen Jung is required to continue to comply with all terms and conditions set forth in the aforementioned Resolution dated June 13, 2102 as well as all applicable laws, ordinances, rule and regulations and said license must be renewed annually on or before July 1<sup>st</sup> each year.

There was a motion by Councilman Bucher, seconded by Councilman Picarelli to approve Raffle License Application Nos. 1827 & 1828 for FOWA Rescue, Inc. for a Tricky Tray and On-Premise 50/50, respectively, to be held on April 23, 2015 at The Bethwood. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Bucher, seconded by Councilman Picarelli to approve Raffle License Application Nos. 1829 & 1830 for Kinnelon Elementary Home and School Association for a Tricky Tray and On-Premise 50/50, respectively, to be held on March 19, 2015 at The Bethwood. On roll call vote, all members of the Council present voted in the affirmative.

There was a motion by Councilman Bucher, seconded by Councilman Picarelli to approve Raffle License Application No. 1831 for St. Joseph's Home for the Elderly of the Little Sisters of the Poor for an On-Premise 50/50 to be held on April 10, 2015 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.

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Joseph Wassel, RMC  
Municipal Clerk