

**REGULAR/WORKSHOP MEETING  
DECEMBER 16, 2008  
BOROUGH COUNCIL**

Council President called regular meeting to order at 7:30 P.M.

Borough Clerk read the following statement: "Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by posting on the bulletin board at Borough Hall and by notification to the Asbury Park Press, the Newark Star Ledger, and the New Coaster at least 48 hours prior to the meeting."

All present stood for Salute to Flag.

**ROLL CALL**

PRESENT: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

ABSENT: None

ALSO PRESENT: Peter Maclearie, Mayor  
W. Bryan Dempsey, Administrator  
James Berube, Director of Law  
Karen Mount-Taylor, Borough Clerk  
Stephen Pfeffer, Chief Financial Officer  
Al Hill Jr., Borough Engineer

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**APPROVAL OF MINUTES**

Mr. Ford offered a motion to approve the minutes of October 28, 2008, seconded by Mr. Morrill.

**ROLL CALL**

AYES: Mr. Ford, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: Mr. Mayer

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**REPORT OF MAYOR/COUNCIL/ADMINISTRATION**

**Mayor's Report**

Mayor Maclearie updated council on the outcome of the local homeowner's association meeting held the previous evening. This meeting was attended by approximately thirty-five people from the different local homeowner's associations. The Mayor reported that the main issues/complaints heard were mostly related to either public works or speeding within their developments. A member of the audience asked the Council if the Council would administratively be responsible for organizing future meetings. The Mayor suggested setting up formal meetings every two months and see how it progresses. The Mayor indicated it would make sense to bring a representative from the Public Works Department as well as one of the Public Traffic Safety Officers to future meetings and in addition, the Mayor left an open invitation for any Council Member to join as well. By working with the phone numbers and contact information obtained at the meeting and by utilizing the town's website to spread the word about the intended working relationship between the Council and the members of the different associations, the Mayor believes this would benefit everyone.

Mr. Skudera suggested Council still create an Association Committee.

**Council's Report**

Mr. Ford informed Council that the School Board was having a meeting the same night as the present Council meeting re: Earle. Mr. Ford reiterated that the Council needs to keep its eyes open to the following issues that will have a huge cost impact on the school system: Earle, Fort Monmouth and COAH.

Council President Baldwin advised that Mr. Morrill and he had attend the Public Comment meeting earlier that evening with the officials from the Navy. In that there was little or no time to prepare for the public comment session after receipt of the Navy's EIS, Mr. Baldwin stated that he and the Mayor had agreed to take a formal position on the record by submitting a joint letter to the Assistant Secretary of the Navy as our official public comment in criticism of the Draft Environmental Impact Statement published by the Navy. The Borough dispatched a letter at the end of November to the Department of the Navy taking exception to the shortness of time which the Navy gave the public to look at a 396 page document. If the Council agrees, Mr. Baldwin

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asked Mr. Berube to also prepare a Resolution to memorialize the opposition of the Borough of Tinton Falls to the privatization of the Laurelwood Housing project at NWS Earle.

Mr. Skudera asked that the School Board take a look at this as well as we are in it together.

Mr. Morrill stated Mr. Ford has gotten him in touch with the Superintendent to discuss the children count the light bulbs in their house for the environmental project.

The Open Space Committee did a walk this weekend and looked at three different properties that are currently on the market that the Committee might be interested in purchasing. Mr. Morrill and asked if Council has any questions.

The Open Space Committee also has a couple of appointments to make. The current members are staying.

Administrator's Report

Mr. Dempsey reported on his meeting with the Solid Waste Advisory Committee meeting with the County. The County went over certain issues with the Mazzas who were in attendance at this meeting. The County followed up with a letter recommending that DEP slow down its effort to immediately terminate the Mazza's permit and try mediation first and discuss the issues with the Mazzas.

Director of Law's Report – Mr. Berube

Mr. Berube informed Council that at the direction of Special Counsel, Mr. Jerry Dasti, he has filed an appeal in the action of Mayor-Council of the Borough of Tinton Falls vs. Paul Abrams appealing Judge Locassio's decision of October 24, 2008.

Secondly, Mr. Berube pointed out to the Council that two additional resolutions have been added to the agenda and apologizes for the late delivery. They are connected through R-08-410 Endorsing Housing Element and Fair Share Plan and Authorizing Petition for subsequent certification to the Council on Affordable Housing. Mr. Berube explained that this resolution was to meet the December 31<sup>st</sup> deadline that every municipality is under to file.

Mr. Berube added that the two resolutions were provided by Mr. Bayer today after a very recent conversation with the Council on Affordable Housing as part of the substantive certification filings. Mr. Berube explained that one resolution is to show there is a spending plan in place and that we intend to spend COAH trust fund money to provide affordable housing. Secondly, the other resolution is in the event that there was insufficient money in the COAH Fund to provide the obligated housing, that the Council would intend to bond for it. Mr. Berube pointed out that in the title of the resolution it says in the unlikely event; Mr. Berube explained it is highly unlikely both from our planning and spending plan purposes that this will happen, but nonetheless, COAH is very careful about this new point and wants to see those two resolutions. Mr. Berube stated that Cindy Perr of Mr. Bayer's office is present if the Council has any questions. Mr. Paul Gleitz is also available for any questions.

Mr. Berube commented on the Laurelwood Project at Earle and mentioned that the existing housing units that may go public in 2010 was a subject of an environmental impact study. Per Mr. Berube, the Navy scheduled public hearing for tonight but didn't release the environmental impact study until November 28<sup>th</sup>. The scheduled public hearing for tonight for public comment was to expire approximately one week from today. Mr. Berube, at the request of the Mayor and Council, sent a strongly worded letter to the Undersecretary of the Navy, indicating that in conjunction with the school board and our local elected representatives, that the release of some 380-pages of environmental impact study two days after Thanksgiving so as to ensure that no one will be able to review it for a public hearing dated December 16<sup>th</sup> was unreasonable. In addition, Mr. Berube wrote in his letter that to close a public session during the Christmas season was inappropriate, improper and offensive. Mr. Berube sent copies of his letter to all of the local and federal legislatures. Mr. Berube indicated that no response was received from the Undersecretary of the Navy. The only response given was to Representative Chris Smith by email yesterday. The response indicated that the Undersecretary of the Navy's decision was not to postpone tonight's hearing but only to extend the public comment period to January 16<sup>th</sup>. Public comment can be made by letter or email and the address for Undersecretary of the Navy is on the town's website. Mr. Berube urges everyone to provide their input.

Chief Financial Officer's Report – Mr. Pfeffer

*Special Issuance Notes*

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December 11<sup>th</sup> - \$380,000.00 – the winner bidder was Central Jersey at 1.25%; second bidder was Sun National at 3.43%; the third bidder was TD Bank at 3.85%. Central Jersey Bank was the winning bidder with significant savings over the other two bidders.

*Revenue Projections*

There are no changes to the report from the last meeting. We track it on a daily basis and are still on track from his projections from the December 2<sup>nd</sup> meeting.

*Bill List at Year-End*

Since this is the last meeting of the year, Mr. Pfeffer asked Council for permission to have a bill list at year-end to clear out all of our liabilities and to cleanup the books.

Mr. Morrill offered a motion to approve authorization for the Chief Financial Officer to prepare and pay end of the year bills through December 31, 2008 and submit a subsequent bill list for ratification and retroacted authorization under Resolution of the Council's first meeting in January, seconded by Mr. Mayer.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Mr. Baldwin updated Council and the public as to the Planning Board meetings.

Borough Clerk's Report

Mrs. Mount-Taylor stated on behalf of the Borough Clerk's Office as well as the Borough, she would like to wish everyone a wonderful holiday.

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PETITIONS – None

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ORDINANCES FOR INTRODUCTION – None

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ORDINANCES FOR FINAL CONSIDERATION – None

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PUBLIC DISCUSSION

Mr. Morrill offered a motion to open the Public Discussion, seconded by Mr. Mayer.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC DISCUSSION OPEN

Paul Oliveria, 5 Blueberry Lane, questioned whether the Carney Tract Agreement was ever voted on and formally adopted and if not, what is the Borough's legal exposure.

Gary Schecher, 7 Duke court, commented on the proposed use for the Carney Tract and feels that Senior Housing would make more sense. Also, Mr. Schecher commented that in the minutes he obtained through OPRA for the meetings 05-02-2000 and 06-30-3000, there is not mentioning of what was resolved re: the Carney Tract and whether the agreement was ever seen by Council and voted on. Mr. Schecher says he would like to see the minutes that show where this was put in the plan and where it was discussed with the Mayor and Council what the agreement was. Mr. Schecher also commented the Council should take a better look at how land could be better preserved in town.

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Frank Lodato, 15 Harvard Drive, spoke as a resident and former member of the planning board. Mr. Lodato strongly objects to the housing element that is being presented particularly the Carney element. Mr. Lodato stated that the Carney element was not included in the master plan when put through and was not part of public discussion. Mr. Lodato objects to the plan and wishes to see the Carney Tract remain as R-3 or R-4.

Sherri Canfora, 5 Deannas Way, asked whether the planning Board or Borough Council at any time formally amended the housing plan to deal with the Carney agreement. Ms. Canfora is opposed to the Carney agreement.

Peter Karavites, 784 Sycamore Avenue, spoke as a resident and President of Tinton Falls Board of Education. Mr. Karavites expressed his concerns about future proposed development plans and the impact it will have on the overall school system. Mr. Karavites also commented that he was part of the Master Plan and not once was he ever briefed by the Planning Board about the Carney situation. Mr. Karavites, questioned how all of sudden this appears tonight on the table and it was never part of the Master Plan and never discussed.

Paul Oliveira, 5 Blueberry Lane, made an additional comment that the land use ordinance as it stands does not conform to the master plan.

Steven Schertz, 13 Harvard Drive, spoke as a resident and as a member of the Tinton Falls School Board. Mr. Schertz commented on the upcoming additional students coming into the school system and the problems it presents. Mr. Schertz asked the Council to keep this in mind when moving ahead and considering future housing plans. Mr. Schertz also made the comment that the Master Plan was something the town always followed by and that seems to not be the case recently.

Ken Hager, Orla Court, questioned if the Council knew about the plan in 2007, why they waited until almost December 31<sup>st</sup> to meet the COAH deadline and why was there a delay. Mr. Hager also questioned why the plan changed from senior housing to family housing. Mr. Hager requested a better understanding of what happened and why we are in the situation we are today.

Frank Lodato, 15 Harvard Drive, asked if there is a possible extension through the state for the adoption of the COAH rules. Mr. Lodato commented that the plan was not part of the Master Plan and that the plan is contrary to what the residents want and is contrary to good planning concept.

Nicole Alfano, 50 Sire Stakes Drive, asked how we are to feel comfortable and know which part of the plan the Council is willing to change. Ms. Alfano asked if this is a change that can be made and is it legal to make that change? She also asked can the Council change the housing plan? Ms. Alfano commented that the Council says they can change it afterwards but her concern is there is no guarantee that anyone is going to do that. Ms. Alfano commented that the Council is voting tonight and we don't know what parts can be changed.

Sherri Canfora, 5 Deannas Way, asked the Council what applications they were referring to. Ms. Canfora also commented Council waited too long to address this plan.

Donald Romelfanger, 11 Gun Club Road, commented that he is tired of people moving into town and pushing their own agenda on people who have been here for a long time and objects to the Council not giving each speaker even amount of public time to speak.

Steven Schertz, 13 Harvard Drive, asked for clarification of the 150 units proposed for the Carney Tract. Is only 30 units being used for COAH or all 150 units in order to meet COAH 2 and COAH 3.

Leo Christofili, 328 Riveredge Road, asked the Council if the issues surrounding the Carney Plan was ever discussed at Executive Sessions and asked the Council why they think people are surprised by the Carney Farm situation. Mr. Christofili also asked how many units are being allotted from the Carney Farm.

Sherri Canfora, 5 Deannas Way, questioned who changed the Carney Property from senior housing to family rentals? Who gave them the right to change that?

Paul Oliveira, 5 Blueberry Lane, made a comment that the Council in 2004 passed a resolution to pass the COAH Plan and not the agreement specifically. Although the agreement was part of the COAH Plan, it is enforceable but does not necessarily mean it was legal.

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There being no further comments from the public, Mr. Morrill offered a motion to close the Public Discussion, seconded by Mr. Mayer.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: None  
ABSTAIN: None

PUBLIC DISCUSSION CLOSED

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MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mr. Dempsey stated that the Borough's annual Holiday Decorating Contest is ongoing. If anyone is interested in nominating someone, contact or email the Recreation Department. The Recreation Department would like all recommendations by the end of the week.

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RESOLUTIONS

Mr. Morrill offered a motion to amend the agenda to include Resolutions R-08-418 and R-08-419, seconded by Mr. Mayer.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Morrill offered the following Resolution and moved its adoption, seconded by Mr. Mayer/.

**R-08-367 RESOLUTION –RELEASING MAINTENANCE GUARANTEES FOR FOX  
CHASE III, PHASE III, BLOCK 129.13, LOT 20**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Fox Chase III, Phase III, Blocks 129.13, Lot 20; and

WHEREAS, by letter dated November 4, 2008 (said letter attached and hereby made part of this Resolution), the Borough Engineer (Birdsall Engineering) has certified that all bonded site work is in good condition and recommends the release of the guarantees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Maintenance Guarantees for Fox Chase III, Phase III be released upon the payment of all outstanding inspection fees.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Skudera offered a motion to nominate Charles Lomangino, seconded by Mr. Ford.

Andrew Mayer stated that he has reservations about appointing Mr. Lomangino due to strong financial ties to the Mazzas and potential conflict of interest.

Mr. Berube stated that they have investigated and have reviewed both Resolutions on prior applications as well as pending applications. They have found that Mr. Lomangino has stepped off and abstained in those situations. They have concluded that there would be no ethical conflict with his nomination or confirmation at present with those stipulations.

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**R-08-368 RESOLUTION – APPOINTING MEMBER TO ZONING BOARD OF  
ADJUSTMENT - TERM TO EXPIRE: JUNE 30, 2009**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Charles Lomangino is hereby appointed as a regular member to the Zoning Board of Adjustment. Said term to expire on June 30, 2009.

ROLL CALL

AYES: Mr. Ford, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: Mr. Mayer  
ABSENT: None  
ABSTAIN: None

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Mr. Morrill offered a motion to nominate Claire Shin, seconded by Mr. Mayer.

**R-08-394 RESOLUTION – APPOINTING REGULAR MEMBER TO OPEN SPACE  
COMMITTEE – TERM TO EXPIRE 12/31/2009**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Claire Shin is hereby appointed as a Regular Member to the Open Space Committee for a one year term (Term to Expire: December 31, 2009).

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Morrill offered a motion to nominate Elizabeth Oltman, seconded by Mr. Skudera.

**R-08-395 RESOLUTION – APPOINTING REGULAR MEMBER TO OPEN SPACE  
COMMITTEE – TERM TO EXPIRE 12/31/2011**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Elizabeth Oltman is hereby appointed as a Regular Member to the Open Space Committee for a three year term (Term to Expire: December 31, 2011).

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Ford offered a motion to nominate Duane Morrill, seconded by Mr. Skudera.

**R-08-396 RESOLUTION –APPOINTING COUNCIL LIAISON/REGULAR MEMBER TO  
OPEN SPACE COMMITTEE – TERM TO EXPIRE 12/31/2009**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Duane Morrill is hereby appointed as the Council Liaison/ Regular Member to the Open Space Committee for a one year term (Term to Expire: December 31, 2009).

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: Mr. Morrill

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Mr. Ford offered a motion to nominate Michael Skudera, seconded by Mr. Morrill.

**R-08-397 RESOLUTION –APPOINTING COUNCIL LIAISON/REGULAR MEMBER TO  
TECHNICAL ADVISORY COMMITTEE – TERM TO EXPIRE 12/31/2009**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Michael Skudera is hereby appointed as the Council Liaison/Regular Member to the Technical Advisory Committee for a one-year term (Term to Expire: December 31, 2009).

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: Mr. Mayer

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Ford.

**R-08-398 RESOLUTION - AUTHORIZING THE RE-PURCHASE OF A CERTAIN  
AFFORDABLE HOUSING UNIT KNOWN AS 20 JOCKEY LANE, BLOCK 129.10,  
LOT 115 FROM TRIBECA LENDING CORPORATION**

WHEREAS, The Borough of Tinton Falls, as Administrator of the Affordable Housing Plan of the Borough of Tinton Falls has determined that a certain affordable housing unit, known as Block 129.10, Lot 115, also known as 20 Jockey Lane, Tinton Falls, New Jersey, was made subject to a Foreclosure and final Sheriff's Sale, and

WHEREAS, the Borough of Tinton Falls is desirous of re-purchasing the unit under the Affordable Housing Plan and Rules and Regulations of the Council on Affordable Housing, in order to retain the unit as an affordable housing unit within the Borough of Tinton Falls, and

WHEREAS, the present title holder of the unit, Tribeca Lending Corporation, has entered into negotiations with the Borough of Tinton Falls to allow the Borough of Tinton Falls to purchase said unit for the sum of \$115,000.00, in order to settle the claims of the Borough of Tinton Falls to compel such repurchase, and

WHEREAS, the Director of Law has recommended the repurchase of the unit at the sum of \$115,000.00 in order to retain and preserve the Affordable Living Restrictions on the unit, and

WHEREAS, the Borough of Tinton Falls recognizes the public purpose as contained in the Fair Housing Act and the Rules and Regulations of the Council on Affordable Housing, and its obligations to take such efforts to preserve the Affordable Housing Restrictions of the units designated as Affordable Housing Units in the Tinton Falls Affordable Housing Plan previously adopted by the Borough, and

WHEREAS, the adequate funding for this purchase is provided in the Affordable Housing Trust Fund of the Borough of Tinton Falls,

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Mayor, Borough Administrator, Borough Clerk, Director of Law or other appropriate Administration Officials are hereby authorized to execute such contracts of sale and any other documents, and to expend such sums and to do any and all acts necessary to acquire title to the above captioned property for a consideration of \$115,000.00 in order to re-establish the above unit as an Affordable Housing Unit under the Affordable Housing Plan of the Borough of Tinton Falls and to take any all and steps necessary to resell the unit to persons qualified under the rules and regulations of the Affordable Housing Plan of the Borough of Tinton Falls and to expend such additional sums of money as are deemed necessary, for costs, search fees, etc. by the Director of Law to accomplish this transaction

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Mayer offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-399 RESOLUTION - AUTHORIZING TRANSFERS BETWEEN BUDGET  
APPROPRIATIONS PURSUANT TO N.J.S.A. 40A:4-58**

WHEREAS, N.J.S. 40A:4-58 provides for transfers as permitted between budget appropriations during the last two months of the fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that transfers between 2008 Budget Appropriations be made as follows:

| Municipal Budget           | FROM      | TO       |
|----------------------------|-----------|----------|
| -----                      | -----     | -----    |
| Insurance:                 |           |          |
| Group Insurance            | \$ 18,000 |          |
| Utilities:                 |           |          |
| Fuel Oil                   | 20,000    |          |
| Administration:            |           |          |
| Other Expenses             |           | \$ 5,000 |
| Central Services:          |           |          |
| Other Expenses             |           | 5,000    |
| Central Maintenance:       |           |          |
| Other Expenses             |           | 10,000   |
| Recreation:                |           |          |
| Salaries & Wages           |           | 5,000    |
| Public Defender:           |           |          |
| Salaries & Wages           |           | 1,000    |
| Uniform Construction Code: |           |          |
| Salaries & Wages           |           | 2,000    |
| Engineering:               |           |          |
| Other Expenses             |           | 10,000   |

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\$ 38,000  
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\$ 38,000  
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ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

Mr. Skudera offered a motion to amend Resolution R-08-400 to read: Resolution Rejecting Bids Received for Contract #08-2 – Rebid – Premix Chlorides and Abrasive Sand Mixture, seconded by Mr. Mayer.

**R-08-400 RESOLUTION REJECTING BIDS RECEIVED FOR CONTRACT #08-2 –  
REBID- PREMIX CHLORIDES AND ABRASIVE SAND MIXTURE**

WHEREAS, no bids were received for the above contract on February 7, 2008 and Resolution R-08-034 was adopted authorizing rebid; and

WHEREAS, bids were advertised on Sunday, November 23, 2008 for receipt of bids on Friday, December 5, 2008; and

WHEREAS, five specifications were sent out and two bids were received from Yardville Supply Co. and Clayton Sand Co. in the amounts of \$82.76 and \$92.00 per ton for an estimated 800 tons per year; and

WHEREAS, the price per ton paid in 2007 was \$52.95 per ton, and John Bucciero, Director of Public Works would like to reject both bids and rebid again to possibly obtain a lower price per ton;

NOW, THEREFORE BE IT RESOLVED this contract be readvertised and rebid again.

ROLL CALL (on amendment)

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

ROLL CALL (on Resolution as amended)

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-401 RESOLUTION - AUTHORIZING THE CHIEF FINANCIAL OFFICER TO  
CANCEL 2008 BUDGET APPROPRIATIONS CURRENT FUND & SEWER  
UTILITY AT YEAR END**

WHEREAS, the Chief Financial Officer has recommended that budget appropriations be reviewed and canceled at year end after the December 24, 2008 payroll and all other expenses are posted to the Borough's accounting system and;

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be credited to surplus and;

WHEREAS, the last regular Borough Council meeting for 2008 is December 16, 2008;

NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the Chief Financial Officer is hereby authorized to cancel current and sewer utility budget appropriations as of December 31, 2008 and formally report said cancellations to the Borough Council of the Borough of Tinton Falls at its next regular meeting in 2009.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-402 RESOLUTION - CANCELING UNEXPENDED BALANCES OF THE  
GENERAL CAPITAL FUND AND COMMUNITY DEVELOPMENT BLOCK  
GRANT RECEIVABLE**

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WHEREAS, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances and a Community Development Block Grant Receivable may be canceled;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the following unexpended and dedicated balances of the General Capital appropriations be canceled:

AMOUNTS TO BE CANCELED

| ORDINANCE<br>NUMBER   | PROJECT<br>DESCRIPTION  | CDBG<br>FUNDED RECEIVABLE |
|-----------------------|---|---------------------------|
| 07-1215<br>as amended | 2007 Road & Recreation Trail<br>Reconstruction, Construction and<br>Resurfacing Program | \$21,487.92               |

**ROLL CALL**

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-403 RESOLUTION - CANCELING UNEXPENDED BALANCES OF THE  
GENERAL CAPITAL FUND**

WHEREAS, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be credited to Reserve for Historic District Improvements;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the following unexpended and dedicated balances of the General Capital appropriations be canceled:

AMOUNTS TO BE CANCELED

| ORDINANCE<br>NUMBER | PROJECT<br>DESCRIPTION                                      | HISTORIC<br>TRUST<br>RESERVE |
|---------------------|---|------------------------------|
| 03-1107             | Preservation Plan and Improvements<br>to the Crawford House | \$656.52                     |

**ROLL CALL**

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-404 RESOLUTION – DENYING RELEASE OF MAINTENANCE GUARANTEES –  
ARCON DEVELOPMENT**

WHEREAS, Arcon Development, Block 123, Lots 14.01 – 14.16, has requested the release of Maintenance Guarantees; and

WHEREAS, an inspection by the Borough Engineer, Leon S. Avakian, Inc., has revealed that some of the bonded improvements must be repaired prior to the release of the guarantees as set forth in their letter of October 9, 2008 (letter hereby attached and made part of this Resolution).

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that based on the facts as set forth in the Borough Engineer's (Leon S. Avakian, Inc.) letter of October 9, 2008, the release of the Maintenance Guarantees be and hereby is denied.

**ROLL CALL**

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Mayer offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-405 RESOLUTION – DENYING RELEASE OF MAINTENANCE GUARANTEES –  
THE ATRIA AT TINTON FALLS, ATRIA SENIOR LIVING GROUP**

WHEREAS, The Atria at Tinton Falls, Atria Senior Living Group, Block 123, Lot 49.04, has requested the release of Maintenance Guarantees; and

WHEREAS, an inspection by the Borough Engineer (Birdsall Engineering Group) has revealed that some of the bonded improvements must be repaired prior to the release of the guarantees as set forth in their letter of December 4, 2008 (letter hereby attached and made part of this Resolution).

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that based on the facts as set forth in the Borough Engineer’s (Birdsall Engineering Group) letter of December 4, 2008, the release of the Maintenance Guarantees be and hereby is denied.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mrs. Mount-Taylor advised that the effective date would be March 1, 2009.

Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-406 RESOLUTION – AUTHORIZING PARTICIPATION IN THE NEW JERSEY  
STATE HEALTH BENEFITS PROGRAM ACT OF THE STATE OF NEW JERSEY  
BE IT RESOLVED, that the Borough of Tinton Falls, Tax ID No. 22-2139430**

1. Hereby elects to participate in the Health Program provided by the New Jersey State Health Benefits Act of the State of New Jersey (N.J.S.A. 52:14-17.25 et seq.) and to authorize coverage for all the employees and their dependents thereunder in accordance with the statute and regulations adopted by the State Health Benefits Commission.

2. We will not have a stand-alone prescription drug plan and understand that prescription drug coverage will be provided by the Health Plan.

3. We will be maintaining Delta Dental as our dental plan.

4. We elect 35 hours per week (average) as the minimum requirement for full-time status in accordance with N.J.A.C. 17:9-4.6.

5. As a participating employer, we will remit to the State Treasury all charges due on account of employees and dependent coverage and periodic charges in accordance with the requirements of the statute and the rules and regulations duly promulgated thereunder.

6. We hereby appoint Donna Huy to act as Certifying Officer in the administration of this program.

7. This resolution shall take effect immediately and coverage shall be effective as of March 1, 2009 or as soon thereafter as it may be effectuated pursuant to the statutes and regulations.

Mr. Dempsey advised that everything will be going into the New Jersey State Health Benefits Plan. There was approximately a 39% increase in the Health Insurance. The current plan that we have matches the State Health Benefits plan directly with one difference in the plan – the out-of-network benefits are capped at one million dollars in the State Health Benefits Plan. In the current plan it is capped at five million dollars. The Unions were met with and everyone is ok with this plan.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Mayer.

**R-08-407 RESOLUTION - ESTABLISHING PROCEDURE FOR MAINTAINING A  
CURRENT HOMEOWNER ASSOCIATION LIST OF CONTACTS**

WHEREAS, it has come to the attention of the Borough Council that the Borough of Tinton Falls needs to retain a current homeowner association contact list.

WHEREAS, said list will include condominium associations, town home associations, single family associations, and complexes managed with a management company.

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WHEREAS, said list should consist of The Association, Management Company name, address, regular and emergency phone numbers, and contact person of Management Company. Also, said list may include a Board member contact such as President of Board with member's address, phone number. This list should be updated on a yearly basis with and by the Borough. The Borough will update on a yearly basis and the Association will notify the Borough of any changes throughout the year.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a Homeowner Association contact list be established, said list kept current, and a copy of this list shall be filed in the Borough Clerk's office.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Ford offered the following Resolution and moved its adoption, seconded by Mr. Skudera.

**R-08-408 RESOLUTION – AUTHORIZING EXECUTION OF HOST COMMUNITY  
AGREEMENT BETWEEN THE BOROUGH OF TINTON FALLS AND REPUBLIC  
SERVICES OF NEW JERSEY, LLC D/B/A/ MIDCO WASTE SYSTEMS, TINTON  
FALLS FACILITY (MARPAL COMPANY)**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the Mayor and Municipal Clerk be and hereby are authorized to execute the Host Community Agreement between the Borough of Tinton Falls and Republic Services of New Jersey, LLC d/b/a Midco Waste Systems, Tinton Falls Facility (Marpal Company) in the form approved by the Director of Law.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Mayer.

**R-08-409 RESOLUTION – AUTHORIZING EXECUTION OF PURCHASE  
AGREEMENT BETWEEN THE BOROUGH OF TINTON FALLS AND JFD  
ASSOCIATES, INC.**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the Mayor and Municipal Clerk be and hereby are authorized to execute the Purchase Agreement between the Borough of Tinton Falls and JFD Associates, LLC in the form approved by the Director of Law.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Mr. Morrill offered the following Resolution and moved its adoption, seconded by Mr. Baldwin.

**R-08-410 RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF  
TINTON FALLS ENDORSING THE HOUSING ELEMENT AND FAIR SHARE  
PLAN DATED DECEMBER, 2008 AND AUTHORIZING A PETITION FOR  
SUBSTANTIVE CERTIFICATION TO BE SUBMITTED TO THE COUNCIL ON  
AFFORDABLE HOUSING**

WHEREAS, the Planning Board of the Borough of Tinton Falls, County of Monmouth, State of New Jersey, adopted the Housing Element of the Master Plan on December 10, 2008; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Planning Board adopted the Fair Share Plan on December 10, 2008; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls, the County of Monmouth, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Tinton Falls Planning Board; and

BE IT FURTHER RESOLVED that the Borough Council of the Borough of Tinton Falls pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this petition for substantive certification of the Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

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BE IT FURTHER RESOLVED that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the municipal clerk's office located of the Borough of Tinton Falls located at 556 Tinton Avenue, Tinton Falls, New Jersey during the hours of 8:30 a.m. to 4:30 p.m. on Monday through Friday for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

Mr. Berube explained to Council that we had a prepared submission for the third round plan earlier this year and it wasn't until Mr. Gleitz indicated in April/May that the rules were thrown out that formed the basis for those plans. COAH then revised the rules and published them in late summer. It became effective August and one of the rules is to submit revised plans by December 31<sup>st</sup>.

Mr. Gleitz worked on the calculation of all the development that has taken place as well as a reassessment of what has taken place and recalculated these numbers into the very complicated formula that COAH requires and from this came options for plans that are available moving forward for the period to 2018.

Mr. Gleitz informed Council that second round obligations of 622 total units have been met – with credits through existing credits from the application of bonuses against those credits. Mr. Gleitz also indicated he is looking to apply 378 credits for existing projects against the 450 remaining for the gross share. At least 25% of the obligation must be through rental and only half of that can be senior rentals. The other remaining half must be family rental. Mr. Gleitz informed council there are no existing family rentals in town that can be applied against the third round. There are some but they are used against prior round which left a need for at least 63 family rental units within the borough plus a few other affordable housing units to close that gap up to the 450.

Mr. Gleitz outlined the options available for meeting affordable housing needs: Lot 7 (part of newman parcel); Lot 5 Essex Road adjacent to the Seabrook Community; and the Carney site. The plan does create an excess of units. The reason is primarily to show COAH that if any one of the planned methods fail, it allows for back up; secondly, it gives flexibility and allows us to make options along the way. Mr. Gletiz indicated that this was not some last minute “put together” plan to meet some arbitrary deadline. But, we have been working on this process for some time using all the available information that we had. We are not looking to make changes but the council should be comfortable in knowing that if changes do need to be made we have at least three opportunities to do so throughout the housing period which would end in 2018. As far as implementation, the line on the 378 credits have been moved upfront for the first two phases, up to 2014. Mr. Gleitz indicated that we will also be looking at expiring controls which are existing units in town that had 20-year deed restriction. For a nominal fee used out of the affordable housing trust fund, a deed restriction could be obtained to further those controls. We are also looking to partner up with the ARC. Mr. Gleitz does not anticipate the need to implement this housing element until 2014-2016, if needed.

Mr. Morrill expressed concerns about the increase in need for cops and schools and is it really effective to even build at this point.

Mr. Gleitz responded by saying unless the NJ State Supreme Court decides that the obligation for the provision of affordable housing no longer rest with the municipalities, the burden will lay upon us. If the borough takes the decision to completely abandon the COAH process, it will open itself up to builder's remedy lawsuits. The only other option is to engage ourselves in the full COAH process.

Mr. Ford made a comment that he did not become aware of the two high density housing project (The Carney and the other one) until he received phone calls from the public on Wednesday morning from many people and is embarrassed to be on this Council and not know anything about it. It is also Mr. Ford's opinion that COAH is the most invasive, socialistic program that you could impose on anyone. Although he understands why the resolutions are being added tonight, he does not agree with how it was presented.

Mr. Mayer expressed his surprise to see one of the lots being included in the plan when he thought it was being considered for Open Space. He also wishes to have a “footnote” saying there is concern over the inclusionary lot.

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Mr. Skudera commented that he would like to vote no on the resolution but there is no other way at this last minute to protect the town from builder's remedy lawsuits. Mr. Skudera objects to the COAH process and what it is doing to the town of Tinton Falls. He would hope that the recent legislation that was introduced in Trenton, that the lawmakers give serious considerations to these measures and hopefully fix COAH because right now it doesn't work.

Mr. Berube reminded Council that when Mr. Gleitz was retained to prepare this fair housing plan we indicated it was going to be a crunch and would most likely go right down to the last minute.

Ms. Perr stated it was based on Mr. Bayer's conversation with the COAH folks that by passing these two additional resolutions right now this will make the process with COAH much better for the town and it will be an easier process for the town and that is why we wanted to present them tonight rather than wait.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Morrill offered the following Resolution and moved its adoption, seconded by Mr. Ford.

**R-08-411 RESOLUTION AMENDING RESOLUTION R-08-042 INCREASING FAIR &  
OPEN CONTRACT FOR PROFESSIONAL AFFORDABLE HOUSING COUNSEL  
- CONTRACT RFP #1-08E**

WHEREAS, the Borough of Tinton Falls adopted Resolution R-08-042 on February 19, 2008, wherein Gluck Walrath, LLP, 428 River View Plaza, Trenton, NJ 08611 was awarded the above contract for an amount not to exceed \$17,500.00; and

WHEREAS, the contract requires an increase of an additional \$5,000.00 for Affordable Housing legal matters for a total contract in the amount not to exceed \$22,500.00; and

WHEREAS, Local Public Contracts Law NJSA 40A: 11-1 et. set. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls as follows:

1. The firm of Gluck Walrath, LLP, 428 River View Plaza, Trenton, NJ 08611 is hereby retained to provide Affordable Housing Counsel legal services as described above for an additional amount not to exceed \$5,000.00 for a total contract in the amount of \$22,500.00.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Borough Clerk of the Borough of Tinton Falls.
4. The Borough Clerk is hereby directed to publish a public notice of this award as required by law.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Ford offered the following Resolution and moved its adoption, seconded by Mr. Mayer.

Mrs. Mount-Taylor stated unless Council has something to offer, there are no exceptions.

**R-08-412 RESOLUTION – APPROVAL OF BILLS – DECEMBER 16, 2008**

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending December 16, 2008,

WHEREAS, the Borough Council has reviewed said claims,

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls, County of Monmouth, that the following claims be certified by the Treasurer for approval and payment.

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SUMMARY

|                  |                   |
|------------------|-------------------|
| GENERAL          | \$ 780,450.01     |
| TRUST ACCOUNTS   | 4,642.88          |
| CAPITAL          | 1,200.00          |
| DEVELOPER ESCROW | 24,002.79         |
| GRANT FUND       | 3,428.75          |
| SEWER UTILITY    | 231,903.12        |
| ADDITION         | <u>977,372.97</u> |
|                  | \$ 2,023,000.52   |

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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CONSENT AGENDA

Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-413 RESOLUTION - REFUNDING TAX OVERPAYMENT**

WHEREAS, an overpayment of 2008 3<sup>rd</sup> quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and by the Title Company.

| <u>Name</u>   | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|---|--------------|------------|---------------|
| Cheryl L. Garrett<br>15 Pear Street<br>Tinton Falls, NJ 07724 | 11.01        | 5          | \$1,023.43    |

and,

WHEREAS, said error has resulted in an overpayment of 2008 3<sup>rd</sup> quarter taxes in the amount of \$1,023.43 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,023.43 is hereby approved for the aforementioned property.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-414 RESOLUTION - REFUNDING TAXES AS A RESULT OF A 2008 REVALUATION**

WHEREAS, an overpayment of 2008 Taxes has been made as a result of a revaluation for tax year 2008 setting the taxes billed for the full year to less than what had already been billed for the first half of the year.

| <u>NAME</u> | <u>BLOCK</u> | <u>LOT</u> | <u>AMOUNT</u> |
|-------------|--------------|------------|---------------|
|-------------|--------------|------------|---------------|

(HEREBY ATTACHED AND MADE PART OF THIS RESOLUTION)

WHEREAS, said revaluation has caused an overpayment of the 2008 taxes in the amount of \$1,772.63 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,772.63 is hereby approved for the listed properties.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-415 RESOLUTION - REFUNDING TAX OVERPAYMENT**

WHEREAS, an overpayment of 2008 3<sup>rd</sup> quarter taxes on the following property has been made by the Title Company paying an estimated amount.

| <u>Name</u>   | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|---|--------------|------------|---------------|
| Ryan & Dana Biasi<br>63 Periwinkle Circle<br>Tinton Falls, NJ 07712 | 123.02       | 13         | \$620.86      |

and,

WHEREAS, said error has resulted in an overpayment of 2008 3<sup>rd</sup> quarter taxes in the amount of \$620.86 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$620.86 is hereby approved for the aforementioned property.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-416 RESOLUTION - REFUNDING TAX OVERPAYMENT**

WHEREAS, an overpayment of 2008 2<sup>nd</sup> quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and by the Attorney.

| <u>Name</u>   | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|---|--------------|------------|---------------|
| Trochia, Jennie & Scott<br>8 Chicago Street<br>Tinton Falls, NJ 07712 | 124.54       | 4          | \$1,550.26    |

and,

WHEREAS, said error has resulted in an overpayment of 2008 2<sup>nd</sup> quarter taxes in the amount of \$1,550.26 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,550.26 is hereby approved for the aforementioned property.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered the following Resolution and moved its adoption, seconded by Mr. Morrill.

**R-08-417 RESOLUTION- REFUNDING ESCROW BALANCE \$3,500.00 - ROSE GLEN  
AT TINTON FALLS, CJS HOLDINGS PARKVIEW, NJ, LLC.**

WHEREAS, the following listed applicant has posted escrow fees in conjunction with a Planning Board application; and

WHEREAS, a letter dated October 29, 2008 from the Borough Administrator certified that the applicant's escrow reserved for trust funds, posted November 2005, are deemed closed and no additional funds will be required; and

WHEREAS, the Director of the Department of Audit, Accounts & Control has certified said funds are available for release.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the escrow reserved for the trust fund be released:

|       |            |                                    |
|-------|------------|------------------------------------|
| 7014A | \$3,500.00 | CJS INVESTMENTS/ RESERVE FOR TRUST |
|-------|------------|------------------------------------|

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

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ABSTAIN: None

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Mr. Morrill offered the following Resolution and moved its adoption, seconded by Mr. Mayer.

**R-08-418 RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH  
OF TINTON FALLS REQUESTING REVIEW AND APPROVAL OF A  
MUNICIPAL AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

WHEREAS, Tinton Falls previously received approval from COAH of its development fee ordinance and it intends to update and modify its current ordinance to reflect the requirements of COAH's new third round rules and the Statewide Non-Residential Development Fee Act approved by the New Jersey Legislature on July 17, 2008,, codified as N.J.S.A. 40:55D-8.1 *et seq*; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, Tinton Falls has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls requests that COAH review and approve Tinton Falls's spending plan.

Cindy Perr stated that this plan does not commit Council to do anything right away; it is just a plan in place so that COAH can see that not only does the Borough have their third round plan but that the Borough also has a spending plan in place as well. These Resolutions have to be submitted as part of the third round process.

Mr. Berube advised that per his conversation with Mr. Bayer, Mr. Bayer has recently received an indication from COAH that they will consider a plan deficient and reject it is deficient if there is not a Resolution and a Spending Plan contained in the plan.

**ROLL CALL**

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

**REGULAR/WORKSHOP MEETING  
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BOROUGH COUNCIL**

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Mr. Morrill offered the following Resolution and moved its adoption, seconded by Mr. Skudera.

**R-08-419 RESOLUTION OF INTENT TO BOND IN THE UNLIKELY EVENT  
THAT THERE IS A SHORT FALL IN FUNDING TO FULLY FUND THE  
BOROUGH'S THIRD ROUND AFFORDABLE HOUSING PLAN**

WHEREAS, the Borough Council of the Borough of Tinton Falls adopted a resolution on December 16, 2008 endorsing the Borough's Third Round Housing Element and Fair Share Plan (the "third round affordable housing plan") as adopted and approved by the Tinton Falls Planning Board on December 10, 2008 and authorized the submission of a Petition for Substantive Certification to be filed with COAH seeking the approval of its third round affordable housing plan; and

WHEREAS, the Borough's third round affordable housing plan includes various programs that will or may require the expenditure of affordable housing trust fund monies and municipal monies as a last resort such as, the extension of deed controls and the construction of a 100% municipally sponsored project and various other mechanisms which that could conceivably require the expenditure of Borough monies in the event there are insufficient monies in the Borough's affordable housing trust fund and/or the developers of the municipally sponsored projects cannot secure adequate subsidies from some other source; and

WHEREAS, the Borough wishes to make clear its intentions to fully and timely fund its third round affordable housing plan

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls hereby announces its intent to adopt appropriate bond ordinances in order to fully and timely fund its third round affordable housing plan in the unlikely event that the funds in its existing affordable housing trust fund, projected funds from the Borough's continued collection of development fees as required by Borough's ordinance, and any subsidies that may be obtained from other sources are insufficient to enact these aforementioned affordable housing programs.

Cindy Perr stated that COAH requires this Resolution. It is simply a means of last resort. COAH requires you to say that in good faith that you have an intent to bond in the unlikely event that there is insufficient monies in your trust fund account to fund your Affordable Housing requirements.

Mr. Skudera offered a motion to amend Resolution R-08-419 to replace "Township" with "Borough", seconded by Mr. Mayer.

ROLL CALL (on amendment)

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

ROLL CALL (on Resolution as amendment)

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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Mr. Skudera offered a motion to extend the meeting past 11:00 P.M., seconded by Mr. Morrill.

ROLL CALL

AYES: Mr. Ford, Mr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Council recessed at 10:59 P.M.

Council reconvened at 11:07 P.M.

Mr. Skudera offered a motion to move into Workshop, seconded by Mr. Morrill.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

**REGULAR/WORKSHOP MEETING  
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TIME: 11:07 P.M.

WORKSHOP MEETING

New Business

*Community Activities Committee*

Mr. Morrill stated he would like to have a Community Activities Committee setup to have members take and help with events such as Community Day, work with the Firehouses, projects, volunteer work, etc. Events such as the tree lighting are not getting out there to members of our community.

Council and Administration agreed this was a great suggestion and requested an Ordinance be created to establish a Community Activities Committee.

*Energy Audit Program and BPU Office of Clean Energy – Matching Funds*

Mr. Mayer spoke about the Sustainable New Jersey Program he learned of at the League of Municipalities. The New Jersey Board of Public Utilities Clean Energy sponsors this program and they are providing funding for the Energy Audit by reimbursing 75% of the audit and 25% upon implementing their recommendations.

Council had a lengthy discussion on this program, discussed possible ideas and questioned certain aspects.

Mr. Mayer stated that in order to identify the costs they first need to identify what the scope of work is.

Mayor Maclearie and Mr. Dempsey stated they would look into this program and bring it back to Council.

*Meeting Designations*

Mrs. Mount-Taylor advised that at the first meeting in January the Resolution designating the meeting dates for the calendar year 2009 will be amended as two of the dates fall on Election Day as well as adding the July 1<sup>st</sup> reorganization meeting.

**ADJOURNMENT**

Mr. Morrill offered a motion to adjourn the meeting, seconded by Mr. Skudera.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME:

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

**APPROVED AT A MEETING HELD ON: FEBRUARY 3, 2009**