

**REGULAR/WORKSHOP MEETING  
NOVEMBER 25, 2008  
BOROUGH COUNCIL**

Deputy Council President called regular meeting to order at 7:34 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 (8:01 P.M.), Mr. Morrill, Mr. Skudera

ABSENT: Mr. Baldwin

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 7, 2008, seconded by Mr. Morrill.

**ROLL CALL**

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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Mr. Ford offered a motion to approve the minutes of October 21, 2008, seconded by Mr. Morrill.

**ROLL CALL**

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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**REPORT OF MAYOR/COUNCIL/ADMINISTRATION**

**Mayor's Report**

Mayor Maclearie updated Council and the public on the Fort Monmouth Economic Revitalization Planning Authority (FMERPA).

Mayor Maclearie also stated that they are still working on the Memorandum of Understanding with COAH, which is the biggest issue they have going on at the current time. The next phase is going to be the implementation phase. It has been circulated with the Borough's COAH attorney as well as with the Borough's Director of Law.

Mayor Maclearie thanked everyone who came to the Crawford House last Sunday. We cleaned up tons of debris that was back in the woods.

**Council's Report**

Mr. Ford spoke on economic conditions concerning the School Board and the Library.

Mr. Ford stated that there is a large wrestling program in Tinton Falls however, the Borough has a problem with the wrestling mats as they are a fire hazard.

Mr. Morrill spoke regarding an article that was in the Hub about the Crawford House with regards to all the work that has been going on there. This is has a lot to do with all the volunteers that have dedicated their time.

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Mr. Morrill stated while he was down at the League of Municipalities he picked up the information on the energy tubes that he was looking into for Public Works. They agreed to come and do a walk thru analysis at no cost to the Borough.

Mr. Skudera advised that the Tinton Falls Advisory Committee received the latest Tinton Falls computer policy that was revised and the committee responded to same and forwarded it to Mr. Berube.

Administrator's Report

*CECOM Building*

The interior demolition is taking place and hopefully they are on schedule for mid January; the building will be demolished.

*Anemometer Study*

Rowan University is going to install an anemometer on the old communications tower to determine the feasibility use and wind energy here at no cost to the Borough.

*Build-out Analysis*

The Environmental Commission received a grant from ANJEC; it will be completed and presented to the Environmental Commission at their upcoming meeting and then presented to Council.

*Computer Use Policy*

The Computer Use Policy was sent to the Technical Advisory Committee

*Library*

Mr. Dempsey advised that he spoke with the Library President and confirmed that on February 1<sup>st</sup> the Borough will make sure they receive the module office. There are some issues with the installation of water, sewer and electric and it does have to be handicap accessible.

*Fair Share Plan*

The Housing Element which is part of the Fair Share Plan is required to be submitted to the Counsel of Affordable Housing by December 31, 2008 at noon. It will be noticed in the newspaper tomorrow and it will go to the Planning Board and forwarded on to Affordable Housing.

*Land Use Ordinances*

They are on tonight's agenda. The Planning Board has requested an extension of time.

*DEP*

The DEP has indicated they are looking to take action against the Mazza transfer station here in the Borough. On the renewal application Mr. Mazza has been requested and has accepted to attend a meeting with the Monmouth County Solid Waste Advisory Committee to discuss the issue.

Chief Financial Officer's Report

Mr. Pfeffer the Budget Hearing was held yesterday and today and the departments presented their proposed 2009 budgets to the administration. They will now be taken back and reviewed in more detail. Any proposed changes will be brought back to the departments before the budget is finalized.

Engineer's Report – Al Hilla Jr.

*2008 Road Program*

There are still a couple of outstanding punch list items that need to be completed. The contractor has been unresponsive as to date and will be receiving a second letter urging him to get this completed by the end of the year.

Director of Law's Report

Mr. Berube stated he has requested an executive session and would appreciate an amendment of the counter to accomplish that early on in the process.

Under the Ordinances and Resolutions on the agenda, he provided reports. As to the Master Plan Ordinance that is on for final consideration tonight, correspondence was sent from Ms. Mount-Taylor, which indicates the numbers of persons who have concerns with that Ordinance. Mr.

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Berube stated that the concerns are substantial and might result in recommendations from the Planning Board and the consideration of Council that would be a material change to the Ordinance as it was presented. While we are required to open it to a Public Hearing tonight, he recommended to Council that this matter fail tonight so the Planning Board can have adequate time to address and a new Master Plan Ordinance can be re-drafted and re-proposed in early January.

The final two Ordinances on for tonight are for the sale of the historic properties pursuant to the original Ordinance back in 2004. The Ordinances do reflect the proper sale price as reported by the assessor and the imposition of historic trust restrictions that were not on the property when the original Resolution was passed.

Resolution 08-370, the in lieu contribution for historic preservation resulted from the Council's discussion in Executive Session at the last meeting and reflects the Council's wishes in that regard.

Mayor Maclearie, on behalf of Mr. Baldwin being out due to surgery, gave updates of the Planning Board meetings.

Borough Clerk's Report

Mrs. Mount-Taylor thanked all the volunteers that helped out on Election Day.

Report of Election Results – November 4, 2008

Mrs. Mount-Taylor stated that she received certification from the County Clerk's Office and the Board has determined that the said election that was held, Andrew J. Mayer was duly elected Councilmember-at-Large for the unexpired term.

For the record, Charles P. Lomangino received 2,264 and Andrew J. Mayer received 2,401 votes.

Swearing In Ceremony – Andrew J. Mayer

Mrs. Mount-Taylor swore in Mr. Mayer and congratulated him for his seat on Council. At this time Mr. Mayer took his seat on Council (8:01 P.M.).

Presentation – Historic Commission Scenic Byway Program - Monmouth County Planning Board

Stacy Slowinski stated that they were approached by the Monmouth County Planning Board at Archives Day. Mr. Barris gave Council and the Public an overview of the Scenic Byway Municipal Outreach Meeting he attended on October 29, 2008 at the Monmouth County Library headquarters in Manalapan. Mr. Barris gave the purpose for this program that is sponsored by the Monmouth County Planning Board as well as the New Jersey Department of Transportation that will run from Upper Freehold Township to Sandy Hook and gave reasons why the Borough should participate in this program as well as what steps are needed for same. Mr. Barris also discussed grant possibilities.

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**PETITIONS** – None

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**EXECUTIVE SESSION**

Mr. Skudera stated Council is going to go into Executive Session and try to be no more than twenty minutes and apologized for the inconvenience. Once Executive Session is completed, Council will continue with Ordinances for Final Consideration.

Mr. Berube stated he requested an Executive Session for the purpose of discussing ongoing litigation and more particularly the matter of Newman Steel verses the Borough of Tinton Falls. Those matters will remain in Executive Session until such time as we are able to make those matters public.

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

**R-08-379 RESOLUTION – PURSUANT TO N.J.S.A. 10:4-13 EXECUTIVE SESSION**

BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that pursuant to N.J.S.A. 10:4-13, the Borough Council shall adjourn to Executive Session for the purpose of discussing ongoing litigation regarding the matter of Newman Steel verses the Borough of Tinton Falls.

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BE IT FURTHER RESOLVED that upon conclusion of said matter(s) this discussion will be disclosed by the Borough Clerk via Executive Session Minutes upon written authorization from the Director of Law.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

TIME: 8:11 P.M.

BACK ON THE RECORD: 8:42 P.M.

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ORDINANCES FOR INTRODUCTION – None

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ORDINANCES FOR FINAL CONSIDERATION

Borough Clerk read Ordinance No. 08-1255 entitled: AN ORDINANCE REPEALING BOROUGH ORDINANCE NO. 99-982 (FORMER LAND USE ORDINANCE) AND ESTABLISHING AND CREATING A LAND USE ORDINANCE TO ESTABLISH STANDARDS FOR DEVELOPMENT AND USE OF LAND AND BUILDINGS WITHIN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY PURSUANT TO THE PROVISIONS OF THE MASTER PLAN AND THE MASTER PLAN RE-EXAMINATION REPORT OF THE TINTON FALLS PLANNING BOARD

Mr. Ford offered a motion to open the Public Hearing, seconded by Mr. Morrill.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

PUBLIC HEARING OPEN

There being no comments from the public, Mr. Ford offered a motion to close the Public Hearing, seconded by Mr. Morrill.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Berube advised that Mrs. Mount-Taylor has received numerous correspondence that she might enter into the record by way of reference. It is the Borough Council's decision to allow additional time for the Planning Board to provide for comments and then perhaps some of the changes that they have indicated they might be interested in doing.

Mrs. Mount-Taylor read into the record the following comments:

Letter dated November 17, 2008 from Joel A. Davies, Planning Board Chairman asking sufficient time to review of the Council for the Planning Board.

Letter dated November 25, 2008 from Robert J. Inglema, Jr. having to do with the LLC and 3230 Shafto Road Associates.

Letter dated November 14, 2008 from James Higgins Associates referencing a Pine Street building and the IOP bulk standards.

Letter dated November 24, 2008 from Drinker, Biddle & Reath, LLP for the Tinton Falls Campus II, LLC known as Seabrook Village

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Mr. Berube added letter dated October 20, 2008 from Giordano, Halleran & Ciesla relating to the Stavola Property.

*There being no motion from Council, Ordinance No. 08-1255 fails for lack of a motion.*

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Borough Clerk read Ordinance No. 08-1256 entitled: AN ORDINANCE AMENDING CHAPTER XII OF THE GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS TO PROVIDE FOR THE REPAIR AND MAINTENANCE OF SIDEWALKS

Mr. Ford offered a motion to open the Public Hearing, seconded by Mr. Mayer.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING OPEN

David Dragonetti, 1 Canidae Court, questioned the current status of how repairs are covered by the Borough, responsibility of duty to remove snow and ice, and standard procedure for communicating Ordinances; Mr. Berube replied.

Brendan Tobin, 5 Chestnut Court, stated he lives at the end of a cul-de-sac and when snow gets heavy, the borough piles it up on his sidewalk in front of his house and doesn't want to be held personally responsible in accordance with this new Ordinance; Mr. Berube replied.

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

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Ford offered a motion to adopt Ordinance No. 08-1256, seconded by Mr. Mayer.

Mr. Skudera commented that he feels this Ordinance is burdensome to the homeowners.

ROLL CALL

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

*Said Ordinance was adopted.*

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Borough Clerk read Ordinance No. 08-1257 entitled: AN ORDINANCE PROVIDING FOR ELECTRONIC PUBLIC RECORDS TO MAINTAIN AND DISSEMINATE PUBLIC INFORMATION OF THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Mr. Mayer offered a motion to open the Public Hearing, seconded by Mr. Ford.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING OPEN

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Assemblyman Richard A. Merkt from the 25<sup>th</sup> District, Middlesex County, wanted to congratulate Tinton Falls for this very unique Ordinance. He feels that later down the road this Ordinance may turn into a model for other towns throughout the State. Mr. Merkt stated he feels it is a great way to expand accountability, accessibility of information and personally feels Tinton Falls is a leader in the State of New Jersey for this.

Brendan Tobin, 5 Chestnut Court, asked that Council vote no on this Ordinance for the reason that there is no proof that this is needed. Mr. Skudera and Mr. Tobin had a lengthy discussion regarding the current Borough website.

Michael Stanton, 9 Bowles Lane, commented on: the Ordinance concerning what we are requiring will also be required from the developer, if the disclaimer is the same that we give for hard copy documentation and there being no clause for what would happen if items were not completed; Mr. Skudera replied.

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

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Skudera read a fax he received today from Beth Mason, President of the New Jersey Foundation for Open Government and an elected official for the City of Hoboken.

*A copy of this document is on file in the Borough Clerk's Office and same is hereby attached and made part of the minutes.*

As to the fax, Mr. Berube stated it is somewhat out of order on the agenda since the public portion had been closed and the Council has a right to decide whether or not to accept it in letter form. We have in the past routinely accepted correspondence but for the purpose of the record, we will indicate that it would have been provided during the public portion.

Mr. Ford offered a motion to adopt Ordinance No. 08-1257, seconded by Mr. Skudera.

Mr. Ford questioned if there was any cost associated with this Ordinance. Mr. Berube referred to his five pages of comments of September 18, 2007 indicating his concerns both as to the lack of any resource assessment, cost assessment, and ability of the Borough to even comply with the very illaudable goals that have been provided in the proposed Ordinance.

Council had a lengthy conversation on same.

ROLL CALL

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

*Mrs. Mount-Taylor stated that the Ordinance fails due to lack of a majority vote.*

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Borough Clerk read Ordinance No. 08-1258 entitled: AN ORDINANCE AMENDING ORDINANCE # 04-1118 AUTHORIZING THE SALE OF PROPERTY OWNED BY THE BOROUGH OF TINTON FALLS, DESIGNATED AS BLOCK 69, LOT 4.01 IN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Mr. Morrill offered a motion to open the Public Hearing, seconded by Mr. Ford.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

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PUBLIC HEARING OPEN

There being no comments from the public, Mr. Morrill offered a motion to close the Public Hearing, seconded by Mr. Ford.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Morrill offered a motion to adopt Ordinance No, 08-1258, seconded by Mr. Mayer.

ROLL CALL

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

*Said Ordinance was adopted.*

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Borough Clerk read Ordinance No. 08-1259 entitled: AN ORDINANCE AMENDING ORDINANCE # 04-1119 AUTHORIZING THE SALE OF PROPERTY OWNED BY THE BOROUGH OF TINTON FALLS, DESIGNATED AS BLOCK 66, LOT 4.01 IN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

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

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING OPEN

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

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Morrill offered a motion to adopt Ordinance No. 08-1259, seconded by Mr. Mayer.

ROLL CALL

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

*Said Ordinance was adopted.*

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PUBLIC DISCUSSION

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

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ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

Ross MaGhan, 23 Nutmeg Court, spoke regarding the land behind the Fox Chase Development. The land is eroding rapidly and the residents are concerned that it is creating a danger to them. Mr. Hilla advised that he would follow up with this to make sure the punch list items are completed before the release of Maintenance Guarantees.

Leo Christofili, 328 Riveredge Road, asked if the presiding member of the Borough Council announces that there is a Public Discussion, no matter where it is on the agenda, can a person stand up and speak as though a Public Discussion is being held.

Mr. Skudera replied that he stated during the reading of the Ordinances that the discussion is for the mentioned Ordinance and that topic only.

Mr. Christofili questioned the matter of Newman Steel verses the Borough of Tinton Falls and Mr. Berube advised that it is the affirmative claim of Tinton Falls verses Paul Abrams that was heard by Judge Locascio last month. It is a public record and transcripts are available through the Superior Court.

Mr. Christofili also spoke regarding the issues of bonding.

Charles Lomangino, 3 Helena Street, congratulated Andrew Mayer and also advised Council that if you stand in the hallway you can hear every word that goes on in Executive Session. Mr. Lomangino also commented on the new Outlet Mall and complimented the Police Department for same.

Mr. Lomangino also brought up the 2009 budget and pushed the issue of doing away with brush pickup. Mr. Lomangino also gave other suggestions on how to save money with regards to the wrestling mats and cutting employees in certain departments.

Robert Harvey, 20 Sacramento Way, Captain of EMS South, responded to Mr. Lomangino's suggestion of placing the wrestling mats in their building. Mr. Harvey stated with regards to their lease agreement, they are very limited as to what they can use their building for.

Gerald Turning, Chief of Tinton Falls Police Department, stated for the Grand Opening of the Outlet Mall, he spent the four days down there for specific reasons which included trying to find out what the Borough of Tinton Falls is going to be facing over the years. Over the four day period of time there was in excess of 50,000 cars, not counting the cars for the employees and the cars for the off-tract parking that entered that facility. He anticipates three or four different times a year that we may find traffic in that volume: Thursday night for midnight madness into Friday, up to and including Christmas Eve, and Back to School. Every other indication they have shows that on a normal weekend during the summer months they will be seeing about 6,000 cars each day over the weekend. The roadways down there can properly handle the traffic that it is designed to handle. Every day except those four times a year that it may happen, the Outlet Mall pays for Police Officers to be there for off-duty work. The Chief stated he is not asking for additional Police Officers. During these economic times that everyone is facing as taxpayers, we do have to bite the bullet a little bit which they are doing.

With regards to the car auctions, it has been a very bad season as they only made a little over \$6,000 in profit.

Leo Lomangino, 93 Colonial Drive, welcomed Mr. Mayer and stated that penalties of expired registrations and licenses are getting very burdensome in addition to the insurance penalties.

David Dragonetti, 1 Canidee Court, asked if the Fox Chase Maintenance Guarantee amounts for Fox Chase are available; Karen Mount-Taylor replied that he was welcome to come to the Clerk's Office and review requested documents.

Leo Christofili, 328 Riveredge Road, commented about the audio visual slide that Mr. Buck and Mr. Mayer presented which stated that Open Space prevents increased flooding caused by additional pervious land. The rest of Mr. Christofili's comments were inaudible.

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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. Ford.

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

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**MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER**

Mr. Morrill stated there is a trail grant that is coming up that he will be bringing up in the future once he finds out more information for the December 2, 2008 meeting.

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**RESOLUTIONS**

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

**R-08-363 RESOLUTION - ESTABLISHING POLICY FOR BOROUGH COUNCIL  
MEMBERS USE OF BOROUGH EMAIL ADDRESSES**

WHEREAS, it has come to the attention of the Borough Council that each Council Member has been designated a working Borough Email address; and

WHEREAS, Borough Council wants to make these Borough email addresses the official email addresses to be used by the Council Members when conducting Borough business; and

WHEREAS, the Borough Council hereby declares that these Borough email addresses are the official email addresses to be used by Council Members for conducting Borough business and for electronic correspondence related to such Borough business.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that said policy is hereby adopted.

Mr. Mayer asked where you draw the line between personal business and Borough business. Council discussed this issue. Mayer Maclearie advised that anything sent out as a member of Council should be done under the Borough email address.

ROLL CALL

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

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

**R-08-364 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR  
MARATHON DATA SYSTEMS, LLC (QUADS, LLC OFFICE BUILDING),  
BLOCK 122, LOT 9.01**

WHEREAS, Marathon Data Systems (Quads, LLC Office Building), Block 122, Lot 9.01 has requested the release of Maintenance Guarantees; 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 guarantees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that maintenance guarantees for Marathon Data Systems (Quads, LLC Office Building) be released upon the payment of all outstanding inspection fees.

ROLL CALL

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

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

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**R-08-365 RESOLUTION – RELEASING PERFORMANCE GUARANTEES UPON THE  
POSTING OF MAINTENANCE GUARANTEES - TINTON FALLS TOWNE  
CENTER BLOCK 128.03, LOTS 19.01, & 23-27**

WHEREAS, the developer has requested the release of Performance Guarantees posted for Tinton Falls Towne Center, Blocks 128.03, Lots 19.01 & 23-27 ; and

WHEREAS, by letter dated November 4, 2008, the Borough Engineer (Birdsall Engineering) has recommended the release of the guarantees as the developer has completed all of the improvements subject to the posting of the required maintenance guarantees as set forth in said letter (said letter hereby attached and made part of this Resolution) and the payment of any and all outstanding engineering and inspection fees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Performance Guarantees be released subject to the posting of the required maintenance guarantees and the payment of any and all outstanding engineering and inspection fees.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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

**R-08-366 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR FOX  
CHASE III, PHASE I, BLOCK 129.13, LOT 20**

WHEREAS, the developer has requested the release of maintenance guarantees for Fox Chase III, Phase I, 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 I be released upon the payment of all outstanding inspection fees.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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Mr. Morrill offered a motion to carry Resolution R-08-367 to the December 18, 2008 meeting, 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 (to carry)

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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Mr. Ford offered a motion to nominate Mr. Charles Lomangino to the Zoning Board of Adjustment; seconded by Mr. Skudera.

Mr. Mayer stated there is a list of people who applied for this position in which he did not receive any of the information.

Mr. Morrill and Mr. Mayer advised the rest of Council that they would like to hear back from the Chair before making their decision.

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Mr. Ford withdrew his nomination.

Mr. Morrill offered a motion to carry Resolution R-08-368 until the December 2, 2008 meeting, seconded by Mr. Ford.

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

ROLL CALL (to carry)

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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

**R-08-369 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
Borough Clerk:		
Salaries & Wages	\$ 6,000	
Other Expenses	9,000	
Administration:		
Salaries & Wages	30,000	
Streets:		
Salaries & Wages	40,000	
Administration:		
Other Expenses		\$ 4,000
Office of the Mayor:		
Other Expenses		4,000
Municipal Court:		
Salaries & Wages		3,000
Sanitation:		
Salaries & Wages		16,000
Other Expenses		5,000
Housing:		
Other Expenses		5,000
Recreation:		
Salaries & Wages		10,000
Public Defender:		
Salaries & Wages		4,000
Uniform Construction Code:		
Salaries & Wages		4,000
Engineering:		
Other Expenses		30,000
	\$ 85,000	\$ 85,000
	=====	=====

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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

**R-08-370 RESOLUTION - IN LIEU CONTRIBUTION OF HISTORIC PRESERVATION  
FUNDS**

WHEREAS, 1213 Sycamore Limited Liability Company was the Owner of a certain premises known as Block 67.01, Lot 1.01 on the Tax Maps of the Borough of Tinton Falls, which premises is contained within the Historic District of the Borough of Tinton Falls; and

WHEREAS, said Owner submitted architectural plans for the renovation and made application for a building permit for renovations to a certain barn on the property, which building permit was issued by the Borough of Tinton Falls; and

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WHEREAS, based on exigent conditions which became evident during said renovations, the Owner was advised by its professionals to demolish the barn on the premises; and

WHEREAS, the Borough of Tinton Falls issued a certain Notice of Violation to the Owners for the alleged improper demolition of the barn structure; and

WHEREAS, the Owner has provided satisfactory evidence of the deteriorating condition of the structure and the need to demolish the barn for health and safety reasons and seeks to provide for the conveyance of the property to third parties; and

WHEREAS, the Owner has, through Counsel, sought the assistance of the Borough Administrator and Director of Law to resolve the outstanding violation notice and pending claims of the Borough in an amicable manner; and

WHEREAS, the Director of Law has recommended the resolution of the outstanding claim, pursuant to Municipal Ordinance Section 40-21 and Section 40-22(h), by acceptance of a sum in the amount of \$60,000.00 to be used for historic preservation purposes; and

WHEREAS, the Historic Commission and the Zoning Officer of the Borough of Tinton Falls has reviewed said recommendation and are in agreement with same,

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

1. That the Borough Council of the Borough of Tinton Falls hereby accepts the contribution of the Owner in the amount of \$60,000.00 in lieu of any continued claims for improper demolition on the above captioned lot, which sum shall be placed in the Historic Preservation line item in the Borough budget and used for historic preservation purposes, which may include the repair and renovation of historic structures within the Borough.

2. That the Mayor, Borough Administrator, Borough Clerk, and Chief Financial Officer are authorized to execute any documents necessary to provide any such release and/or acceptance of funds documents as may be deemed necessary by the Director of Law.

**ROLL CALL**

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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

Ms. Mount-Taylor stated unless someone has something to offer, there are no exceptions.

**R-08-371 RESOLUTION – APPROVAL OF BILLS – NOVEMBER 25, 2008**

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending November 25, 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.

**SUMMARY**

COUNTY CLERK – CANCEL TSC #2335	\$ 8.00
PAYROLL - OCTOBER	1,212,313.73
PEREIRA – MILEAGE REIMBURSEMENT	493.74
11/13/08 PAYMENTS	226,700.67
GROUP INSURANCE/OTHER	<u>156,883.25</u>
	\$ 1,596,399.39

**ROLL CALL**

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

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**CONSENT AGENDA**

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

**R-08-372 RESOLUTION – REFUNDING ESCROW FEES - \$755.63 – HOVBILT INC.**

WHEREAS, the following listed applicant has posted consultant escrow fees in conjunction with various Land Use Applications in accordance with the Borough of Tinton Falls Land Use Ordinance, and

WHEREAS, the Planning Board Secretary, Erin Swartz, has certified the following listed applicant's account is deemed closed and no additional funds for consultants will be required, and

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

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NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the consultant escrow fees are hereby authorized to be released for the following applicant:

Hovbilt PPII	1350-NW33	\$ 4.33
Hovbilt	1350-NW109	261.00
Hovbilt PPII	1350-8638	5.25
Hovbilt (Driveways)	1350-7392	43.80
Hovbilt (Cannonball Drive)	1350-A0804	440.75
Hovbilt PPII PH A	1350-A2275	0.50

**ROLL CALL**

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

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

**R-08-373 RESOLUTION - PLACING DEBRIS LIEN ON PROPERTY KNOWN AS 50 HOPE ROAD**

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Deutsche Bank National Trust Co. 505 City Parkway West Orange, CA 92868	47.02	65	\$598.58

Prop. Loc: 50 Hope Road

WHEREAS, N.J.S.A. 40:48-2.14 provides where obnoxious growth, garbage, trash and debris are destroyed or removed from any dwelling or lands, the cost shall be certified to the governing body, which shall examine the certificate and if found correct shall cause the cost to be charged against said dwelling or lands; and

WHEREAS, the Department of Public Works of the Borough of Tinton Falls performed a clean up on the above mentioned property totaling \$598.58 pursuant to a letter dated October 31, 2008 from John N. Bucciero, Director of Public Works hereby attached and made part of this resolution.

NOW, THEREFORE, BE IT RESOLVED, that a debris lien in the amount of \$598.58 is hereby charged to the property known as 50 Hope Road and shall become part of the taxes next to be assessed and levied.

**ROLL CALL**

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

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

**R-08-374 RESOLUTION - CANCELING & REFUNDING TAXES AS A RESULT OF COUNTY BOARD STIPULATIONS**

WHEREAS, an overbilling and a overpayment of 2008 Taxes has been made as a result of a reduction in the assessed value due to County Board Stipulations for the year 2008 on property known as:

<u>NAME</u>	<u>BLOCK</u>	<u>LOT</u>	<u>CANCELLED</u>	<u>REFUND</u>	<u>AMOUNT</u>
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(HEREBY ATTACHED AND MADE PART OF THIS RESOLUTION)

and,

WHEREAS, said adjustment resulted in an overbilling and an overpayment of the 2008 taxes in the amount of \$40,924.75 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the taxes amounting to \$39,392.81, be cancelled for the year 2008 and that a refund in the amount of \$1,531.94 is hereby approved for the properties on the attached list.

**ROLL CALL**

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

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

**R-08-375 RESOLUTION - CANCELING TAXES AS A RESULT OF COUNTY BOARD  
APPEALS**

WHEREAS, an adjustment of 2008 taxes has been made as a result of a reduction in the assessed value due to a County Board Appeal for the year 2008 on the property known as:

<u>NAME</u>	<u>BLOCK</u>	<u>LOT</u>	<u>AMOUNT</u>
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(HEREBY ATTACHED AND MADE PART OF THIS RESOLUTION)

and,

WHEREAS, said adjustment has resulted in a cancellation of 2008 taxes in the amount of \$20,242.00 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that an adjustment in the amount of \$20,242.00 is hereby approved as a result of the cancellation of the taxes for the properties on the attached list.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: Mr. Skudera

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

**R-08-376 RESOLUTION - INCREASED TAXES AS A RESULT OF COUNTY BOARD  
APPEALS**

WHEREAS, an adjustment of 2008 Taxes has been made as a result of an increase in the assessed value due to a Monmouth County Board Appeal for the year 2008 on the property known as:

<u>NAME</u>	<u>BLOCK</u>	<u>LOT</u>	<u>AMOUNT</u>
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(HEREBY ATTACHED AND MADE PART OF THIS RESOLUTION)

WHEREAS, said adjustment has resulted in an increase of the 2008 taxes in the amount of \$8,493.07 as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that an adjustment in the amount of \$8,493.07 is hereby approved as a result of an increase of the taxes for the properties on the attached list.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: Mr. Skudera

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

**R-08-377 RESOLUTION - REFUNDING TAX OVERPAYMENT**

WHEREAS, an overpayment of 2008 4<sup>th</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>
Miele & Miele, Attys. Trust Acct. 619 Palmer Avenue West Keansburg, NJ 07734	84	2	\$2,201.07

Re: Minafo from Martin  
5 Orla Court

and,

WHEREAS, said error has resulted in an overpayment of 2008 4<sup>th</sup> quarter taxes in the amount of \$2,201.07, 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 \$2,201.07 is hereby approved for the aforementioned property.

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ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: Mr. Skudera

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

**R-08-378 RESOLUTION – REFUNDING RECREATION FEES**

WHEREAS, during the month of October, 2008 fees totaling \$90.00 were paid by a resident of the Borough of Tinton Falls for their child to participate in our Fall Mad Science Program; and

WHEREAS, said money was deposited by the Borough of Tinton Falls during the month of October, 2008; and

WHEREAS, during the month of October, 2008, the Recreation Superintendent was informed by the resident of the Borough of Tinton Falls that the child did not find the class age appropriate and would like to withdraw from the program. A full refund should be offered in the amount of \$90.00 for the child Jeffry Glassman, grade five.

<b>Rosemary/Jeffry Glassman</b>	<b>\$90.00</b>
<hr/>	
<b>Total</b>	<b>\$90.00</b>

NOW THEREFORE, BE IT RESOLVED, by the borough Council of the Borough of Tinton Falls that a refund in the amount of \$90.00 be issued.

ROLL CALL

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

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: Mr. Skudera

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: Mr. Baldwin

ABSTAIN: None

TIME: 10:45 P.M.

WORKSHOP MEETING

Council recessed at 10:45 P.M.

Council reconvened at 10:55 P.M.

Mr. Skudera stated the meeting would extend past 11:00 P.M.

Unfinished Business

*Association Advisory Committee*

Mr. Skudera advised that the Association Advisory Committee is a committee that may have one person from Council, one person from administration and the actual associations, which can designate which person they would like to attend these meetings. Medford Township has already established this and has their meetings several times a year, which are structured as needed. Mr. Skudera stated he feels it is a good way for the associations in town, the administration and council to all be on the same page and improve communications.

Mayor Maclearie stated they have already sent out a letter to the associations to schedule a meeting and advised Council they were more than welcome to attend.

*Current State of Affairs of Budget*

Mr. Ford requested Mr. Pfeffer give an update.

Mr. Pfeffer stated that from the revenue standpoint we should make every revenue number that we anticipated. On a negative side, we will not generate as much additional revenue as we had in

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the past. Municipal Court revenues are running ten percent above where we estimated. We are running close to what we did in 2006, which was one of our better years; we are ten percent ahead. Mr. Pfeffer projected from numbers he is hearing from the court that we may end up about thirteen percent ahead for the year. One of the better indicators of the economy is the hotel tax revenue, which is running well less than one percent. One thing that cannot be factored into his scenario is the Breeder's Cup that was held last year in October at Monmouth Park. This was a huge event and filled up every hotel in all the surrounding communities, which helped boost part of 2007.

We are running less than one percent ahead but we are ahead a couple thousand dollars. Taxes are running slightly ahead of last year at this time. What the taxes generate to surplus depends on add-it taxes. Add-it taxes are pro-rated from the time the entity is ready to operate; the outlet mall came late in the year. The outlet mall is a huge ratable however, it did not actually come on the books until mid-November.

Council had a discussion on the budget and asked Mr. Pfeffer various questions.

New Business

Mr. Morrill stated at the League of Municipalities he picked up Sustainable New Jersey which is a program allowing you to open yourself up to take and receive grants on different items we were not able to receive grants on before. It is about becoming a more "green" community and using energy efficiency. Mr. Morrill stated this might be a program that Council would like to discuss at a near-future meeting. Mr. Mayer also spoke regarding this program and mentioned some ideas to Council.

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ADJOURNMENT

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

ROLL CALL

AYES: All in Favor  
NAYS: None  
ABSENT: Mr. Baldwin  
ABSTAIN: None

TIME: 11:16 p.m.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

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