

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

Council President called regular meeting to order at 7:33 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. Lomangino, 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
Al Hill Jr., Borough Engineer

APPROVAL OF MINUTES - None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Mayor's Report

Mayor Maclearie stated he would be meeting with the Mayors of Eatontown and Oceanport along with Bryan Dempsey and their Administrators at the FMERPA office to discuss shared services.

As far as Police go, other towns are looking at setting up their own centers. Whether or not they go with the County, we are trying to pursue opportunities. If we stay in the Fort Monmouth group, we might have the opportunity to get all of the radios paid for through grants. Mayor Maclearie stated he advised them that we are open to anything and to not count us out right now just because we are part of the County system.

The website went live this week and Mayor Maclearie thanked the Technology Committee.

Council's Report

Mr. Ford advised Council and the public of the upcoming events with the Recreation Department.

Tinton Falls Education Foundation is putting together a 5K walk/run event to raise money for grants. Last year it was just individuals but this year they are entering a team competition. Mr. Ford stated it would be fun to enter a team from the Borough to show our support.

Mr. Ford updated Council and the public on the Library Committee meetings.

Mr. Morrill stated the trails down at Liberty II are completed; there will be a dedication for that as well.

Open Space did their presentation last night at the School Board meeting as to what their Master Plan was and they are looking forward to doing a presentation when we can schedule them.

Mr. Skudera stated the new website was up and running as of Friday evening. Mr. Skudera thanked everyone for helping out and for their effort and support. Mr. Skudera asked Council to consider introducing the Electronic Government Ordinance he wrote back in 2007 now that the website is up and running.

There is a Board of Chosen Freeholders meeting here Thursday, September 25th at 7:00 P.M. in the Court Room.

Council President's Report

Mr. Baldwin updated Council and the public on the Planning Board meetings. Mr. Berube advised on the Somers Property in regards to the Planning Board's decision.

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Administrator's Report

Double A and Forgotsen Properties

Mr. Dempsey advised that the Borough has received approval from the State to sell the Double A and Forgotsen properties so the Borough Attorney will prepare the necessary Ordinances and documentation so we can move forward with this.

Somers Property

We have received approval for the subdivision of the Somers property. Mr., Berube will prepare the necessary documents so the home can be sold. The Borough will retain the vacant open space parcel.

Affordable Housing Units – Third Round Regulations

The Borough will be selling Affordable Housing properties that were recently purchased to retain the units. Prior to the sales, the controls on the units will be extended to provide the Borough third round affordable housing credits. The Borough Planner will start the Third Round Housing Plan and Fair Share Plan to be submitted to COAH by the December deadline.

Website

Mr. Dempsey stated the new website is functioning and asked everyone to please review and provide comments.

Engineer's Report – Al Hilla, Jr.

2008 Road Program

The only outstanding item is some remedial work on Lindale Lane. It is approximately 50% complete and the final paving modifications should be completed in the next week or so.

Sycamore Soccer Trails

Work is suppose to begin tomorrow. The surveyor was laying it out last week for the contractor and it should take two thru three weeks to complete, whether permitting.

Sycamore Sidewalks

Comments from the Freehold Soil Conservation District were received. We have still to receive any word from the County Engineer's office. Given the time frames for the DOT and construction it looks like this may end up having to be spring construction for that project. Their deadline is November 15th for the pouring on concrete. Even if we went out to bid today, that would be cutting that deadline fairly close.

Borough Clerk's Report

Karen Mount-Taylor asked Council to amend the agenda to include two raffle licenses that came in. One is for Cure and one is for the Foundation for Excellence in Education. They have been placed before Council.

At the last Council meeting, we adopted a Resolution for the Sycamore Avenue Soccer Complex. The Resolution read "performance guarantee" it should have said "maintenance guarantee". Mrs. Mount-Taylor asked Council to amend the agenda to include that.

Lastly, everyone was emailed about an extra meeting to be held on October 28th. Because of all the things going on in November, we will only be having one meeting that month. Council agreed as of now, yes, the meeting for October 28th would be ok.

PETITIONS – None

Borough Clerk stated the Clerk's Office received petitions last week for names to be placed on the ballot. There would not have been ample time to put it on the agenda as the agenda was struck before the petitions were due on Thursday at 4:00 P.M.

There are two names that were pulled for the position on the ballot. The first name is Charles P. Lomangino; the second name is Andrew J. Mayer. These are the two candidates that will be placed on the November Ballot.

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ORDINANCES FOR INTRODUCTION – None

ORDINANCES FOR FINAL CONSIDERATION

Borough Clerk read Ordinance No. 08-1246 entitled: BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF REAL PROPERTY COMMONLY KNOWN AS 246 HOCKHOCKSON ROAD FOR OPEN SPACE PRESERVATION PURPOSES IN THE BOROUGH OF TINTON FALLS, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING \$525,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$525,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Mr. Berube advised that this Ordinance was already approved for introduction; this is the final consideration of this Ordinance. The Council had some discussion and wanted to see input from the Open Space Committee as to their plan for both this, other properties and financing options - whether to pay for this with bonds or cash, etc. Mr. Pfeffer had prepared the original Ordinance to provide the option of bond financing, should Council so decide. Unfortunately, for personal family reasons, he is not able to be here tonight. Mr. Berube stated he understands there will be a presentation before the Council, not tonight but at an upcoming meeting, as to the Open Space Program that is intended into the future and then the affect of various types of reductions in the Open Space tax that Council had been considering and the affect it might have on the properties that are intended to be acquired, either by way of bonds or cash. The administration has requested Council move forward with the Ordinance in order to allow the option. This does not require us to buy; we are not under contract for this property but it provides the Council with the option to go to bond if and when that does occur.

Mr. Morrill and Mr. Berube had a discussion regarding negotiated amounts.

Mr. Skudera offered a motion to adopt Ordinance No. 08-1246, seconded by Mr. Morrill.

Mr. Baldwin stated if this piece of property is not buildable, he does not understand why we would want to buy it for such a large amount.

Mr. Berube stated this is completely unconcerned with the purchase price that might be offered for this property. This Ordinance just provides Council with the option to finance up to that amount through a Bond Ordinance if Council so chooses to in the future. If Council feels uncomfortable, there are options: Council can vote this down, or it can be carried to another meeting to allow those other negotiations to continue. If Council adopts this Ordinance they are not locked in to pay this amount; it is just so we can go forward with the negotiations.

Mr. Ford confirmed with Mr. Berube that if this piece of property was purchased in cash, there would be no need for an Ordinance and once the property is actually purchased, there will be another Ordinance. He suggested if the intent of Council is to purchase this property in cash, his recommendation would be to turn this Ordinance down. Mr. Ford stated he isn't suggesting turning this Ordinance down because they don't want to purchase this property but because they want to purchase it in cash.

Mr. Ford offered a motion to carry Ordinance No. 08-1246 to October 28, 2008, seconded by Mr. Lomangino.

ROLL CALL (to carry until 10/28/2008)
AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin
NAYS: None
ABSENT: None
ABSTAIN: None

PUBLIC DISCUSSION

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

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ROLL CALL

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

PUBLIC DISCUSSION OPEN

Lori Fuschetti, 234 Hockhockson Road, spoke regarding the adoption of Ordinance No. 08-1246 – acquisition of 246 Hockhockson Road.

Andrew Mayer, 46 Sam Drive, asked Council if they could be flexible on the Open Space Committee presentation due to numerous reasons. Mr. Baldwin responded the intent of Council was to have the presentation on the same night as the Bond Ordinance.

Leo Christofili, 328 Riveredge Road, commented and questioned Council on the carrying of Bond Ordinance for the acquisition of 246 Hockhockson Road. Mr. Dempsey and Mr. Berube advised Mr. Christofili on same.

Brendan Tobin, 5 Chestnut Court, stated he is speaking as a private citizen and a private advocate. Mr. Tobin welcomed Mr. Lomangino to Council and questioned the statement that was made regarding the appointment of Mr. Lomangino. Mr. Tobin questioned Mr. Skudera's newsletter where he stated Mr. Lomangino was the most qualified candidate for the taxpayers of the Borough and asked him what his vetting process was for making that decision. Lastly, Mr. Tobin spoke regarding Health Benefits and stated he would like to place on the record that the measure they were trying to introduce was to phase out the health benefits.

Leo Lomangino, 93 Colonial Drive, questioned when it comes to the Monmouth County Landfill and we are repaving County roads, those dump trucks, does the Borough receive a host fee and is that appropriate. Mr. Dempsey replied that we do not receive a host fee on the millings.

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

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mayor Maclearie stated they officially opened up the Liberty Park over on West Park. The Monmouth Falcons officially had their first home game over there.

Mayor Gerald Tarantolo of the Borough of Eatontown is going to host the Army Community Covenants Ceremony, which will be held on September 24th at 10:00 over at Wampum Park. There will be an official signing just to show that our Borough does support the Community Covenant.

Mr. Morrill stated during the last meeting he proposed a suggestion on globes for lights to be utilized in the Department on Public Works and asked if this is something Council would like to move on.

Mr. Dempsey replied that he is making contact with Manchester to hopefully get a tour of their building so we can see how these items are being utilized.

Mr. Lomangino thanked Mr. Baldwin for his invite over at Seabrook Village and thanked Mr. Skudera for his efforts with the Borough's new website.

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RESOLUTIONS

Mr. Ford offered a motion to amend the agenda to include Resolutions R-08-307, R-08-308, and R-08-309, seconded by Mr. Morrill.

ROLL CALL

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

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

**R-08-307 RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION RA# 08-17 –
TINTON FALLS C.U.R.E. - ON PREMISES RAFFLE**

WHEREAS, Tinton Falls C.U.R.E. Inc. has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA# 08-17, and

WHEREAS, said license has been forwarded to the Tinton Falls Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that Raffle License No. RA# 08-17 be and the same is hereby approved as follows:

NAME: Tinton Falls C.U.R.E. Inc. Identification No. : 122-4-34402
LOCATION: CJ Montana's, Shrewsbury Ave. Tinton Falls, NJ 07724
DATE: October 29, 2008 4:00 – 11:00 pm

ROLL CALL

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

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

**R-08-308 RESOLUTION - APPROVING RAFFLE LICENSE APPLICATION RA# 08-18 –
TINTON FALLS FOUNDATION FOR EXCELLENCE IN EDUCATION - ON
PREMISES 50/50**

WHEREAS, Tinton Falls Foundation for Excellence in Education, has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA# 08-18, and

WHEREAS, said license has been forwarded to the Tinton Falls Police Department for their review and no objection was received, and

WHEREAS, the appropriate fees have been received and filed by the Borough Clerk's Office.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that Raffle License No. RA# 08-18 be and the same is hereby approved as follows:

NAME: Tinton Falls Foundation for Excellence in Education Identification No. : 343-5-37560
LOCATION: 961 Sycamore Ave. Tinton Falls, NJ
DATE: October 26, 2008 7:00 a.m. – 1:00 pm

ROLL CALL

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

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

**R-08-309 RESOLUTION – AMENDING R-08-283 RELEASING MAINTENANCE
GUARANTEES SYCAMORE AVENUE SOCCER COMPLEX, STERLING FALLS,
LLC.**

WHEREAS, the developer for Sycamore Avenue Soccer Complex, Sterling Falls, LLC. has requested the release of maintenance guarantees, and

WHEREAS, by letter dated August 25, 2008, the Engineer T&M Associates has recommended the release of said guarantees.

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NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the maintenance guarantees for Sycamore Avenue Soccer Complex, Sterling Falls, LLC be and hereby is released.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

Borough Clerk stated there is no Resolution for R-08-300 – Mayor’s Military Exemption Resolution. It was to be placed on if Mr. Berube, Mr. Dempsey and the Mayor had come to some kind of finalization as to what we were going to do. As the Mayor reported, they are still working on it. Mrs. Mount-Taylor asked if Council would be kind enough to carry this Resolution to another date.

Mr. Morrill offered a motion to carry Resolution R-08-300 to October 7, 2008, seconded by Mr. Ford.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-290 RESOLUTION - DENYING RELEASE OF PERFORMANCE GUARANTEES
GREENBRIAR (STERLING FALLS) PHASE 1A**

WHEREAS, the developer has requested the release of Performance Guarantees for Greenbriar (Sterling Falls) Phase 1A

WHEREAS, BY LETTER DATED September 9, 2008, (said letter hereby attached and made part of this resolution) Engineer, Birdsall Engineering, Inc., has supplied the developer with a punch list outlining items which need to be addressed prior to the release of performance guarantees,

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 Engineer, Birdsall Engineering, Inc., letter of September 9, 2008, that the developer's request for a release of the Performance Guarantees be and hereby is denied.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-291 RESOLUTION - RELEASING PERFORMANCE BOND AND FINAL
PAYMENT UPON POSTING OF MAINTENANCE BOND PHASE I PROJECT AT
THE CRAWFORD HOUSE**

WHEREAS, Helios Construction, Inc., 1321-A Allenhurst Avenue, Ocean, NJ 07712, has completed the above contract as indicated in letter attached from Historic Building Architects, LLC dated August 26, 2008; and

WHEREAS, Helios Construction, Inc. has posted the required one (1) year Maintenance Bond (attached) in the amount of \$6,450.00; and

WHEREAS, the Maintenance Bond has been approved by the Director of Law;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Performance Bond posted by Helios Construction, Inc. be released and final payment in the amount of \$2,580.00 be made as they have posted the required Maintenance Bond.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, 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. Ford.

**R-08-292 RESOLUTION RELEASING PERFORMANCE BOND UPON POSTING OF
MAINTENANCE BOND CONTRACT #06-9 IMPROVEMENTS TO WARDELL &
SHARK RIVER ROADS**

WHEREAS, Stavola Contracting Co., Inc., P.O. Box 482, Red Bank, NJ 07701 has completed the above contract as indicated in letter attached from Leon S. Avakian, Inc. dated August 15, 2008; and

WHEREAS, Stavola Contracting Co., Inc. has posted the required two (2) year Maintenance Bond (attached) in the amount of \$128,838.04; and

WHEREAS, the Maintenance Bond has been approved by the Director of Law;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Performance Bond posted by Stavola Contracting Co. Inc. be released as they have posted the required Maintenance Bond.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, 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-08-293 RESOLUTION - APPROVAL OF CORRECTIVE ACTION PLAN FOR 2007

WHEREAS, the Directive by the Division of Local Government Services, Local Finance Notice CFO 97-16 dated November 19, 1997, requires that the Chief Financial Officer must submit a Corrective Action Plan, relative to the findings and recommendations in the annual audit report; and

WHEREAS, the Borough Council of the Borough of Tinton Falls has reviewed said Corrective Action Plan for the year 2007

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that said Corrective Action Plan is hereby approved.

NOW, THEREFORE, BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Chief Financial Officer, the Director of the Division of Local Government Services, and all appropriate Borough Officials.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-294 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 returned to each respective Capital Improvement Fund or credited to Surplus and unused debt authorizations 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:

ORDINANCE NUMBER	PROJECT DESCRIPTION	AMOUNTS TO BE CANCELED	
		FUNDED	UNFUNDED
02-1074 as amended by 03-1098	2002 Roadway Improvement Program	\$48,033.16	\$ 1,687.61
04-1130 as amended by 04-1134	2004 Road Improvement Program	\$ 2,696.60	\$19,730.00
05-1166 as amended by 06-1207	Sycamore Soccer Complex	<u>\$34,039.16</u>	<u>\$11,250.00</u>
	Total	\$84,768.92	\$32,667.61

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ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-295 RESOLUTION - CANCELING UNEXPENDED BALANCES OF THE
GENERAL CAPITAL FUND - OPEN SPACE TRUST FUNDED ORDINANCES**

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 returned to each respective Capital Improvement Fund or credited to Surplus or open space trust and unused debt authorizations 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 to the open space trust fund:

ORDINANCE NUMBER	PROJECT DESCRIPTION	AMOUNTS TO BE CANCELED	
		FUNDED	UNFUNDED
01-1050	Acq. of Property (Cobb)	\$ 5,623.54	\$54,029.00

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-296 RESOLUTION - AUTHORIZING APPROVAL OF THE ACCEPTANCE OF
DEEDS OF EASEMENT FOR EMERGENCY ACCESS TO STORMWATER
FACILITIES AND DRAINAGE RIGHT OF WAY FROM TINTON FALLS
CAMPUS, LLC – BLOCK 128.03, Lot 19.04,**

WHEREAS, the Borough of Tinton Falls, a municipal corporation of the State of New Jersey, is desirous of establishing the rights of way and securing an easement for emergency access to stormwater facilities and a drainage right of way on the property of the Owner located at Block 128.03, Lot 19.04 in the Borough of Tinton Falls, County of Monmouth in the State of New Jersey in compliance with a Resolution of the Planning Board of the Borough of Tinton Falls, adopted on October 24, 2007; and

WHEREAS, Tinton Falls Campus, LLC, a Limited Liability Company in the state of Maryland, is the sole owner of certain properties known as Block 128.03, Lot 19.04, in the Borough of Tinton Falls, County of Monmouth in the State of New Jersey; and

WHEREAS, Tinton Falls Campus, LLC is desirous of granting certain Deeds of Easement for Emergency Access to Stormwater Facilities and a Drainage Right of Way along the property noted above in the Borough of Tinton Falls; and

WHEREAS, the parties have agreed to certain terms and conditions for the granting of the Deeds of Easement for Emergency Access to Stormwater Facilities and a Drainage Right of Way as more fully contained in a certain Agreement for same attached herewith, which Agreement has been recommended by the Director of Law,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Mayor and Borough Clerk are hereby authorized to accept the attached Easements for Emergency Access to Stormwater Facilities and Drainage Right of Way as to Block 128.03, Lot 19.04, in form attached hereto and to execute said deeds of easement for emergency access to stormwater facilities and a drainage right of way indicating acceptance thereof.

Mr. Berube stated for the purpose of the record, anyone that might either have an interest as a Board Member or as a homeowner in Seabrook, owned by Tinton Falls Campus, LLC, abstain from voting on this Resolution.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: Mr. Baldwin

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

R-08-297 RESOLUTION - AMENDING RESOLUTION R-07-247 EXTENDING NON-FAIR & OPEN CONTRACT ONE (1) YEAR FOR REVISION AND CODIFICATION OF BOROUGH ORDINANCES CONTRACT PS #9-07

WHEREAS, the Borough of Tinton Falls adopted Resolution R-07-247 on July 17, 2007 wherein Coded Systems, 120 Main Street, Avon, NJ 07717 was awarded a contract for Revision and Codification of the new Land Use Ordinance for an amount not to exceed \$15,700.00; and

WHEREAS, this contract is not complete and requires an extension of time for one (1) year at no additional cost; and

WHEREAS, Coded Systems has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political candidate in the Borough of Tinton Falls in the previous one year and that the contract will prohibit them from making any reportable contributions through the term of the contract, 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 Coded Systems, 120 Main Street, Avon, N.J. 07717 is hereby retained to provide professional services an additional one (1) year for the Revision and Codification of the new Land Use Ordinance as described above at no additional cost.
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 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. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-298 RESOLUTION - AMENDING RESOLUTION R-07-248 EXTENDING NON-FAIR & OPEN CONTRACT ONE (1) YEAR FOR REVISION AND CODIFICATION OF BOROUGH ORDINANCES CONTRACT PS #8-07

WHEREAS, the Borough of Tinton Falls adopted Resolution R-07-248 on July 17, 2007 wherein Heyer, Gruel & Associates, 63 Church Street, 2nd Floor, New Brunswick, NJ 08901 was awarded a contract for Revision and Codification of Borough Ordinances related to the Master Plan for an amount not to exceed \$62,000.00; and

WHEREAS, this contract is not complete and requires an extension of time for one (1) year at no additional cost; and

WHEREAS, Heyer, Gruel & Associates has completed and submitted a Business Entity Disclosure Certification which certifies that they have not made any reportable contributions to a political candidate in the Borough of Tinton Falls in the previous one year and that the contract will prohibit them from making any reportable contributions through the term of the contract, 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 Heyer, Gruel & Associates, 63 Church Street, 2nd Floor, New Brunswick, NJ 08901 is hereby retained to provide professional services an additional one (1) year for the Revision and Codification of Borough Ordinances as described above at no additional cost.
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 Clerk of the Borough of Tinton Falls.

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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. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-299 RESOLUTION - AMENDING R-07-370 – REVISION – TO ADD THE
ENGINEERING INSPECTION ESCROW ACCOUNT, BLOCK 16, LOT 1 AND
BLOCK 19, LOT 11.02**

WHEREAS, the developer for Greenbriar (Sterling Falls) has requested the revision of Bonding Phases of Performance Guarantees, and

WHEREAS, by letter dated September 10, 2007 the Engineer has certified that the developer has completed the required improvements and recommends that the Performance Guarantee be reduced and revised to the amounts specified in said letter. (Attached and hereby made part of this Resolution.)

WHEREAS, in addition the Engineer's recommendation letter provided that Engineering Inspection Escrow accounts were to be merged into a single account for the entire community.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the Chief Financial Officer is hereby authorized to merge all current Engineering Inspection Escrow accounts into a single account for the entire community.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, 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.

Borough Clerk stated unless Council has something to offer, there are no exceptions.

R-08-301 RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 16, 2008

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

<u>SUMMARY</u>	
GENERAL	\$ 564,106.97
TRUST	14,204.13
CAPITAL	2,580.00
DEVELOPER ESCROW	29,002.25
DOG TRUST	30.00
SEWER UTILITY	10,435.54
ADDITIONS	<u>1,052,837.65</u>
	\$ 1,673,196.54

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

CONSENT AGENDA

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

R-08-302 RESOLUTION - REFUNDING TAX OVERPAYMENT

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

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<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Brian & Laura Iandoli c/o Raia & Perrone, LLC P. O. Box 397 Martinsville, NJ 08836	124.56	28	\$1,690.41

Re: Iandoli to Glus
11 Annapolis Street

and,

WHEREAS, said error has resulted in an overpayment of 2008 3rd quarter taxes in the amount of \$1,690.41, 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 \$1,690.41 is hereby approved for the aforementioned property.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-303 RESOLUTION - REFUNDING TAX OVERPAYMENT

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

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Paul Bachstetter 5 Hawthorne Drive Tinton Falls, NJ 07753	129.13	21.23	\$1,450.00

Re: Bachstetter to Fernandez
45 Nutmeg Court

and,

WHEREAS, said error has resulted in an overpayment of 2008 3rd quarter taxes in the amount of \$1,450.00, 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 \$1,450.00 is hereby approved for the aforementioned property.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-304 RESOLUTION - REFUNDING TAX OVERPAYMENT

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

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Frederick N. & Elizabeth Carter 27 Howard Avenue Tinton Falls, NJ 07724	2.01	33	\$857.57

and,

WHEREAS, said error has resulted in an overpayment of 2008 3rd quarter taxes in the amount of \$857.57, 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 \$857.57 is hereby approved for the aforementioned property.

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ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-305 RESOLUTION - REFUNDING TAX OVERPAYMENT

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

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Richard G. & Robyn Sousa 6 Wyckham Road Tinton Falls, NJ 07724	53.03	62	\$1,752.56

and,

WHEREAS, said error has resulted in an overpayment of 2008 3rd quarter taxes in the amount of \$1,752.56, 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 \$1,752.56 is hereby approved for the aforementioned property.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-306 RESOLUTION - REFUNDING TAX OVERPAYMENT

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

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
William & Mele Faulkner 21 Andrew Drive Tinton Falls, NJ 07753	124.45	6	\$1,517.66

and,

WHEREAS, said error has resulted in an overpayment of 2008 3rd quarter taxes in the amount of \$1,517.66, 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 \$1,517.66 is hereby approved for the aforementioned property.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:05 P.M.

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Council recessed at 9:05 P.M.
Council reconvened at 9:15 P.M.

WORKSHOP MEETING

Unfinished Business

Land Use Ordinance Discussion

Mr. Berube advised that the Master Plan started with charge to the Planning Board to review. That Master Plan was accomplished by the Planning Board recommending it to Council. It was approved by the Planning Board and it is Council's charge as the Governing Body to propose Ordinances that put that Master Plan into affect. If you disagree with the recommendations of the Planning Board, you could enact an Ordinance, which is contrary to the Master Plan recommended by the Planning Board. Mr. Berube stated he recommends Council only due that with very good reason and a code instatement as to why the Council might disagree with the Planning Board on any of those issues.

Mr. Ford discussed the impacts of COAH Third Round Regulations in regards to the Fort.

Mr. Baldwin stated unless someone can disagree and give reasons why, then we need to keep this process moving forward.

Mr. Skudera stated he feels that these Ordinances are to support the Master Plan that was done by the Planning Board. That is a separate governing body from the Borough Council. Now it is in the hands of Council and they have a separation of powers in Tinton Falls. Mr. Skudera asked Council if they agree or want to discuss certain areas.

Mr. Morrill replied that he feels this is why we hired professionals to prepare and review the Master Plan. He feels we should move forward with it instead of delaying it.

Mayor Maclearie stated it has been three years from when we started the process. There was public meetings over and over so anyone could come and ask questions or challenge anything they wanted. The Planning Board had all the public hearings and debates. The Ordinances support the Master Plan as it is. He suggested Council vote on it and more forward. Nothing has changed by putting the draft in front of Council and stated if Mr. Skudera had concerns, he should have addressed them. The concerns can still be raised if Council decides to move forward.

Mr. Berube advised the Council that we may be looking backwards at this process in regards to Council's concern with COAH Third Rounds Regulations. The planning process and the Master Plan is the responsibility of the Planning Board. They have fulfilled that responsibility. Council's obligation is to pass enabling Ordinances. With regard to COAH and Third Round Regulations: 1) The round three regulations, although adopted, are under challenge. Council has endorsed the League of Municipalities appeal for the implementation of those regulations and particularly for the calculation of the percentage of increase that we are facing. There are some 200 municipalities that have signed on to the league's challenge. There are also 21 separate challenges that have been filed to those regulations by individual municipalities or groups of municipalities. 2) To revise our Master Plan to accord COAH regulations is almost working backwards. The Master Plan is a planning document what you see looking forward into the future. If we limit it only because of COAH affects and our Master Plan is revised, COAH has the right to in affect ignore our Master Plan because it impedes the legislative purpose of the Council and Affordable Housing. Mr. Berube suggested Council move forward.

Al Hill Jr. stated most of the stuff is established by State Law or we have moved forward from the old Ordinances. In many cases they tried not to deviate in its entirety; they just wanted to fix the bad spots. The real important part is the Zoning, which are pages 118 – 191. Council really needs to pay attention to these pages as these are what establishes the permitted and conditional uses in the zones that were created. You have to look at it from two standpoints: 1) are the items in there acceptable and 2) whether they comport with the Master Plan.

Mr. Baldwin suggested Council have this Ordinance on for the October 7th meeting for introduction and subsequently approve it at some point in time. Council agreed.

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New Business

Mr. Ford questioned what committees Brendan Tobin served on.

Mayor Maclearie stated he is on the Solid Waste Advisory Committee and he did not resign from that position; he only resigned from his seat on Council.

ADJOURNMENT

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:55 P.M.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

APPROVED AT A MEETING HELD ON: OCTOBER 21, 2008