

NOTICE OF PENDING ORDINANCE

ORDINANCE NO. 11-1315

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Tinton Falls, in the County of Monmouth, State of New Jersey, held on February 15, 2011. This Ordinance will be further considered for adoption, after the public hearing is held thereon, at a meeting of the Borough Council to be held on Tuesday, March 15, 2011, **located at Seabrook Village, 3000 Essex Road, Tinton Falls, New Jersey, beginning at 7:00 o'clock P.M.** During the week prior to and up to and including the date of such meeting, copies of said Ordinance, including Schedule A, will be made available in the Clerk's Office to the members of the general public who shall request the same.

MAUREEN L. MURPHY, BOROUGH CLERK

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN PROPERTY (BLOCK 35, LOT 1.05 AS SHOWN ON THE TAX MAP OF THE BOROUGH OF TINTON FALLS) OWNED BY THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, NEW JERSEY, NOT REQUIRED FOR PUBLIC PURPOSES PURSUANT TO N.J.S.A. 40A:12-13, ET SEQ.

WHEREAS, the Local Lands and Building Laws, N.J.S.A. 40A:12-13, et seq., authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by sale in the manner provided by law; and

WHEREAS, the Borough of Tinton Falls is the owner of certain real property as further set forth herein not needed for public use, and the Mayor and Council have determined that it is in the best interest of the Borough to sell the same to generate revenue, reduce taxes and liabilities.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey, as follows:

Section 1. Block 35, Lot 1.05 as further described in Schedule A attached hereto shall be offered for sale, pursuant to N.J.S.A. 40A:12-13 at a public auction to the highest bidder. The public auction shall be held at the Borough of Tinton Falls Municipal Building or such other place as shall be designated by the Borough at a date to be set by the Borough Clerk and published in accordance with law.

Section 2. The property sale shall be subject to the following terms:

1. That no representations of any kind are made by the Borough of Tinton Falls as to the condition of the property, said property is being sold in its present condition "as is". Additionally, the Borough makes no representation as to the presence or absence of wetlands or any other environmental conditions on the property.

2. That the Borough will execute a Quitclaim Deed mutually acceptable in form and substance to both parties.

3. That the Purchaser, at its sole expense, shall have a right to conduct environmental and other inspections of the property with results satisfactory to Purchase and its lender but must complete such inspections within thirty (30) days of bid acceptance.

4. That the Purchaser shall obtain a survey of the entire tract, which said survey will be at Purchaser's sole expense, in form and substance satisfactory to the Borough and the Purchaser; and said survey shall be certified to the Borough.

5. Purchaser's receipt of a title commitment, which said title commitment will be at Purchaser's sole expense, with respect to the property, to be obtained, stating that Seller has good, indefeasible and marketable fee simple title to the property, free and clear of all liens and encumbrances except such matters as may be acceptable to Purchaser.

6. It is understood that the Acquisition is subject to applicable New Jersey law concerning disposition of municipal real estate.

Section 3. This sale is made subject to such state of facts as an accurate survey may disclose, existing tenancies, rights of persons in possession, easements, conditions, covenants and restrictions and any other encumbrances of title which the Mayor and Borough Council may impose on any parcel at the time of the sale, including but not limited to restrictions on the use to be made of such real property, capital improvements or personal property and any conditions of sale as to buildings or structures, or as to the type, size or other specifications of buildings or structures, and the time within

such conditions shall be operative, or any other conditions of sale in like manner to the same extent as by any other vendor.

Section 4. The sale is made subject to all applicable laws and ordinances of the State of New Jersey and the Borough of Tinton Falls.

Section 5. That should the title to the property prove to be unmarketable for any reason, the liability of the Borough shall be limited to the repayment to the Purchaser of the deposit and any portion of the purchase price paid and shall not extend to any further costs, expenses, damages or claims. Notice of any alleged defect in title or claim must be served on the Borough Clerk, by the Purchaser, in writing no later than thirty (30) days after the sale is approved by the Mayor and Council, failure upon the part of the Purchaser to give written notice within said time shall be deemed conclusive proof that the Purchaser accepts the title in its present condition.

Section 6. In addition to the terms and conditions set forth herein, successful bidders agree that the Borough may impose the following conditions:

- i. To deposit cash, check or money order in an amount not less than 25% of the bid price at the time that the bid is submitted.
- ii. To pay by the time of closing:
 - a. The balance of the purchase price.
 - b. The cost of preparation of all legal documents including any special property description.
 - c. The prorated real estate taxes, for the balance of the current year as of the date of closing.
- iii. To abide by appropriate zoning, subdivision, health and building regulations and codes and stipulations that this sale will not be used as grounds to support any variance from these regulations.
- iv. That in the event Purchase fails to close title, Purchaser shall forfeit to the Borough of Tinton Falls any and all money deposited with the Borough.
- v. That the purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any court of this State as grounds to support a challenge of the existing assessment of the subject property, nor shall the purchase price be used as a comparable sales to challenge assessments with regard to other properties.

Section 8. The Borough reserves the right to withdraw the offer of sale and reject any and all bids.

Section 9. All sales are subject to final approval by the Mayor and the Borough Council. Parties interested in submitting bids and who require additional information should contact:

Maureen L. Murphy, Borough Clerk
Borough of Tinton Falls
556 Tinton Avenue
Tinton Falls, New Jersey 07724

Section 10. If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 11. All ordinances or parts of ordinances that are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 12. The Mayor, Borough Administrator, Borough Clerk and Director of Law are hereby authorized to execute all documents necessary for the conduct of this auction and for the conveyance of the properties listed herein, including but not limited to executing all contracts, Deeds and other conveyance documents.

Section 13. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.