

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH
NOTICE OF PENDING ORDINANCE**

ORDINANCE NO. 11-1328

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 October 18, 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, November 1, 2011, located in the Tinton Falls Municipal Building, 556 Tinton Avenue, Tinton Falls, New Jersey, beginning at 7:30 o'clock P.M. During the week prior to and up to and including the date of such meeting, copies of said Ordinance and 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

**BOROUGH OF TINTON FALLS
COUNTY OF MONMOUTH
ORDINANCE NO. 11-1328**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY
FROM KRUPNICK REALTY HOLDINGS, LLC, KRUPNICK FAMILY TRUST, KG
SHREWSBURY, INC. AND SYDNEY KRUPNICK KNOWN AS A PORTION OF BLOCK 142
ON THE OFFICIAL TAX MAP OF THE BOROUGH OF TINTON FALLS AS FURTHER SET
FORTH HEREIN FOR THE PRESERVATION OF DEDICATED OPEN SPACE**

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq. authorizes public entities to acquire real property for the public purpose of preserving open space; and

WHEREAS, N.J.S.A. 40A:12-5 requires that the acquisition of an interest in real property by municipalities be accomplished by ordinance; and

WHEREAS, the Borough of Tinton Falls ("Borough") desires to acquire certain property within the Borough, designated within Block 142 on the official Tax Map of the Borough of Tinton Falls as further set forth in Schedule A attached hereto (the "Property") from Krupnick Realty Holdings, LLC, Krupnick Family Trust, KG Shrewsbury, Inc. and Sydney Krupnick (collectively, "Krupnick" or the "Owner"); and

WHEREAS, the Property consists of approximately 73.54 acres approved in 2007 for the development of 273 multi-family residential units consisting of 162 townhomes and 111 condominiums—55 of which would be low income Mt. Laurel units, with a total bedroom count of 550; and

WHEREAS, the prior approvals remain effective and the Property is currently zoned for the development of affordable housing units; and

WHEREAS, the future development potential of the Property is high, and if developed, would result in the Borough having to construct a new school at extraordinary taxpayer expense; and

WHEREAS, the acquisition of this Property will also resolve a long-standing Green Acres diversion issue relating to the improper disposal of restricted property that took place in 2000 that the Borough must remedy to avoid potential litigation, and which will help effectuate the release of \$950,000 currently earmarked for the Borough at Green Acres; and

WHEREAS, the Borough desires to enter into an Agreement for the Sale and Purchase of Real Property (“Agreement”) with Krupnick for the above described transaction, which sets forth the rights, duties and obligations of the parties; and

WHEREAS, the acquisition of the Property for the agreed price of \$5.5 million will be funded through the issuance of General Obligation and Open Space Bond Anticipation Notes in the amount of approximately \$1,916,787 and \$2,347,329, respectively, with down payments of \$100,885 from the Borough’s Capital Improvement Fund and \$1,300,000 of Open Space Trust Funds; and

WHEREAS, the Property is to be conveyed free and clear of any liens and encumbrances; and

WHEREAS, the Borough desires to authorize the acquisition of the Property, the expenditure of the funds, and the acceptance of the conveyance of the Property upon fulfillment of the provisions set forth in the Agreement negotiated between the parties over the last six months.

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

Section 1.

The Borough Council hereby authorizes the acquisition of certain lots within Block 142 on the official Tax Map of the Borough of Tinton Falls as further set forth in Schedule A attached hereto from Krupnick in the total amount of Five Million Five Hundred Thousand Dollars (\$5,500,000.00).

Section 2.

The Borough Council approves the terms and conditions of a the Agreement for the Sale and Purchase of Real Property by and between the Borough and Krupnick, a copy of which is filed in the Office of the Borough Clerk, subject to minor revisions thereto approved by the Borough Administrator as recommended by the Director of Law that do not substantially modify the terms and conditions of the Agreement, provided that the total consideration paid under the Agreement is not increased.

Section 3.

The Borough Council hereby authorizes the expenditure of an aggregate of \$1,300,000 from its Municipal Open Space Trust Fund, with a portion of the same to be reimbursed to the Borough through the New Jersey Green Acres Funding Program, if approved at a future date.

Section 4.

The Borough Council hereby authorizes the expenditure of \$100,885 from the Capital Improvement Fund for the purpose of making necessary down payment for General Obligation Bond Anticipation Notes to be authorized by separate ordinance.

Section 5.

The Mayor, Borough Clerk and Director of Law are hereby authorized and directed to execute all documents required for the acquisition of the Property, including, but not limited to, the Agreement and other conveyance documents and are hereby authorized and directed to take all action necessary to effectuate the purposes of this Ordinance.

Section 6.

The conveyance of certain lots within Block 142, on the Official Tax Map of the Borough of Tinton Falls as further set forth in Schedule A attached hereto is hereby accepted upon the fulfillment of the terms and conditions of the Agreement and the closing of title and delivery of the deed(s).

Section 7.

All ordinances of the Borough of Tinton Falls which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

Section 8.

If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

Section 9.

This Ordinance shall take effect immediately upon final passage, approval and publication as provided by law.