

**REGULAR/WORKSHOP MEETING  
AUGUST 18, 2009  
BOROUGH COUNCIL**

Council President called regular meeting to order at 7:32 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. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

ABSENT: None

ALSO PRESENT: Michael Skudera, Mayor  
W. Bryan Dempsey, Administrator  
Brian M. Nelson, Director of Law  
Karen Mount-Taylor, Borough Clerk  
Stephen Pfeffer, Chief Financial Officer  
David Marks, Borough Engineer

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**APPROVAL OF MINUTES**

Dr. Mayer offered a motion to approve the minutes of June 16, 2009, seconded by Mr. Larkin.

**ROLL CALL**

AYES: Mr. Baldwin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: Ms. Fama, Mr. Larkin

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Mr. Baldwin offered a motion to approve the minutes of July 1, 2009, seconded by Dr. Mayer.

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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**REPORT OF MAYOR/COUNCIL/ADMINISTRATION**

**Mayor's Report**

Mayor Skudera updated Council on the FMERPA meetings and requested Council amend the agenda to include the Resolution set before Council urging the Federal Government to buy out the Earle property.

**Engineer's Report**

Mr. Marks explained the Grant Application Resolution for a Local Government Green House Reduction Program and stated that their thoughts for a project would possibly be green fleet alternative fuel vehicles. Mr. Marks also mentioned preparing the RFP's for the borough-wide energy audit.

**Chief Financial Officer's Report – Mr. Pfeffer**

Mr. Pfeffer advised that he had no report.

**Director of Law's Report – Mr. Nelson**

Mr. Nelson briefly overviewed the agenda items.

**Administrator's Report – Mr. Dempsey**

**Sycamore Sidewalks**

The project has already started and should be completed before the beginning of the school year.

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*Crawford House*

Tomorrow is the hearing on the CDBG application in which Stacy Slowinski, Al Hilla and himself will be giving a presentation regarding the ADA accessibility to the Crawford House. This is a grant that would provide funding for same at no cost to the Borough.

*Route 66 NJDOT meeting*

Mr. Dempsey advised that he met with Senator Kean, the Commissioner, DOT, Chief of Police, David Scrivanic, David Marks and one of the County engineers to discuss the Route 66 widening at the intersection of the parkway, Route 33 and along into Neptune. As an outcome, the Senator is going to push for funding for the widening of that area.

*Rezoning Request*

There has been a request from the owner of The Falls Restaurant for a rezoning of where his house is to be included in a non-residential zone. Such request has been forwarded to the Borough Planner for his recommendation.

*Monmouth County Open Space Grant Application*

The Grant is due the middle of September and is being considered for acquisition of property or recreation improvements.

Borough Clerk's Report – Mrs. Mount-Taylor

*Earle*

Mrs. Mount-Taylor advised Council that there is a Resolution regarding Earle housing and requested the agenda be amended to include same.

*Open Space Grant Application*

Mrs. Mount-Taylor advised that the Open Space Grant will have to be advertised.

Council's Report

Ms. Fama informed Council that she had been invited by the library to attend their Vacation-Reading Club and was impressed by the number of children that participated as well as receiving an invitation to the Chelsea Assisted Living Group by the Executive Director in which she attended and introduced herself.

Mr. Larkin stated he had spoken with Mr. Karavites, President of the School Board, regarding what his role (Mr. Larkin's) will be moving forward as well as some of the school's concerns.

Mr. Larkin took this time to congratulate Dr. Mayer and Mr. Morrill on their daughters' graduation from the Tinton Falls Police Academy.

Mr. Morrill commented on how terrific the Tinton Falls Police Academy program is.

Dr. Mayer thanked the Chief and all the police officers who are involved in the putting the program together.

Dr. Mayer updated Council on the Technical Advisory Committee and Environmental Commission meetings.

Mr. Baldwin updated Council on the Planning Board meetings.

Council President's Report

*Recreation*

Mr. Morrill advised that he had a meeting with Sherri Eisele, Recreation Supervisor, and updated Council on the Recreation programs.

*Junior Police Academy*

Mr. Morrill advised that his daughter attended the Tinton Falls Junior Police Academy and stated it is an amazing mentoring program and it is unbelievable what the police do with the children over a period of three weeks. Mr. Morrill thanked the Chief for his time and for allowing his police department to have the time to offer such an outstanding program for the children of Tinton Falls.

*Tinton Falls PBA*

The Tinton Falls PBA is holding a golf outing on October 2<sup>nd</sup> at Pebble Creek and are currently taking sign-ups for anyone who is interested in sponsoring halls.

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**PETITIONS - None**

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**ORDINANCES FOR INTRODUCTION**

Borough Clerk read Ordinance No. 09-1274 entitled: AN ORDINANCE AMENDING CHAPTER SEVEN OF THE GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS (TRAFFIC)

Mr. Baldwin offered a motion to introduce Ordinance No. 09-1274, seconded by Mr. Larkin.

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

Public Hearing for Ordinance No. 09-1274 to be set at the convenience of the Borough Clerk.

*Ordinance No. 09-1274 in Full/Ordinance Book No. 4*

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**ORDINANCES FOR FINAL CONSIDERATION**

Borough Clerk read Ordinance No. 09-1273 entitled: AN ORDINANCE AMENDING CHAPTER XIV OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS GOVERNING FIRE PREVENTION

Dr. Mayer offered a motion to open the Public Hearing on Ordinance No. 09-1273, seconded by Ms. Fama.

**ROLL CALL**

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

**PUBLIC HEARING OPEN**

Cary Costa, Fire Marshall, overviewed the changes in the Ordinance and advised that new codes have come into affect as well as adding additional codes. Mr. Costa also advised Council that the unique thing about the Fire Prevention Code is that the local municipality can make the code stronger than what the State does.

Brendan Tobin, 5 Chestnut Court, stated that he is a Tinton Falls volunteer firefighter and suggested some changes that should be made to the Ordinance such as the term of the fire official and commented on the changes that he felt were appropriate.

Nicole Mayer, 46 Sam Drive, stated she is a Tinton Falls volunteer EMT and questioned what kind of enforcements and penalties will be following if such codes are not followed. Mr. Costa advised that a courtesy letter is sent out first with "X" amount of days to comply and if it is not completed within that time frame, then a penalty would be issued. Mr. Costa advised that a majority of the time, after a courtesy letter is sent out, they receive compliance.

There being no further comments from the public, Mr. Baldwin offered a motion to close the Public Hearing on Ordinance No. 09-1273, seconded by Dr. Mayer.

**ROLL CALL**

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

**PUBLIC HEARING CLOSED**

Mr. Baldwin offered a motion to adopt Ordinance No. 09-1273, seconded by Dr. Mayer.

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At this time, Council asked Mr. Costa to answer any questions they had.

Council had agreed upon the decision of leaving in the Fire Marshall's term of two-years instead of removing the term as the Ordinance currently read.

Mr. Nelson advised Council that at this point it would be appropriate to amend the Ordinance to reinsert the paragraph that had been stricken-out regarding the term of the Fire Marshall. Mr. Nelson further explained that Council would vote on the amendment at the current meeting and could introduce the Ordinance as amended but would have to re-advertise the Ordinance (as to the amendment(s)) and hold another Public Hearing at a later date, set by the Borough Clerk.

Dr. Mayer offered a motion to amend the Ordinance to include the following paragraph: The Fire Official shall serve at term of two (2) years. Any vacancy shall be filled for the unexpired term. The Fire Official shall serve until any successor is appointed and qualified, seconded by Mr. Baldwin.

ROLL CALL (on amendment)

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

Dr. Mayer offered a motion to carry Ordinance No. 09-1273 as amended to September 15, 2009, seconded by Ms. Fama.

ROLL CALL (carry adoption to September 15, 2009)

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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**PUBLIC DISCUSSION**

Dr. Mayer offered a motion to open the Public Discussion, seconded by Ms. Fama.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC DISCUSSION OPEN

Brendan Tobin, 5 Chestnut Court, expressed his opinion of removing the Fire Marshall's vehicle and other large borough vehicles and possibly replacing them with smaller, fuel efficient vehicles.

Mr. Tobin also expressed his opposition on Resolution R-09-305.

Jonathan Cohen, 9 Silvercrest Drive, thanked the Mayor and Council for fully staffing the Environmental Commission. Mr. Cohen also stated that he feels there, at this point, is no need at to change the Open Space tax.

Lauren Mayer, 46 Sam Drive, described her experience in the Tinton Falls Junior Police Academy and thanked Tinton Falls for offering such a great program.

Ed McCullough, 15 Woodchuck Court; Randi Dickman, 13 Woodchuck Court; Bonnie Bertan, 100 Market Yard Court, Freehold, came before Council regarding Fox Chase II affordable housing units and the association fees.

Denise Catalano, 11 Alpine Trail, commented on the Open Space referendum.

Stacey Slowinski, 755 Tinton Avenue, commented that money spent on open space preservation now saves the taxpayers money in the end.

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Jerry Spumberg, 11 Alpine Trail, commented on open space tax with regards to the current economy.

Leo Christofili, 328 Riveredge Road, suggested changes he would like to see made to Resolution R-09-305.

Henry Carney, 1900 Wayside Road, suggested Council make farmers exempt from the noise ordinance.

Robert Sandberg, 172 Riveregde Road, expressed his feelings on Resolution R-09-305.

Nicole Mayer, 46 Sam Drive, questioned a request she received for a table at Community Day for possible campaigning purposes. Mr. Morrill and Mrs. Mount-Taylor advised that this item was already being taken care of by the Director of Law.

Leo Christofili, 328 Riveredge Road, further spoke on Resolution R-09-305.

Gerald Turning, Chief of Tinton Falls Police Department, thanked Council for taking the time to see the Tinton Falls Police Academy graduation and advised that the persons responsible for the success of the program are Captain Milano, Lieutenant Delaune, Officer Turso, Officer Mazzeo and Officer Marks. Chief Turning advised that without the above-mentioned persons as well as the persons who participate by sending in donations for the program and children, the program would not happen and they deserve all of the credit.

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

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

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MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

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RESOLUTIONS

Ms. Fama offered a motion to amend the agenda to include Resolution R-09-323, seconded by Mr. Larkin.

ROLL CALL (on amendment)

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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**R-09-235 RESOLUTION – AUTHORIZING PARTICIPATION IN THE EMPLOYMENT  
BENEFIT PROGRAM OF HARTFORD INSURANCE**

Mr. Dempsey requested Resolution R-09-235 be carried as the Borough is getting additional quotes.

Mr. Baldwin offered a motion to carry Resolution R-09-235, seconded by Dr. Mayer.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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Ms. Fama offered the following Resolution and moved its adoption, seconded by Mr. Larkin.

**R-09-305 RESOLUTION - AUTHORIZING THE SUBMISSION TO THE VOTERS OF THE BOROUGH OF TINTON FALLS AT THE GENERAL ELECTION ON NOVEMBER 3, 2009 A PROPOSITION REDUCING THE ANNUAL LEVY FOR THE BOROUGH'S OPEN SPACE, RECREATION, FARMLAND AND HISTORIC PRESERVATION TRUST FUND FROM THREE CENTS (\$.03) TO TWO AND ONE QUARTER CENTS (\$.0225) PER \$100.00 OF ASSESSED VALUE OF REAL PROPERTY**

WHEREAS, pursuant to N.J.S.A. 40:12-15.1 et seq., the State of New Jersey allows municipalities to establish Municipal Open Space, Recreation, Farmland and Historic Preservation Trust Funds for the following purposes:

- (a) acquisition of lands for recreation and conservation purposes;
- (b) development of lands acquired for recreation and conservation purposes;
- (c) maintenance of lands acquired for recreation and conservation purposes;
- (d) acquisition of farmland for farmland preservation purposes;
- (e) preservation of historic properties, structures, facilities, sites, areas, or objects, and the acquisition of such properties, structures, facilities, sites, areas, or objects for historic preservation purposes; and/or
- (f) payment of debt service on indebtedness issued or incurred by the municipality for any of the purposes set forth in subparagraphs (a), (b), (d) or (e) of this paragraph; and

WHEREAS, pursuant to N.J.S.A. 40:12-15.7, the State of New Jersey authorizes municipal governing bodies to submit non-binding referenda to voters authorizing the imposition of an annual levy for various open space preservations purposes as defined under N.J.S.A. 40:12-15.1 et seq.; and

WHEREAS, on November 3, 1998, the voters of the Borough of Tinton Falls expressed their support to the Borough Council to establish a fund for such purposes and assess a dedicated \$ .015 open space tax on each \$100.00 of assessed real property in the Borough of Tinton Falls, which was formally adopted through the creation of an Open Space Trust Fund on February 16, 1999 by Ordinance No. 99-984; and

WHEREAS, on November 8, 2005, the voters of the Borough of Tinton Falls expressed their support to the Borough Council to increase the dedicated open space tax from \$ .015 to \$ .03 on each \$100.00 of assessed real property in the Borough of Tinton Falls, which was formally adopted on February 21, 2006 by Ordinance No. 06-1177; and

WHEREAS, in 2008 a revaluation of all assessed real property in the Borough of Tinton Falls was completed which resulted in substantial increases in the assessed values of most taxable real property in the Borough, resulting in substantial increases in collections into the Borough's Open Space, Recreation, Farmland and Historic Preservation Trust Fund; and

WHEREAS, the Borough Council would like to provide the opportunity for the voters of the Borough to decide whether to reduce the open space tax rate to account for changed circumstances, namely, the Borough-wide revaluation and current economic conditions.

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

1. That pursuant to N.J.S.A. 40:12-15.7, the Borough Clerk be directed to request that the Monmouth County Clerk place the following public question on the November 3, 2009 General Election ballot for the Borough of Tinton Falls to ask voters whether they would like to reduce the tax rate for Borough's dedicated Open Space, Recreation, Farmland and Historic Preservation Trust Fund from three cents (\$.03) to two and one quarter cents (\$.0225) per \$100.00 of assessed value of real property.

**TINTON FALLS OPEN SPACE BALLOT MEASURE**

( ) YES ( ) NO

Shall the Borough of Tinton Falls reduce the current tax rate for the Tinton Falls Open Space, Recreation, Farmland and Historic Preservation Trust Fund from three cents (\$.03) to two and one quarter cents (\$.0225) per \$100.00 of assessed value of real property for the following purposes, or any combination thereof:

- (a) acquisition, development and maintenance of lands for recreation and conservation purposes;
- (b) acquisition of farmland for farmland preservation purposes;
- (c) historic property preservation or acquisition; and/or
- (d) payment of debt service on indebtedness issued or incurred by the municipality for any of the purposes set forth in subparagraphs (a), (b) and (c) above.

**INTERPRETATIVE STATEMENT**

This referendum will inform the elected officials of the Borough of Tinton Falls of the sentiment of the voters concerning whether to reduce the current rate of taxation dedicated solely for the Tinton Falls Open Space, Recreation, Farmland and Historic Preservation Trust Fund ("the Fund") from the current rate of three cents (\$.03) to two and one quarter cents (\$.0225) per \$100.00 of assessed value of real property. The Fund will continue to be used exclusively for the acquisition of lands for recreation and conservation purposes; development and maintenance of such lands; acquisition of farmland for farmland preservation purposes; historic property preservation or acquisition; and/or payment of debt service on indebtedness issued or incurred by the municipality for any of the aforesaid purposes. A YES vote will guide the Borough Council to reduce the current tax rate of three cents (\$.03) to two and one quarter cents (\$.0225) per \$100 of assessed value of real property, which would annually generate an estimated \$676,331 in revenue for such dedicated purposes. A NO vote will guide the Borough Council to keep the present tax rate of three cents (\$.03) per \$100.00 of assessed real property value, which

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currently annually generates approximately \$901,774 in revenue for such dedicated purposes.

2. A true and certified copy of this Resolution, upon adoption, shall be forwarded by the Borough Clerk to the Monmouth County Clerk's Office and the Superintendent of Elections so that the referendum question can be placed on the General Election Ballot for November 3, 2009 for the voters of the Borough of Tinton Falls.

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin

NAYS: Dr. Mayer, Mr. Morrill

ABSENT: None

ABSTAIN: None

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

**R-09-306 RESOLUTION – AUTHORIZING RETURN OF NON-RESIDENTIAL  
DEVELOPMENT FEES COLLECTED FROM CPG TINTON FALLS URBAN  
RENEWAL, LLC**

WHEREAS, on July 27, 2009, Governor Jon Corzine signed legislation known as the New Jersey Economic Stimulus Act (P.L.2009, c.90), which in part, requires municipalities that have collected non-residential development fees pursuant to the Statewide Non-Residential Development Fee Act (P.L. 2008, c.46) into their local Affordable Housing Trust Fund to refund such monies within thirty (30) days of receiving such a request from an eligible developer who paid such monies; and

WHEREAS, on July 28, 2009, CPG Tinton Falls Urban Renewal, LLC (the developer of the premium outlets) requested a refund of non-residential development fees paid into the Borough of Tinton Fall's Affordable Housing Trust Fund totaling four hundred seventy three thousand four hundred and three dollars (\$473,403.00), representing the difference between monies committed prior to July 17, 2008 (the effective date of P.L. 2008, c. 46) and monies paid after that date; and

WHEREAS, CPG Tinton Falls Urban Renewal, LLC is eligible to receive a refund pursuant to P.L.2009, c.90 as it received preliminary or final site plan approval prior to July 17, 2008, but paid the said non-residential development fees representing the difference committed prior to July 17, 2008 and paid thereafter; and

WHEREAS, the Borough's Chief Financial Officer has reviewed this request and certifies that the amount of funds sought to be refunded from the Borough's Affordable Housing Trust Fund are available and the amount is correct; and

WHEREAS, P.L. 2009, c.90 permits municipalities required to make such refunds to seek reimbursement from the State by providing written notice to the New Jersey Council On Affordable Housing through a \$15 million appropriation made into the New Jersey Affordable Housing Trust Fund for such purposes by the close of business on March 30, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

1. Subject to final certification by the Chief Financial Officer, a refund totaling four hundred seventy three thousand four hundred and three dollars (\$473,403.00) be made payable to CPG Tinton Falls Urban Renewal, LLC, c/o Darryl E. Gugig, Deputy General Counsel, Chelsea Property Group, 105 Eisenhower Parkway, Roseland, New Jersey 07068 from the Borough's Affordable Housing Trust Fund.
2. Immediately upon the making of such refund, written notice and proof of the same shall be submitted for reimbursement by the Borough's Director of Law and/or Special Affordable Housing Counsel to ATTN: Larissa Graw, New Jersey Council of Affordable Housing, Post Office Box 813, Trenton, New Jersey 08625-0813.

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-307 RESOLUTION – AUTHORIZING RETURN OF NON-RESIDENTIAL  
DEVELOPMENT FEES COLLECTED FROM McDONALD'S USA, LLC IN  
RELATION TO BLOCK 15.03, LOT 1.01 IN THE BOROUGH OF TINTON FALLS**

WHEREAS, on July 27, 2009, Governor Jon Corzine signed legislation known as the New Jersey Economic Stimulus Act (P.L.2009, c.90), which in part, requires municipalities that have collected non-residential development fees pursuant to the Statewide Non-Residential Development Fee Act (P.L. 2008, c.46) into their local Affordable Housing Trust Fund to refund such monies within thirty (30) days of receiving such a request from an eligible developer who paid such monies; and

WHEREAS, on July 12, 2009, McDonald's USA, LLC requested a refund of non-residential development fees paid into the Borough of Tinton Fall's Affordable Housing Trust Fund totaling seven hundred and seventy one dollars and thirty cents (\$771.30) representing the difference between monies committed prior to July 17, 2008 (the effective date of P.L. 2008, c. 46) and monies paid after that date; and

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WHEREAS, McDonald's USA, LLC is eligible to receive a refund pursuant to P.L.2009, c.90 as it received preliminary or final site plan approval prior to July 17, 2008, but paid the said non-residential development fees representing the difference committed prior to July 17, 2008 and paid thereafter; and

WHEREAS, the Borough's Chief Financial Officer and Tax Assessor have reviewed this request and certify that the amount of funds sought to be refunded from the Borough's Affordable Housing Trust Fund are available and the amount is correct; and

WHEREAS, P.L. 2009, c.90 permits municipalities required to make such refunds to seek reimbursement from the State by providing written notice to the New Jersey Council On Affordable Housing through a \$15 million appropriation made into the New Jersey Affordable Housing Trust Fund for such purposes by the close of business on March 30, 2010.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

1. Subject to final certification of availability by the Chief Financial Officer and review by the Tax Assessor as to the amounts paid, a refund totaling seven hundred and seventy one dollars and thirty cents (\$771.30) be made payable to McDonald's USA, LLC, c/o Joseph Lombardi, Area Construction Manager, 105 Eisenhower Parkway, Third Floor, Roseland, New Jersey 07068 from the Borough's Affordable Housing Trust Fund in relation to the McDonald's located at Block 15.03, Lot 1.01.
2. Immediately upon the making of such refund, written notice and proof of the same shall be submitted for reimbursement by the Borough's Director of Law and/or Special Affordable Housing Counsel to ATTN: Larissa Graw, New Jersey Council of Affordable Housing, Post Office Box 813, Trenton, New Jersey 08625-0813.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-308 RESOLUTION – AUTHORIZING T&M ASSOCIATES TO FILE A GRANT APPLICATION WITH THE LOCAL GOVERNMENT GREENHOUSE GAS REDUCTION GRANT PROGRAM**

WHEREAS, the Borough Council of the Borough of Tinton Falls hereby supports the submittal of a grant application to the Local Government Greenhouse Gas Reduction Grant Program; and

WHEREAS, if the grant is awarded to the Borough, the Borough commits to complying with the program requirements.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that T&M Associates submit a Local Government Greenhouse Gas Reduction Grant Application on behalf of the Borough.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-309 RESOLUTION – APPROVING PETITION TO EXTEND LICENSED PREMISES - THE FALLS, 1213 SYCAMORE AVENUE, 1336-33-014-009 FOR BEACH BASH IN THE SAND**

WHEREAS, The Falls, 1213 Sycamore Avenue, Tinton Falls, New Jersey, has made application to the Borough Council of the Borough of Tinton Falls for expansion of premises of Plenary Retail Consumption #1336-33-014-009 to include any grounds adjacent to the building's licensed premises for the dates August 28 & 29, 2009 with rain dates of September 11 & 12, 2009,

WHEREAS, the Borough is in receipt of the application, appropriate fees, and property description, and approvals from the Code Enforcement Officer and Police Chief,

NOW, THEREFORE, BE IT RESOLVED that Plenary Retail Consumption License #1336-33-014-009 be and is hereby authorized for expansion of premises to include the parking lot located at 1213 Sycamore Avenue, Tinton Falls, New Jersey, for the dates of August 28 & 29, 2009 with rain dates of September 11 & 12, 2009.

BE IT FURTHER RESOLVED, that the Borough Clerk be and is hereby authorized to endorse the application to extend licensed premises.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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Dr. Mayer offered the following Resolution and moved its adoption, seconded by Ms. Fama.

Mr. Larkin proposed an amendment to eliminate the first “whereas” clause, seconded by Mr. Morrill.

**R-09-310 RESOLUTION IN SUPPORT OF S-445 SPONSORED BY SENATOR JOE PENNACCHIO THE “TRANSPARENCY IN GOVERNMENT ACT” WHICH WOULD PROVIDE FOR ESTABLISHMENT OF STATE PUBLIC FINANCE WEBSITE**

WHEREAS, transparency in government is necessary to identify State spending and where State taxpayer dollars are going.

WHEREAS, a State public finance website which would retain and display data and information on the State’s annual revenues, expenditures and total bonded indebtedness is necessary; a user-friendly source of information to track State revenues and expenditures and to gauge it’s past and present levels of indebtedness.

WHEREAS, the State website would include information such as contractual service purchases, salaries and wages, gifts and grants and bonded obligations and must be accessible to the public no later than 45 days following the close of each fiscal year.

WHEREAS, bi-partisan approach to improving transparency, identifying waste and eliminating abuse at each level of State government and the establishment of the Public Finance Transparency Committee would facilitate the organization, development and maintenance of the website.

WHEREAS, Senator Joe Pennacchio has introduced S-445 the “Transparency in Government Act,” to establish such aforementioned State public finance website and Public Transparency Committee.

NOW, THEREFORE BE IT RESOLVED, that we voice our support of Senator Pennacchio’s bill, S-445, the “Transparency in Government Act,” and a certified copy of this Resolution shall be sent to Governor Jon S. Corzine, Senate President Richard J. Codey, Senate Minority Leader Tom Kean, Jr. and Senator Joe Pennacchio.

ROLL CALL (on amendment)

AYES: Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: Mr. Baldwin

ABSENT: None

ABSTAIN: None

ROLL CALL (on Resolution R-09-310 as amended)

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-311 RESOLUTION - AUTHORIZING THE AWARD OF CONTRACTS WITHOUT PUBLIC BIDDING PURSUANT TO THE PROVISIONS OF N.J.S.A. 40A:11-6**

WHEREAS, there have been emergency conditions at many pump stations including Woodland Manor, Tinton Avenue, Rutgers and Shrewsbury Avenue which required immediate emergency repairs as documented in memo attached for the amounts listed and possibly other undetermined amounts; and

WHEREAS, provisions of NJSA 40A: 11-6 permit the Borough to award contracts without public bidding when an emergency affecting the health, welfare and safety of the public requires the immediate performance of services; and

WHEREAS, Gary Gebele, Senior Foreman of the Department of Public Works has declared these situations emergent in nature in his memo dated August 11, 2009, (said memo attached and hereby made part of this Resolution).

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that authorization be and is hereby given to award contracts for the repairs necessary for the safe operation of the four (4) pumping stations mentioned above.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-312 RESOLUTION – APPOINTING MEMBERS OF ENVIRONMENTAL COMMISSION**

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BE IT RESOLVED, that the appointment of the below listed persons made by the Mayor be and the same is hereby confirmed. Said terms to be effective as listed below.

Teresa Maltz	Alternate Member #1	Said Term to Expire 12/31/10 <i>To Fill the Unexpired Term of Beth Roxbury</i>
Crystal Miller Spiegel	Alternate Member #2	Said Term to Expire 12/31/09

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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

**R-09-313 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR FOX  
CHASE IV PHASE II - BLOCK 129.15 LOT 32**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Fox Chase IV Phase II, Block 129.15, Lot 32, and

WHEREAS, by letter dated July 28, 2009 (said letter attached and hereby made part of this Resolution), the Borough Engineer (Birdsall Engineering, Inc.) 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 IV Phase II, be released upon the payment of all outstanding inspection fees.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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

**R-09-314 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR  
CANNONBALL DRIVE BLOCK 124.11 LOTS 26.01 & 26.02**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Cannonball Drive, Block 124.11, Lots 26.01 & 26.02, and

WHEREAS, by letter dated August 3, 2009 (said letter attached and hereby made part of this Resolution), the Borough Engineer (Birdsall Engineering, Inc.) 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 Cannonball Drive, be released upon the payment of all outstanding inspection fees.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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

**R-09-315 RESOLUTION - AUTHORIZING THE AWARD OF A FAIR AND OPEN  
CONTRACT FOR RFP #9-09C - PROFESSIONAL PLANNING BOARD LEGAL  
SERVICES**

WHEREAS, the Borough of Tinton Falls has a need for professional legal services for the Planning Board as a fair and open contract pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, the Director of Law has determined that the value of the contract will exceed \$17,500.00; and

WHEREAS, the Borough has, through a “fair and open” process, advertised on its website and in the Asbury Park Press on Wednesday, June 10, 2009, the solicitation for receipt of proposals from legal firms for said services and proposals were received on Monday, June 22, 2009; and

WHEREAS, the Borough received five (5) proposals for Planning Board Legal services which have been reviewed, and it was determined that Collins, Vella & Casello, LLC, 1451 Route 34 South, Suite 303, Farmingdale, NJ 07727, has satisfied the requisites contained in the request for proposals to be considered for professional legal services to the Planning Board that the Borough may require during the contract year July 1, 2009 through December 31, 2009; and

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WHEREAS, Dennis Collins, Esq. of the law firm Collins, Vella & Cassello, LLC, was appointed to the Planning Board on July 8, 2009; and

WHEREAS, it is recommended this contract is to be awarded for an amount not to exceed \$1,000.00 per month, or \$6,000.00 for a six-month retainer, and \$12,500.00 for legal services to the Planning Board for a total contract in the amount of \$18,500.00 plus miscellaneous reimbursables; and

WHEREAS, Collins, Vella & Casello, LLC. acknowledges that they comply with Borough Ordinance #05-1146 and certify they have not made any political contributions that would bar them from being awarded a contract with the Borough of Tinton Falls;

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

1. The firm of Collins, Vella & Casello, LLC, 1451 Route 34 South, Farmingdale, NJ 07727 is hereby retained to provide Professional Legal Services to the Planning Board for an amount not to exceed \$6,000.00 for a six-month retainer and \$12,500.00 plus miscellaneous reimbursables for the hourly rates listed in their proposal, through December 31, 2009.
2. This contract is awarded through a fair and open process as a Professional Service in accordance with NJSA 19:44A-20.5 et seq. and in accordance with 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. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-316 RESOLUTION – AUTHORIZING CANCELLATION OF MUNICIPAL  
CERTIFICATE OF SALE**

WHEREAS, Tax Sale Certificate #2572 was issued to the Borough of Tinton Falls for delinquent sewers on Block 129.10 Lot 89 (5 Harrier Court), assessed to Shareefah Beecher at a tax sale held on June 11, 2009; and

WHEREAS, BAC Tax Services Corp. has redeemed Certificate #2572 by paying the full amount of the delinquency.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and Municipal Clerk of the Borough of Tinton Falls are hereby authorized to endorse Certificate of Sale #2572 for cancellation.

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-317 RESOLUTION – AMENDING R-09-006 –APPOINTING AND CONFIRMING  
MEMBERS OF ENVIRONMENTAL COMMISSION**

BE IT RESOLVED, that the appointment of the below listed persons made by the Mayor be and the same is hereby confirmed. Said terms to be effective as listed below.

Jon Cohen	Regular Member (3 year term)	Said Term to Expire 12/31/10
Robert Sandberg	Regular Member (2 year term)	Said Term to Expire 12/31/09
Jeffrey King	Regular Member (3 year term)	Said Term to Expire 12/31/10
James Wagner	Regular Member (3 year term)	Said Term to Expire 12/31/10
Beth Roxbury	Moving from Alternate #1 to Regular Member to fill the unexpired term of Charles Vanderpool. Said term to expire 12/31/09	

**ROLL CALL**

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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**R-09-318 RESOLUTION AUTHORIZING ENTRY OF INTERLOCAL SERVICES  
AGREEMENT WITH OCEAN TOWNSHIP SEWER AUTHORITY**

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Mr. Nelson advised that Resolution R-09-318 had not yet been negotiated with the proper authorities and requested that this resolution be carried to September 15<sup>th</sup>.

Dr. Mayer offered a motion to carry Resolution R-09-318 to September 15, 2009, seconded by Mr. Larkin.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

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

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

**R-09-319 RESOLUTION – APPROVAL OF BILLS – AUGUST 18, 2009**

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending August 18, 2009; and

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

GENERAL	\$ 67,022.77
TRUSTS	24,449.28
DEVELOPER ESCROW	3,660.00
DOG TRUST	26.40
SEWER UTILITY	140,808.78
ADDITIONS	<u>1,051,956.43</u>
	\$ 1,287,923.66

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

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

**R-09-323 RESOLUTION – SEEKING FEDERAL FUNDING TO BUYOUT THE  
LAURELWOOD HOMES LLC LEASE AT NAVAL WEAPONS STATION EARLE**

WHEREAS, the U.S. Navy no longer requires housing at the Naval Weapons Station Earle; and

WHEREAS, Laurelwood Homes LLC owns and operates a 300-unit housing development located at Naval Weapons Station Earle, and such development was designed, constructed and operated pursuant to the U.S. Department of Defense's Section 801 military housing program; and

WHEREAS, there have been few military residents occupying the housing in recent years; and

WHEREAS, the Borough of Tinton Falls is gravely concerned that the U.S. Navy is obligated, under an existing long-term lease with Laurelwood Homes LLC, to permit the company to rent the housing to members of the general public after April 30, 2010; and

WHEREAS, the citizens of New Jersey and the Borough of Tinton Falls already pay some of the highest property taxes in the country, and these taxes are identified as the top concern among our residents; and

WHEREAS, the Borough of Tinton Falls cannot afford the disproportional educational and other infrastructure improvements required as a result of a sudden influx of new school children without a significant increase in property taxes; and

WHEREAS, our neighboring community of Colts Neck, New Jersey has commenced a lawsuit in federal court against the U.S. Navy to prevent, among other things, the lease of the housing to members of the general public; and

WHEREAS, the housing is located within a high security military installation, and the lease of the housing to members of the general public would pose an increased security risk in our community.

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

1. The Borough of Tinton Falls urgently requests that United States Representative Rush Holt seek adequate funding for the U.S. Navy in the 2010 Federal budget to provide for a buy out of the Laurelwood Homes lease at the U.S. Naval Weapons Station Earle, and by so doing, save our residents millions of dollars in property taxes and educational infrastructure costs as well as address a potential significant security risk in our community.
2. That the municipal clerk transmit a certified copy of this Resolution to United States Representative Rush Holt, Senator Frank Lautenberg, Senator Robert Menendez, the County of Monmouth, State

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Senator Jennifer Beck, Assemblywoman Caroline Casagrande and Assemblyman Declan O'Scanlon,  
and the Mayor and Township Committee of the Township of Colts Neck.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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CONSENT AGENDA

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

**R-09-320 RESOLUTION – REFUNDING ESCROW FEES FOR 3162 SHAFTO ROAD,  
LLC**

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 Zoning Board of Adjustment Assistant, Doug Gotfredsen, 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,

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

3162 Shafto Road, LLC    1350/9081    \$208.50

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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

**R-09-321 RESOLUTION – REFUNDING APPLICATION FEES FOR DR. NAKUL  
CHANDRA**

WHEREAS, the following listed applicant has posted application fees in conjunction with a Land Use Application in accordance with the Borough of Tinton Falls Land Use Ordinance; and

WHEREAS, the Zoning Board of Adjustment Assistant, Doug Gotfredsen, has certified the following listed application is deemed withdrawn and no additional funds for said application will be required; and

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

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

Dr. Nakul Chandra    0001/21252    \$333.00

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill  
NAYS: None  
ABSENT: None  
ABSTAIN: None

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

**R-09-322 RESOLUTION – REFUNDING TAX OVERPAYMENT**

WHEREAS, an overpayment of 2009 2<sup>nd</sup> quarter taxes on the following property has been paid in error creating overpayment by the Mortgage Company and the Title Company.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Brian & Kristie Vella c/o Eastern Title Agency 2 Industrial Way West – 1 <sup>st</sup> Floor Eatontown, NJ 07724	124.51	218	\$1,159.28

Re: 10 Dover Court

and,

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WHEREAS, said error has resulted in an overpayment of 2009 2<sup>nd</sup> quarter taxes in the amount of \$1,159.28, 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 \$1,159.28 is hereby approved for the aforementioned property.

ROLL CALL

AYES: Mr. Baldwin, Ms. Fama, Mr. Larkin, Dr. Mayer, Mr. Morrill

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

Dr. Mayer offered a motion to move to Workshop, seconded by Mr. Baldwin.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:55 P.M.

WORKSHOP MEETING

Unfinished Business

*Draft Noise/Nuisance Ordinance*

Mr. Nelson advised that he took the existing Ordinance and made some changes to address some of the potential pitfalls that he saw from a legal prospective and to take into account the comments of the Council and public when the Ordinance was last discussed.

Mr. Nelson briefly overviewed the changes he made to the Ordinance.

Gerald Turning, Chief of Tinton Falls Police Department, advised that he reviewed the draft Ordinance. Chief Turning advised that his only reason for requesting the review and amendments to the Ordinance was for times; the proposed times seem to be reasonable. Chief Turning advised Council that he is in agreement with the proposed Ordinance and the only change he would request is adding certain details relating to farms.

Council discussed aspects of the Ordinance such as firearms, farms, and sound trucks. Mr. Nelson and Chief Turning answered any questions Council had.

Mr. Nelson advised that he would add farm exemptions to the Ordinance as well as looking into firearms and have the Ordinance prepared for introduction at Council's next meeting.

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ADJOURNMENT

Mr. Baldwin offered a motion to adjourn the meeting, seconded by Dr. Mayer.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 10:20 P.M.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

**APPROVED AT A MEETING HELD ON: OCTOBER 20, 2009**