

**REGULAR/WORKSHOP MEETING  
FEBRUARY 17, 2009  
BOROUGH COUNCIL**

Council President called regular meeting to order at 7:33 P.M.

Ms. Pereira 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, Dr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

ABSENT: None

ALSO PRESENT: Peter Maclearie, Mayor  
W. Bryan Dempsey, Administrator  
James Berube, Director of Law  
Maggie Pereira, Assistant to Borough Clerk  
Maureen L. Murphy, Secretary to Borough Clerk  
Al Hill Jr., Borough Engineer

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**APPROVAL OF MINUTES** - None

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**REPORT OF MAYOR/COUNCIL/ ADMINISTRATION**

Mayor's Report

Proclamation – Read Across America

*WHEREAS, the citizens of the Borough of Tinton Falls stand firmly committed to promoting reading as the catalyst for our students' future academic success, their preparation for America's jobs of the future, and their ability to compete in a global economy; and*

*WHEREAS, the Borough of Tinton Falls has provided significant leadership in the area of community involvement in the education of our youth, grounded in the principle that education investment is key to the community's well-being and long-term quality of life;*

*WHEREAS, NEA's Read Across America, a national celebration of reading, will be conducted on March 2, 2009 which would have been the 105<sup>th</sup> birthday of Theodor Suess Geisel, better known as Dr. Seus; and*

*WHEREAS, Read Across America-NJ is being conducted statewide by the New Jersey Education Association, in partnership with the New Jersey State League of Municipalities, the New Jersey Library Association, Saturn-UAW, Staples, and their local affiliates across the state and promote reading and adult involvement in the education of our community's students;*

*NOW, THEREFORE, BE IT PROCLAIMED that the Borough of Tinton Falls calls on the citizens of the Borough to assure that every child is in a safe place reading together with a caring adult on March 2, 2009.*

*AND BE IT FURTHER PROCLAIMED that the Borough of Tinton Falls enthusiastically endorses NEA's Read Across American and Read Across America-NJ, and recommits our community to engage in programs and activities to make America's children the best readers in the world.*

Mayor Maclearie advised that tomorrow, February 18<sup>th</sup>, is the monthly Fort Monmouth Economic Redevelopment meeting in Eatontown beginning at 7:00 P.M.

Council's Report

Mr. Ford stated he talked with the Board of Education President, Peter Karavites, regarding concern with senior housing. Mr. Ford stated Council needs to make sure that these properties are closely looked at and that Council does not change the Borough's zoning in order to sell the housing as it affects the students.

Mr. Berube suggested this may be a topic to raise when the Borough planner comes before Council to give their presentation on COAH.

Mr. Skudera suggested Council obtain a copy of what applications are out there which are currently age restricted.

Council had a lengthy discussion on age restriction developments.

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Dr. Mayer advised that tomorrow, February 18<sup>th</sup>, there will be advanced technology going into the Crawford House such as ground penetrating radar. A ground survey of the slave burial ground will be conducted.

Mr. Morrill advised that he spoke with the Chairman of the Open Space Committee regarding placing the signs for no dumping up at the Crawford House. The Chairman advised that there were one or two other locations seen as a potential area for dumping. Once the total number of signs is calculated, the committee will move forward with the creation and placement of the signs on that property.

Pending the adoption of Ordinance No. 09-1264, Bryan will be holding a meeting on the 19<sup>th</sup> with the vendors and volunteers. On the 23<sup>rd</sup>, members will be chosen to act on the committee and same would be submitted to the Mayor for his input.

Mr. Skudera spoke regarding the revised IT policy and advised that he would forward Council same for their review.

Administrator's Report – Mr. Dempsey

*Library Modular*

The library modular office has been relocated behind the library.

*Trailer – C.E.R.T.*

Beth Hessek has been in contact with the Citizens Corporation of New Jersey requesting a trailer for our C.E.R.T. Team and as a result, the Borough was recently awarded a trailer, which will be picked up sometime in the month of March along with a grant of \$1,500 to outfit the trailer.

Director of Law's Report – Mr. Berube

Mr. Berube advised that there has been some public concern at GreenBriar Falls regarding the situation where there is Phase I completion but Phase II, III, and III A are not yet completed. The developer did file for bankruptcy and there was an auction in the Bankruptcy Court in Delaware on the 12<sup>th</sup>. Lennar Homes, which was the developer, did post a bid as did Hovnanian. The winner of the bid was an unknown individual. Mr. Berube advised that he did not receive a copy of the signed order, which may be because they are investigating the qualifications of the bidder. In any event, for the awareness of the public and Council, the Mayor called a meeting with the homeowners of the completed units and approximately thirty or forty homeowners attended. The Borough assured the homeowners that the Borough would do everything that we could to monitor the bankruptcy proceeding to insure that bonds remain viable for the completion of the project and to assure that the project would be completed in the manner in which the approvals were given. The situation is being monitored in order to try to alleviate homeowner inconvenience because of the construction nature of the balance of the phases.

Although construction has stopped on the balance of the phases, it represented to the Planning Board that the winning bidder would be accomplishing the total construction in phases. There has not been an abandonment of the work as of yet. The guarantee bonds are still in place as are the maintenance bonds.

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**PETITIONS** – None

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**ORDINANCES FOR INTRODUCTION**

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**ORDINANCES FOR FINAL CONSIDERATION**

Ms. Pereira read Ordinance No. 09-1262 entitled: AN ORDINANCE OF THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING ORDINANCE NO. 07-1228 FOR BOROUGH VOLUNTEER RECREATION PERSONNEL FOR CRIMINAL HISTORY BACKGROUND CHECKS

Mr. Berube advised that he amended our original Ordinance to provide that, if necessary, the administration would reserve the right to secure fingerprint checks but that criminal background checks would be sufficient for the volunteer staff.

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

ROLL CALL

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

PUBLIC HEARING OPEN

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

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

Mr. Morrill offered a motion to adopt Ordinance No. 09-1262, seconded by Dr. Mayer.

ROLL CALL

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

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Ms. Pereira read Ordinance No. 09-1264 entitled: AN ORDINANCE OF THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY TO ESTABLISH A COMMUNITY ACTIVITIES COMMITTEE

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

ROLL CALL

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

PUBLIC HEARING OPEN

Leo Christofili, 328 Riveredge Road, requested a definition of “volunteer”. Mr. Christofili used the library as an example for the purpose of his question.

Mr. Baldwin replied these volunteers would give their time to the community and serve the Borough without any compensation and/or benefits.

Mr. Berube advised that this would become a standing committee of the Borough. It would not incorporate or assimilate any other committees in the Borough that currently exist. It only serves as an advisory committee to the Council and a committee to collect and disseminate information as well as potentially solicit donations for civic purposes.

Mr. Christofili stated that he is not comfortable with the committee having a councilmember serving as a liaison.

Mr. Berube referred item three under the forth paragraph regarding term appointments for alternate members and advised that the Ordinance only provides for two alternate members with two, two-year terms. Mr. Berube asked that the Council consider an amendment to provide two additional one-year terms for two alternate members. The Ordinance would read: alternate members: two (2) year terms and two (1) year terms.

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

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ROLL CALL

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

PUBLIC DISCUSSION CLOSED

Mr. Morrill offered a motion to adopt Ordinance No. 09-1264 (Ordinance to reflect Mr. Berube's amendments), seconded by Dr. Mayer.

Council discussed the appointment of volunteers.

ROLL CALL

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

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Ms. Pereira read Ordinance No. 09-1265 entitled: ORDINANCE REQUIRED BY THE NEW JERSEY DEPARTMENT OF TRANSPORTATION (NJDOT) FOR THE INSTALLATION OF THE TRAFFIC SIGNAL AT HOVCHILD BOULEVARD AND PREMIUM OUTLETS BOULEVARD

Mr. Berube advised that the installation of the referenced traffic signal had been completed, it is operational and as to date, we have not received any complaints from the Chief.

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

ROLL CALL

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

PUBLIC DISCUSSION OPEN

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

ROLL CALL

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

PUBLIC HEARING CLOSED

Dr. Mayer offered a motion to adopt Ordinance No. 09-1265, seconded by Mr. Morrill.

ROLL CALL

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

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PUBLIC DISCUSSION

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

ROLL CALL

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

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PUBLIC DISCUSSION OPEN

Charles Lomangino, 3 Helena Street, requested an update on the CECOM building.

Mr. Baldwin advised that the completion date for the demolition of the CEMCOM building is scheduled for March as the company occurred a problem which, as a result, set their completion date back.

Mr. Lomangino advised that there is dumping occurring on that site and suggested someone take a ride past the building.

Chief Turning, Tinton Falls Police Department, replied that he took a ride yesterday and covered the entire circumference of that building including the front. The Chief advised that he did not come across any dumping. The bricks that Mr. Loomangino is referring to are not due to recent dumping, they are items that have been there for a while.

Mr. Lomangino referred to a comment made by Brendan Tobin at a previous meeting and asked what the end result was as Mr. Tobin was suppose to bring the person back that accused Mr. Skudera of knowing about a certain issue the Borough was involved with and not bringing it before the Board.

Mr. Baldwin stated that Mr. Tobin never brought that person forward.

Mr. Berube advised that when notified that there was a potential problem with the employment of an individual, the Borough took action and the employment was terminated.

Mr. Lomangino questioned whom he would go to regarding issues of the cemetery off of Squankum Road.

Mr. Berube advised that the New Jersey Cemetery Board has confirmed that it is a viable working cemetery and that it is a privately owned and controlled cemetery.

Susan Schneider, 19 Horseshoe Court, Treasure of Fox Chase Home Association, spoke regarding her concerns about the asphalt plants and the odors coming from the Monmouth County Reclamation Center.

Mr. Baldwin replied the County owns the reclamation and the County has the responsibility; Council can only petition the County Government.

Mr. Dempsey advised that as he was coming down Shafto Road he could smell the odors coming from the reclamation center so he called the Director of Engineering and Planning for the County and left a message for him to return the call.

Mayor Maclearie advised that the County has recently been drilling in order to get more gas.

Leo Christofili, 328 Riveredge Road, commented on the issues with the Monmouth County Reclamation Center.

Mr. Christofili referred to an article he read in the Asbury Park Press which focused on the number of farms that currently exist in New Jersey and the residential taxpayers who have no decrease in taxes and are stuck with this tax burden of farms.

Mr. Christofili also referred to an article regarding Low Income Housing – COAH. Mr. Christofili stated he was concerned about bringing jobs in the Borough as it affects tax ratables.

Mr. Christofili spoke regarding an article published in the Asbury Park Press on February 9<sup>th</sup> on Senator Jennifer Beck's bill which would provide a tax break.

Mr. Christofili commented on the procedure of censure and gave his opinion of how it is defined and the outcome of same.

Lastly, Mr. Christofili commented on the negotiation of the Hockhockson property and whether any of that piece of property is capable of development. Mr. Christofili also used the Hockhockson discussion by Mr. Morrill at a previous meeting as an item of argument stating that Mr. Morrill requested an agreement be placed on the agenda at the meeting in which he discussed this issue, however, he was not asked to be censured for doing so.

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Mr. Berube advised Mr. Christofili to review the transcripts of proceedings to see if, in fact, a request for a motion to be inserted on the agenda was indicated in the meeting referred to in which Mr. Christofili stated Mr. Morrill asked the Borough Administrator to consider that purchase.

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

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

**R-09-072 RESOLUTION - AUTHORIZING THE AWARD OF A FAIR AND OPEN  
CONTRACT FOR RFP #1-09C 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 Thursday, December 4, 2008, the solicitation for receipt of proposals from legal firms for said services and proposals were received on Monday, December 18, 2008; and

WHEREAS, the Borough received three (3) 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 January 1, 2009 through June 30, 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, as amended, through June 30, 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. Ford, Dr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

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**R-09-073 RESOLUTION - AUTHORIZING THE AWARD OF A FAIR AND OPEN  
CONTRACT FOR RFP #1-09D PROFESSIONAL ZONING BOARD OF  
ADJUSTMENT LEGAL SERVICES**

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

WHEREAS, the Borough has, through a "fair and open" process, advertised on its website and in the Asbury Park Press on Thursday, December 4, 2008 for receipt of proposals from legal firms for Zoning Board of Adjustment Legal Services and proposals were received on Friday, December 19, 2008; and

WHEREAS, the Borough received three (3) proposals for Zoning Board of Adjustment Legal services from various firms which have been reviewed, and it was determined that Thomas J. Hirsch, Esq., 1001 Deal Road, Ocean, NJ 07712 satisfies the requisites contained in the Request for Proposals to be considered for Legal Services that the Zoning Board of Adjustment may require during the contract year February 1, 2009 through December 31, 2009; and

WHEREAS, it is recommended this contract be awarded for an amount not to exceed \$1,000.00 a month or \$11,000.00 for a retainer, and not to exceed \$15,000.00 for legal services to the Zoning Board of Adjustment for a total contract in the amount of \$26,000.00, plus miscellaneous reimbursables; and

WHEREAS, Thomas J. Hirsch, Esq. acknowledges that he complies with Borough Ordinance #05-1146 and certifies that he has not made any political contributions that would bar him 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 Thomas J. Hirsch, Esq., 1001 Deal Road, Ocean, NJ 07712 is hereby retained to provide Professional Legal Services to the Zoning Board of Adjustment for an amount not to exceed a retainer of \$11,000.00 and \$15,000.00 plus miscellaneous reimbursables for a total contract not to exceed \$26,000.00, for the hourly rates listed in the proposal, **as amended**, from February 1, 2009 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. Ford, Dr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-074 RESOLUTION - AUTHORIZING THE AWARD OF A FAIR AND OPEN  
CONTRACT FOR RFP #6-09 PROFESSIONAL APPRAISAL SERVICES**

WHEREAS, the Borough of Tinton Falls has a need for professional appraisal services 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 Thursday, December 4, 2008 the solicitation for receipt of proposals from appraisal firms for said services and proposals were received on Friday, December 19, 2008; and

WHEREAS, the Borough received six (6) proposals for Appraisal services from various firms which have been reviewed, and it was determined that Gagliano Appraisal, LLC, 1129 Broad Street, Shrewsbury, NJ 07702 has satisfied the requisites contained in the request for proposals to be considered for professional Appraisal services that the Borough may require during the contract year January 1, 2009 through December 31, 2009; and

WHEREAS, it is recommended this contract is to be awarded for an amount not to exceed \$20,000.00 for Professional Appraisal Services, and an additional \$30,000.00 for 2008 Revaluation State Tax Appeals, plus miscellaneous reimbursables, for a total contract in the amount of \$50,000.00; and

WHEREAS, Gagliano Appraisal, LLC has completed and submitted a Business Entity Disclosure Certification which certifies 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 Gagliano Appraisal, LLC from making any reportable contributions through the term of the contract, and

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

1. The firm of Gagliano Appraisal, LLC, 1129 Broad Street, Shrewsbury, NJ 7702 is hereby retained to provide Professional Appraisal Services for an amount not to exceed \$20,000 and \$30,000.00 for Revaluation State Tax Appeal services for a total contract in the amount of \$50,000.00, plus miscellaneous reimbursables for the hourly rates listed in the proposal, **as amended**, 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.

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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, Dr. Mayer, Mr. Morrill, Mr. Skudera, Mr. Baldwin  
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-09-075 RESOLUTION - ACCEPTING PROJECTS FOR CONTRACT #07-7  
PROPOSED BLEACHERS AND PRESS BOX AND CONTRACT #07-14 -  
CONCESSION STAND AT LIBERTY PARK II**

WHEREAS, the following two construction projects at Liberty Park II have been completed and accepted by the Borough of Tinton Falls:

Contract #07-7 Dant Clayton Corp.  
1500 Bernheim Lane  
Louisville, Ky. 40201-7408

Contract #07-14 Authentic Construction, Inc.  
1433 Lakewood Road  
Manasquan, NJ 08736

NOW, THEREFORE BE IT RESOLVED that this Resolution be forwarded to Faith Hahn of the Monmouth County Park System.

ROLL CALL

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

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

**R-09-076 RESOLUTION OF AWARD CONTRACT #09-1 - DEPARTMENT OF PUBLIC  
WORKS UNIFORM SUPPLY AND LAUNDRY SERVICE**

WHEREAS, bids were received on Wednesday, February 4, 2009 for Contract #09-1 for Department of Public Works Uniform Supply & Laundry Service; and

WHEREAS, American Wear Uniforms, 261 N. 18<sup>th</sup> Street, East Orange, NJ 07017 submitted the sole responsible bid for the Uniform Supply and Laundry Service in the amount of \$5.99 per week for 44 employees or \$13,705.12 each year for two years; and

WHEREAS, Darriel R. Anderson, Purchasing Agent has found the bid to be in order and John Bucciero, Director of Public Works recommends the award;

NOW, THEREFORE BE IT RESOLVED that American Wear Uniforms, 261 N. 18<sup>th</sup> Street, East Orange, NJ 07017, be awarded a contract for two years beginning March 1, 2009 through February 28, 2011 in the amount of \$13,705.12 each year for 44 employees; and

BE IT HEREBY FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute a contract for Department of Public Works Uniform Supply and Laundry Service for the Borough of Tinton Falls as specified herein above.

ROLL CALL

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

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

**R-09-077 RESOLUTION - AUTHORIZING THE EXECUTION OF A CERTAIN GRANT  
AGREEMENT FOR FUNDING RECEIVED THROUGH THE MONMOUTH  
COUNTY MUNICIPAL OPEN SPACE GRANT PROGRAM FOR BLOCK 86, LOT  
1 - 2040 WAYSIDE ROAD, TINTON FALLS, NEW JERSEY**

WHEREAS, the Open Space Committee of the Borough of Tinton Falls has identified the above parcel as being a parcel of interest for acquisition by the Borough in accordance with its charter and the applicable ordinances pertaining to the preservation and maintenance of Open Space in the Borough of Tinton Falls, County of Monmouth and State of New Jersey; and

WHEREAS, the Borough of Tinton Falls has been granted the sum of \$200,000 in acquisition funding

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through the Monmouth County Municipal Open Space Program under application #08-12, and;

WHEREAS, the Mayor and Borough Council of the Borough of Tinton Falls has recognized the need for acquiring such additional Open Space in order to enhance the health and welfare of its citizens and to advance the preservation of natural resources within the Borough and has determined that the recommendation of the above parcel for acquisition would be in the best interests of the residents of the Borough of Tinton Falls;

NOW, THEREFORE BE IT RESOLVED, that the Mayor, Administrator, Borough Clerk and other appropriate Borough representatives of the Borough of Tinton Falls are hereby authorized to execute the Municipal Open Space Program Grant Agreement and any such appropriate documents necessary to secure funding under the Monmouth County Municipal Open Space Grant Program and/or any other appropriate New Jersey State Programs for the acquisition of the above parcel at such costs as may be hereafter approved by the Council and to execute any and all documents deemed reasonably necessary by the Director of Law of the Borough of Tinton Falls to accomplish same.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-078 RESOLUTION - DENYING RELEASE OF PERFORMANCE GUARANTEES –  
WORLD VOLKSWAGEN, BLOCK 147, LOTS 2, 3.02 AND 13**

WHEREAS, the developer has requested the release of Performance Guarantees for World Volkswagen, Block 147, Lots 2, 3.02 and 13

WHEREAS, BY LETTER DATED February 5, 2009 (said letter hereby attached and made part of this Resolution) the Borough 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's, Birdsall Engineering, Inc. letter of February 5, 2009, that the developer's request for a release of the Performance Guarantees be and hereby is denied.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-079 RESOLUTION - DENYING RELEASE OF MAINTENANCE GUARANTEES  
GILBERT STREET ASSOCIATES, BLOCK 18.01, LOT 6.02**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Gilbert Street Associates, Block 18.01, Lot 6.02, and

WHEREAS, BY LETTER DATED February 4, 2009, (said copy hereby attached and made part of this resolution), the Borough Engineer, Birdsall Engineering, Inc. has supplied the developer with a punch list outlining items which need to be addressed prior to the release of maintenance 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 Birdsall Engineering Inc.'s letter of February 4, 2009, that the developer's request for a release of the Maintenance Guarantees be and hereby is denied.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-080 RESOLUTION – AUTHORIZING THE MAYOR AND MUNICIPAL CLERK  
TO EXECUTE A DEED OF EASEMENT AND RIGHT-OF-WAY FOR  
MAINTENANCE AND RECONSTRUCTION OF DRAINAGE SYSTEM, A DEED  
OF BIKE PATH EASEMENT AND A DEED OF SHADE TREE EASEMENT FOR  
70 RIVERDALE AVENUE, BLOCK 39.01, LOTS 2.02 & 2.03 (FORMERLY BLOCK  
39.01, LOT 2.01) – (TOTLAND & KELLY)**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that it hereby authorizes the Mayor and Municipal Clerk to execute a Deed of Easement and Right-of-Way for Maintenance and

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Reconstruction of Drainage System, a Deed of Bike Path Easement and a Deed of Shade Tree Easement for 70 Riverdale Avenue, Block 39.01, Lots 2.02 & 2.03 (formerly Block 39.01, Lot 2.01) (Totland & Kelly) upon the approval of the Director of Law.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-081 RESOLUTION – AUTHORIZING THE MAYOR AND MUNICIPAL CLERK  
TO EXECUTE DEEDS OF SHADE TREE EASEMENTS, ALPINE WOODS AT  
TINTON FALLS MINOR SUBDIVISION PLAN, BLOCK 117, LOT 12.02**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that it hereby authorizes the Mayor and Municipal Clerk to execute Deeds of Shade Tree Easements, Alpine Woods at Tinton Falls Minor Subdivision Plan, Block 117, Lot 12.02 upon the approval of the Director of Law.

ROLL CALL

AYES: Mr. Ford, Dr. Mayer, 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-09-082 RESOLUTION – APPROVING RAFFLE LICENSE APPLICATION RA# 09-04 –  
TINTON FALLS FOUNDATION FOR EXCELLENCE IN EDUCATION – ON  
PREMISE 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# 09-04; 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# 09-04 be and the same is hereby approved as follows:

NAME: TINTON FALLS FOUNDATION FOR EXCELLENCE IN EDUCATION      LOCATION: 658 TINTON AVENUE, TINTON FALLS, NJ 07724

DATED: MARCH 6, 2009 6:00 P.M. – 10:00 P.M.

IDENTIFICATION NO.: 343-5-37560

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

\*\*\*\*\*

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

**R-09-083 RESOLUTION – SUPPORTING THE MAYORS WELLNESS CAMPAIGN**

WHEREAS, across New Jersey, communities are facing a rise in health care costs; and

WHEREAS, physical activity levels have been decreasing and obesity rates increasing; and

WHEREAS, local leaders are looking for ways to promote active living, healthy eating, and overall wellness in their communities, and

WHEREAS, the Mayors Wellness Campaign works with Mayors and key leaders to shape healthier lifestyles for the men, women and children in their communities; and

WHEREAS, communities can work towards the goal of healthier citizens and lower health care costs by championing practices and programs that promote active living; and

WHEREAS, the Mayors Wellness Campaign will work to implement a comprehensive program of outreach, education and technical assistance to combat obesity and inactivity issues for the Borough of Tinton Falls

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Tinton Falls, New Jersey, ask all residents of this community join us in supporting the Mayors Wellness Campaign

BE IT FURTHER RESOLVED, that we encourage the residents of Tinton Falls to participate in the Mayors Wellness Campaign activities to promote exercise, eating properly and living healthier and better lives.

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ROLL CALL

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

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Mr. Berube advised unless someone has something to offer, there are no exceptions.

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

**R-09-084 RESOLUTION – APPROVAL OF BILLS – FEBRUARY 17, 2009**

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending February 17, 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.

<u>SUMMARY</u>	
GENERAL	\$ 65,213.12
TRUSTS	24,093.62
DEVELOPER ESCROW	887.50
DOG TRUST	1,177.80
SEWER UTILITY	18,895.32
ADDITIONS	<u>1,123,169.27</u>
	\$ 1,233,436.63

ROLL CALL

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

\*\*\*\*\*

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

ROLL CALL

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

TIME: 8:55 P.M.

**WORKSHOP MEETING**

Unfinished Business

*2009 Road Program – Al Hilla, Jr.*

Mr. Hilla advised that two additional estimates have evolved from February 3<sup>rd</sup>'s meeting which are: the driveway to the Swimming River School and Rutgers Drive. Public Works repairs sink holes in Rutgers Drive approximately three or four times a year. The indications are that this road was not constructed properly when the development was originally constructed. The Rutgers Drive estimate is extensive because it would include paving and replacement some 1,700 feet of reinforced concrete pipe. Rutgers Drive and Apple Street are seen as two major priorities in discussions with Mr. Bucciero and Mr. Dempsey.

The original listing included estimates for all streets that the Borough has received complaints on or received from Public Works over the last year.

Hockhockson would include the completion from Harvard Drive to the bridge into Colts Neck.

Mr. Baldwin asked Mr. Hilla what he feels the priorities should be with regards to roads in need of repair.

Mr. Hilla advised that the top roads in need of repair are:

Rutgers Drive  
Apple Street  
Hockhockson

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Mr. Ford stated that unless we receive funding for these projects, he is opposed to doing the Road Program at this time as he feels the Borough is not in any position to do bonding this year.

Mr. Baldwin stated that Council agreed to have a road program in order to do a little bit each year so we do not fall back into disrepair again and get in horrible shape. There should be monies in the budget last year as well as this year for a certain amount of that.

Mr. Berube advised, as speaking on behalf of Mr. Pfeffer, if a road program were approved it would be funded by bond anticipation notes, not the actual bonds. We would probably be two years out before the bonds excel. Whatever number, if any number at all, that Council approves, would be amortized over a ten-year period; first through bond anticipation notes and then later bonding. The rough numbers given by Mr. Pfeffer were: for a million dollar program, you would anticipate approximately \$100,000 per year in costs of interest along with the addition of administration costs. The Borough would not feel the whole impact of same in the budget year and it is a capital improvement item and therefore, it does not fall directly into the budget considerations.

Mr. Skudera requested to have the discussion of the road program along with the introduction of the budget so Council can see the monies needed for this program verses the budget and tie in same.

Mayor Maclearie advised that as a safety measure there are certain roads that should be prioritized so they do not deteriorate further hence the reason the Borough started the Road Program.

Council discussed the issue of the Road Program to decide if they felt the Borough needed a Road Program at this time.

Mayor Maclearie suggested Council further discuss this issue at the next Council Meeting when the Chief Financial Officer would be available to answer any of Council's concerns.

*Discussion of Resolution as a result of direction given by Council at Special Meeting held on February 10, 2009 – Mr. Berube*

Mr. Baldwin advised that a draft Resolution was put together by Mr. Berube affirming the actions and procedures so that independent boards and commissions of the Borough understand that Council's wish is not to in anyway infringe on their legal rights and responsibilities.

Mr. Berube stated as a result of discussion at the last Council meeting, which was centered around his advice that comments on pending applications before the Zoning Board of Adjustment be inappropriate for the reasons that councilmembers appoint Zoning Board members and under certain circumstances, an appeal could be made if variances are granted by the Board. An appeal could be taken to the Council and the Council would act in a quasi-judicial capacity such that public comments on a pending application would potentially jeopardize that application before the Zoning Board and their ability to render an impartial and fair hearing on it. It would also jeopardize the ability of the Council to impartially perform its quasi-judicial responsibilities as a reviewing body if an appeal was taken to Council .

Mr. Berube reiterated his advice that it would be in the best interest of the Borough and those of the Zoning Board in the pending applications that no public comment be made. Therefore, at the request of the Council President, he drafted a Resolution indicating both affirmance of the independent execution of the responsibilities by the respective Boards and the Council's reaffirmation of its intent to allow that independence and not to interfere with the use of public comment on pending applications.

Mr. Baldwin advised that he feels Council needs to do something as a body to reaffirm the fact that as a majority, they agree on the issue at hand.

Council discussed creating an Ordinance instead of passing a Resolution; however, Mr. Berube advised that an Ordinance would not be appropriate.

Council had a lengthy discussion regarding the proposed Resolution.

Mr. Ford offered a motion to adjourn the meeting.

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Mr. Morrill asks if we are going to reaffirm the emails. Mr. Morrill advised he is aware we have something in place but it does not stop Council from not using the Borough emails.

Mr. Baldwin asks Mr. Berube if it makes any sense for Council to include something for the use of Councilmembers by title and telephone number of the Borough when emails are sent out or is that the judgment of the person who sends out the email.

Mr. Berube replied that there has been a Resolution of this Council that all official Borough business be done on Borough email. The consensus of the Council at the meeting on the 10<sup>th</sup> was that Council did not want to move forward with any further action based on what might have been a breach of that. It is an internal Council decision as to whether a new Resolution and more specifically, addressing the actions alleged might be appropriate and advised he would welcome comments and direction on that.

**ADJOURNMENT**

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

Mr. Morrill interrupted and stated that he feels action should be taken as these are situations, which put the Borough in jeopardy of potential lawsuits.

Mr. Skudera repeats that he seconds Mr. Ford's motion to adjourn the meeting and requests a roll call vote.

Mr. Morrill advised that he feels if Council is going to make the rules, then Council needs to follow the rules.

Mr. Ford asks for a point of order and questions if he makes a motion to adjourn and it is seconded, isn't a vote suppose to be called.

Mr. Berube replied that there is discussion on the motion.

Mr. Ford advised that there is no discussion on a motion to adjourn the meeting.

Mr. Skudera advised that this is "Robert's Rules".

Mr. Berube stated that the President has not accepted the motion.

Mr. Ford stated that the Council President does not have to accept the motion, there was a motion made and seconded and a roll call vote should be taken.

Mr. Baldwin asked for a ruling by the attorney.

Mr. Skudera repeated this is "Robert's Rules".

Mr. Baldwin asked, when discussing an issue and someone interrupts with a motion to adjourn, is it up to the Council President to accept that motion without a call or must he accept it if there is a seconded.

Mr. Berube replied that as he does not profess to be an expert on Robert's Rules, the President has the decision under the Ordinances to decide what issues shall be discussed and to maintain decorum. If he chooses not to accept the motion at that time because there is continuing discussion on an agenda, he has the authority to continue that discussion.

Mr. Skudera referred to Tinton Falls Code 2-2.11 and 1998 Code 3-15, Ordinance No. 05-98.

Mr. Berube asked Mr. Skudera if that was from the email that forms the basis of the discussion as a violation of the Borough policy.

Mr. Baldwin states that if there is a discussion going on about a topic, it is inappropriate in his opinion to throw a motion on the floor to stop the discussion. Whether a councilmember agrees with the discussion or not they should have the courtesy to at least let the discussion come to some sort of conclusion. Council can always challenge the fact whether it goes on all night or not but to some degree, as Council President, Mr. Baldwin advised that Council has to consider one

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another and finish a discussion. When the discussion comes to a point when he feels it should be ending, then it will be ended.

Council had a lengthy discussion regarding Mr. Baldwin's comment and the issues of the proposed Resolution and Borough email.

Mr. Baldwin advised that he would accept Mr. Ford's motion to adjourn, seconded by Mr. Skudera and requested a vote be taken.

ROLL CALL (on adjournment)

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:39 P.M.

Mr. Berube stated for the purpose of the record, there is a majority "AYES" represented on the record.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

**APPROVED AT A MEETING HELD ON: APRIL 7, 2009**