

**REGULAR/WORKSHOP MEETING
MAY 19, 2009
BOROUGH COUNCIL**

Council President called regular meeting to order at 7:36 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 Hilla Jr., Borough Engineer

APPROVAL OF MINUTES

Dr. Mayer offered a motion to amend the agenda to include Resolution R-09-187, seconded by Mr. Skudera.

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 Dr. Mayer.

**R-09-187 RESOLUTION – AUTHORIZING W. BRYAN DEMPSEY TO ACT IN THE
ABSENCE OF THE BOROUGH CLERK**

BE IT RESOLVED that W. Bryan Dempsey, Borough Administrator, is hereby authorized to act in the absence of the Borough Clerk as Deputy Borough Clerk for the Borough Council meeting to be held on May 19, 2009.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

C.E.R.T. Trailer Presentation

Howard Butt advised that the C.E.R.T. program is a national program in all fifty states, which strives to make people, their families, and their communities safer, stronger and better prepared. Mr. Butt presented Tinton Falls with a C.E.R.T. trailer and thanked everyone for their efforts.

Landfill Power Point Presentation

John Tobia, Director of Public Works and Engineering for Monmouth County, gave an overview of the reclamation center and landfill.

Joe Attore gave a power point presentation on the Monmouth County Reclamation Center Landfill Gas Engineering Controls.

A copy of this presentation is on file in the Borough Clerk's Office.

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Council commented that the landfill is one of the big concerns of the residents in Tinton Falls.

Mr. Ford commented on the amount of garbage that is accumulated from the trucks that go to and from the landfill and asked what is being done to solve this problem.

Rich Throckmorton, Superintendent of Reclamation, stated that they do require tarps on all vehicles in their facility and that it is an enforcement problem in Tinton Falls.

Mr. Baldwin commented that the speed of the vehicles is also an enforcement problem.

Mayor Maclearie stated that as the Mayor for the past four years he has received more complaints about the landfill than anything else in town and stated that the residents are paying the price for having to smell the landfill.

Mayor Maclearie also requested that the Freeholders report statistics to the Borough such as the number of complaints in "x" amount of days.

Lastly, Mayor Maclearie stated for the record that the County has done nothing to help the Borough.

Charles Lomangino, 3 Helena Street, commented on gas extractions and the pollution from the landfill.

Leo Lomangino, 93 Colonial Drive, commented on the fumes coming from the landfill and the process in which they take to solve those problems now and in the past.

Mr. Lomangino also commented on Section 4 in comparison to Section 3.

Nicole Mayer, 46 Sam Drive, asked what the chemical compound of BAT505 consists of, and how far Phase I was from Shafto Road.

Mr. Attore & Mr. Tobia replied that they would contact Ms. Mayer with the BAT505 compound makeup and advised that Phase I is approximately 500 – 600 feet from Shafto Road.

Joe Fama, 36 Gallant Fox Road, commented on the current generated revenues as the Borough only receives four dollars per ton out of the seventy-nine dollars per ton that the county receives. Mr. Fama suggested that the Mayor and Council, in the next agreement, aggressively seek to increase said percentage.

Ed McCullough, 15 Woodchuck Court (Fox Chase), commented on the monitoring of the gas fumes.

Mr. Baldwin requested Mr. Attore give a brief update on the contract bids for Pine Street and Asbury Avenue.

Mr. Attore reported that they took bids today for construction of the Pine Street improvement. The projects have been out to bid for approximately three weeks and came in under the engineer's estimate. They are currently reviewing the bids and the apparent low bidder, is not someone they have done work with in the past. Mr. Attore advised that they expect to make an award at the next Freeholder's meeting on the 28th of May.

As another brief update, Mr. Attore advised that they have currently advertised engineering services for the design of a new traffic signal at Fox Chase Drive. Mr. Attore stated Chief Turning has mentioned that there is an issue with the number of residents that are in the area and their ability to safely enter into the traffic stream on Asbury Avenue.

Mayor's Report

Mayor Maclearie advised he had no report tonight.

Council's Report

Council President Baldwin congratulated Mr. Skudera on the results of the Municipal Election.

Mr. Skudera stated the Technical Advisory Committee had a presentation about having stream-less videos on the website and briefly updated Council on same.

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Mr. Morrill advised Council that Monday would be the Memorial Day Ceremony at Tinton Greens starting at 11:00 A.M. followed by food and refreshments at Tinton Falls Fire Company No. 1.

Mr. Morrill updated Council on the Community Activities Committee meetings.

Mr. Morrill also advised that New Jersey Clean Communities has awarded Tinton Falls' Open Space Committee an award for their great work with the trail systems. Mr. Morrill advised that Guy Buck will be receiving that award tomorrow in Newark at 5:00 P.M.

Mr. Morrill took this time to thank all the volunteers for their hard work for everything they do.

Dr. Mayer congratulated everyone for their trail success and thanked Jill Pegosh for recommending the committee for the award.

Dr. Mayer updated Council of their conference call with CGI Communications, which is the company that would provide the streamless website videos free of charge.

Lastly, Dr. Mayer updated Council and Administration of the current efforts of the Environmental Commission with regards to their Solar Energy Study.

Mr. Ford advised that he attended the C.U.R.E. function and stated it was a great time with a great benefit.

Administrator's Report

CECOM

The contract has stopped; there is a dispute between the contractor for the demolition and the contractor for the asbestos. Mr. Dempsey advised he met with PRC yesterday and they are working on getting that issue resolved within the next couple of days. The contractor is approximately seventy to eighty percent done. Once the asbestos is completed, the building will come down.

American Recovery & Reinvestment Act Program

There is money available for numerous issues such as roads, solar, green technology, public safety, etc. The literature will be available shortly and once it has, Administration will review to see what can be applied for.

COAH

We received a letter from the Affordable Housing Counsel along with objections on our plan. A mediation group will be setup to mediate with the objectors and property owners with regard to this matter.

Mr. Dempsey advised that a Resolution is needed appointing individuals to the mediation group.

Community Development Block Grant Program

We noticed for the Community Development Grant Application and part of the requirement is that you hold a meeting, which was held this morning at 10:00 A.M. The group consisted of Mr. Dempsey, Chief Turning and Lori Paone, Code Enforcement Official. The project discussed for the CDBG program which is administered by Monmouth County and has to be in a designated target area or must be a handicap accessible program, was ADA accessibility to the Crawford House.

Mr. Dempsey advised it is due June 5, 2009 so the agenda would have to be amended tonight to provide for a Public Hearing, as required.

Director of Law's Report – Mr. Berube

Community Development Block Grant Program – Public Hearing

Mr. Berube suggested Council entertain a motion amending the agenda to provide for the Public Hearing on the CDBG Application prior to item "I" on the agenda which would be entitled: A Resolution to Amend the Agenda to Include a Public Hearing on the Community Development Block Grant Application.

Mr. Morrill offered a motion to amend the agenda to include Resolution R-09-188, seconded by Dr. Mayer.

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R-09-188 RESOLUTION - AMENDING THE AGENDA TO INCLUDE A PUBLIC HEARING ON THE COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION

BE IT RESOLVED, that the Borough Council of the Borough of Tinton Falls hereby amends the agenda to include a Public Hearing on the Community Development Block Application. Said Public Hearing was advertised in the Coaster and the Asbury Park Press on April 30, 2009.

Mr. Berube advised that the Public Hearing would be opened after Ordinances for Final Consideration, before the Public Discussion.

ROLL CALL (on amendment)

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

NAYS: None

ABSENT: None

ABSTAIN: None

Senate Bill 2577/Assembly 3772

Governor Corzine vetoed the bill with conditions and suggested that additional negative restrictions be allowed by the Planning Board in their reconsideration. The conditional veto did not meet the concerns of our Council and the Administration communicated that to Senator Beck, Assemblyman O'Scanlon and Assemblywoman Casagrande. It is posted for consideration in the Senate on Thursday night. Mr. Berube advised that he, on the Borough's behalf, will be communicating with the Assembly and Senate representatives to try to impress upon them how important it is that this bill be vetoed in full.

Potential Conflicts of Interest of Elected Officials

Assemblyman O'Scanlon and Senator Beck have introduced a bill which in the newspaper was attributed to a situation that arose in Tinton Falls. Mr. Berube advised that he has been in contact with Assemblyman O'Scanlon, who is the prime sponsor. Assemblyman O'Scanlon's intent was to identify what might be shortfalls in the current ethics legislation and apply it to Public Office Holders and State Legislators as well.

Ordinances for Introduction & Final Consideration

Mr. Berube gave brief background descriptions for each of the Ordinances on the agenda.

Resolution R-09-181

We have received the DEP No Further Action letter on the Somer's property.

Engineer's Report – Al Hilla Jr.

Somer's Property

The Green Acres documentation is being completed for closeout of various deeds and documentation for DEP. It was preliminarily submitted about three weeks ago and we have received comments from Green Acres. The surveyors are completing that documentation for submission in the very near future.

Sycamore Sidewalk Project

We will be going out to bid between now and Council's next meeting.

Borough Clerk's Report

Ms. Pereira advised that last Tuesday, May 12, 2009, was the Borough's Municipal Election and read into the record, the votes cast for each candidate.

PETITIONS - None

ORDINANCES FOR INTRODUCTION

Ms. Pereira read Ordinance No. 09-1271 entitled: AN ORDINANCE FURTHER AMENDING ORDINANCE NO. 04-1118 AUTHORIZING THE SALE OF PROPERTY OWNED BY THE BOROUGH OF TINTON FALLS, DESIGNATED AS BLOCK 69, LOT 4.01 IN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Mr. Berube advised that the motion would be for the introduction of an amended Ordinance that includes \$175,000.00, number determined by the Borough Tax Assessor, as a minimum bid under the fifth "Whereas" clause and under Section 1 under the "Now, Therefore, Be it Ordained".

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Dr. Mayer offered a motion to introduce Ordinance No. 09-1271, seconded by Mr. Morrill.

ROLL CALL

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

Ordinance No. 09-1271 in Full/Ordinance Book No. 4

Ms. Pereira read Ordinance No. 09-1272 entitled: AN ORDINANCE FURTHER AMENDING ORDINANCE NO. 04-1119 AUTHORIZING THE SALE OF PROPERTY OWNED BY THE BOROUGH OF TINTON FALLS, DESIGNATED AS BLOCK 66, LOT 4.01 IN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY

Mr. Berube advised that the motion would be for the introduction of an amended Ordinance that includes \$275,000.00, number determined by the Borough Tax Assessor, as a minimum bid under the fifth "Whereas" clause and under Section 1 under the "Now, Therefore, Be it Ordained".

Mr. Morrill offered a motion to introduce Ordinance No. 09-1272, seconded by Dr. Mayer.

ROLL CALL

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

Ordinance No. 09-1272 in Full/Ordinance Book No. 4

ORDINANCES FOR FINAL CONSIDERATION

Ms. Pereira read Ordinance No. 09-1269 entitled: AN ORDINANCE REPEALING BOROUGH ORDINANCE NO. 99-982 (FORMER LAND USE ORDINANCE) AND ESTABLISHING AND CREATING A LAND USE ORDINANCE TO ESTABLISH STANDARDS FOR DEVELOPMENT AND USE OF LAND AND BUILDINGS WITHIN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY PURSUANT TO THE PROVISIONS OF THE MASTER PLAN AND THE MASTER PLAN RE-EXAMINATION REPORT OF THE TINTON FALLS PLANNING BOARD

Mr. Berube informed the public of the Land Use Ordinance background and stated that the Borough Planner, Mr. Gleitz, has attended tonight's meeting to answer any questions anyone might have.

Paul Gleitz, Borough Planner, provided Council with his summary review of the Planning Board Chapter 26 Review and the amendments to the proposed Ordinance that affectively implements those changes.

A copy of Mr. Gleitz's summary is on file in the Borough Clerk's Office.

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

ROLL CALL

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

PUBLIC DISCUSSION OPEN

Robert Inglima, Jr., Esq., before Council on behalf of the Mazza entities, discussed the procedural issues that were related in his letter and in the affidavit, which constitute his clients' protest with respect to the proposed Ordinance. Mr. Inglima advised that their protest has arisen pursuant to NJSA 40:55D-63.

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Mr. Inglima also advised that his clients have also presented, by the same affidavit and by his letter, a demand for notice of the adoption of the Ordinance pursuant to Section 62.1 of the Municipal Land Use Law.

Mr. Berube advised that Council and Administration have received Mr. Inglima's letter dated May 15, 2009 and it will be entered into the record.

Mr. Inglima asked Mr. Gleitz numerous questions regarding Ordinance No. 09-1269.

Mr. Inglima made numerous comments regarding the proposed Ordinance.

Mr. Berube stated that Mr. Inglima has made an argument that Ordinance No. 09-1269 is a stand-alone ordinance rather than an enabling ordinance pursuant to a Master Plan reevaluation. Mr. Berube advised that it is his recommendation that Ordinance No. 09-1269 is not a stand-alone ordinance. Mr. Gleitz has drafted what is entitled Land Use Ordinance of the Borough of Tinton Falls, most recently revised April, 2009, which is the Ordinance which is under consideration as the final implementation of the reexamination of the Master Plan.

Mr. Berube pointed out spelling, date, and typographical corrections, which should be amended in the Ordinance.

Mr. Inglima requested an extension of any time limitations that are ordinarily imposed upon public comment during an Ordinance, particularly because of the nature of this Ordinance and its impact upon his client's property.

Mr. Ingima stated in addition to the comments that he previously made to the Council with respect to the absence of any reexamination report, introduction or drafting of any new Master Plan document by the Planning Board, he would like Council to take legislative notice of the fact that there have been no discussions by Planning Board members that revealed, in any of the agendas or minutes, for any of the Planning Board's meetings during 2008 and 2009, reference to any discussion of a reexamination report or any new or amended Master Plan of the municipality. It is his understanding, from a review of records, that the only Master Plan that exists today is the one dated April, 2007.

Mr. Inglima also stated that it is his client's position that none of the documents that constitute the Master Plan or the history of its origins in this municipality would support the conclusions that were advanced in the January 28, 2009 Section 26 review.

Mr. Inglima added that this type of change (MFG Zones) is not only inconsistent with the Master Plan but gives rise to his client's rights under the sections of the statutes 62.1 and 63. Mr. Inglima asked that Council, in consideration of this matter, table the Ordinance, review this matter, obtain advice of counsel if need be, and consider all information placed before them before taking action on such Ordinance.

Mr. Inglima requested that the Ordinance be amended to restore the resource recycling facility use as a conditional use subject to all of its existing requirements and conditional use conditions in the MFG Zone going forward.

Leo Lomangino, 93 Colonial Drive, requested that the Ordinance be sent back to the Planning Board before Council votes on it.

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

Council had a lengthy discussion regarding the adoption of Ordinance No. 09-1269.

Mr. Inglima advised that Council did not address any of the defects that were pointed out earlier in the meeting such as date errors, typographical errors and spelling errors.

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Mr. Berube requested that Mr. Gleitz read into the record the Ordinance with his amendments.

AN ORDINANCE REPEALING BOROUGH ORDINANCE NO. 99-982 (FORMER LAND USE ORDINANCE) AND ESTABLISHING AND CREATING A LAND USE ORDINANCE TO ESTABLISH STANDARDS FOR DEVELOPMENT AND USE OF LAND AND BUILDINGS WITHIN THE BOROUGH OF TINTON FALLS, COUNTY OF MONMOUTH, STATE OF NEW JERSEY PURSUANT TO THE PROVISIONS OF THE MASTER PLAN OF THE TINTON FALLS PLANNING BOARD

WHEREAS, NJS 40:55D-89 provides for the periodic revision of Municipal Master Plans and Regulations by Municipal Entities within the State of New Jersey; and

WHEREAS, the Borough Council of the Borough of Tinton Falls has requested the Planning Board of the Borough of Tinton Falls to revise its master plan and development of regulations in accordance with said statutes; and

WHEREAS, the Borough of Tinton Falls Planning Board has completed and adopted its Master Plan Revision and submitted the Master Plan to the Governing Body, dated April, 2007; and

WHEREAS, pursuant to NJS 40:55D-62, the Borough Council has the power to adopt or amend any ordinance related to the nature and extent of uses of land, buildings and structures thereon; and

WHEREAS, the Borough Council of Borough of Tinton Falls has reviewed the Planning Board of the Borough of Tinton Fall's revised Master Plan, its recommendation to repeal the prior land use ordinance and to replace it with the attached report after public hearings and in accordance with NJS 40:55D-28, et seq.; and

WHEREAS, the Borough Council of the Borough of Tinton Falls, after public hearing and receiving public input and the recommendation of its professionals, deems it in the best interests of the residents of the Borough of Tinton Falls to adopt the attached report on recommendation of the Planning Board as and for the Master Plan and Land Use Development Ordinance of the Borough of Tinton Falls, repealing any prior ordinances related thereto and for the use and purposes stated therein,

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

1. That the provisions of Chapter 40 of the Land Use Ordinance of the Borough of Tinton Falls is hereby repealed in its entirety.

2. That the document entitled "Borough of Tinton Falls Land Use Ordinance" prepared by Borough Planner, Paul Gleitz, PP, AICP, dated April, 2009, in coordination with the Planning Board, Zoning Board of Adjustment and Borough Council of the Borough of Tinton Falls be and is hereby adopted as and for the Land Use Ordinance and Regulations under Chapter 40 of the Borough of Tinton Falls General Ordinances.

3. That this Ordinance having been reviewed by the Planning Board of the Borough of Tinton Falls, Zoning Board of Adjustment of the Borough of Tinton Falls and the Borough Council of the Borough of Tinton Falls, has incorporated in its current form all the amendments agreed to be incorporated by the Borough Council of Tinton Falls after due consideration of comments received by the aforesaid bodies and by the public.

4. That this Ordinance shall be known as the Land Use Ordinance of the Borough of Tinton Falls and shall serve as the document that shall provide all rules, regulations and standards concerning the use to which land is put as to size, shape and placement of buildings within the Borough of Tinton Falls in order to ensure the public health, safety, morals, and welfare of the municipality.

5. That this ordinance shall be administered in accordance with the Borough's comprehensive plan toward the end of providing adequate light, air, preventing the overcrowding of land or buildings within the Borough and to promote the public health, safety, morals, and general welfare, secure safety from fire, flood, panic and other natural and man-made disasters and ensure that development within the Borough of Tinton Falls does not conflict with the development and general welfare of neighboring municipalities, the County and the State as a whole, all in furtherance of the purpose as contained in Section 40-1, et seq. herein. This ordinance shall further be administered with the view of conserving the value of property and encouraging the most appropriate use of land throughout the municipality, to promote the conservation of renewable energy sources and to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities, and regions, the preservation of the environment, to provide sufficient space and appropriate locations for a variety of residential, recreational, commercial and industrial uses and open space, both public and private, according to respective environmental requirements in order to meet the needs of all New Jersey Citizens.

6. A copy of this Land Ordinance shall be available for review by the public in the Office of the Borough Clerk of the Borough of Tinton Falls, for public inspection upon reasonable request, during normal working hours and available on the Tinton Falls Website, www.Tintonfalls.com. Any person wishing to obtain a copy of the land Use ordinance shall request same from the Borough Clerk's Office; cost of same shall not exceed \$50.00.

7. Any prior Ordinance or provision of any existing Ordinance which is inconsistent with this Ordinance is hereby repealed.

8. Severability: If any section or provision hereof shall be adjudged invalid, such determination shall not effect the other provisions hereof, which shall remain in full force and effect.

Mr. Berube advised that the Ordinance would be adopted as amended, incorporating changes made by Mr. Gleitz in his narrative just now as well as incorporating the changes to Ordinance No. 09-1269 Land Use Ordinance of the Borough of Tinton Falls to enact the recommendations of the report of the Tinton Falls Planning Board which was detailed by Mr. Gleitz earlier in his testimony.

Dr. Mayer offered a motion to adopt Ordinance No. 09-1269 as amended, seconded by Mr. Morrill.

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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 Dr. Mayer.

R-09-189 RESOLUTION – AUTHORIZING MEETING TO EXTEND PAST 11:00 P.M.

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that it hereby amends its previous Resolution which set forth that all meetings shall end by 11:00 p.m. be and hereby is extended.

ROLL CALL

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

Mr. Skudera offered a motion to open the Public Hearing on the Community Development Grant Block Application, seconded by Mr. Morrill.

ROLL CALL

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

Mr. Dempsey advised that the Borough is going to apply for a Community Development Block Grant through Monmouth County for the ADA improvements at the Crawford House consisting of an ADA ramp to access the side porch, widening doors, ADA improvements inside the building including a bathroom, a possibility of kitchen facilities, and ADA parking spaces. The project was discussed today at the Borough's participation meeting consisting of his self, Chief Turning and Lori Paone. There was no other comments in regard to this application which is the Borough's proposal for the 2010 Community Block Grant Program.

PUBLIC HEARING OPEN

Stacey Slowinski, 755 Tinton Avenue, Chairman of the Historic Preservation Commission, stated for the record that the Historic Preservation Commission are in full support of the application. In the absence of Historic Trust funding, this will allow them to move the project forward and make a start on the interior renovations that are needed.

There being no further 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 the following Resolution and moved its adoption, seconded by Mr. Morrill.

R-09-188 RESOLUTION - AMENDING THE AGENDA TO INCLUDE A PUBLIC HEARING ON THE COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION

BE IT RESOLVED, that the Borough Council of the Borough of Tinton Falls hereby amends the agenda to include a Public Hearing on the Community Development Block Application. Said Public Hearing was advertised in the Coaster and the Asbury Park Press on April 30, 2009.

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ROLL CALL

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

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

PUBLIC DISCUSSION OPEN

Gina Gundel, 629 Green Grove Road, spoke regarding Liberty Park and questioned if there were any plans to put a sidewalk in.

Mr. Dempsey replied yes, the plan is to have the Borough's Public Works Department pave the section from the existing sidewalk to the ramp for the bleachers.

Charles Lomangino, 3 Helena Street, commented on Council adopting the Land Use Ordinance with last minute amendments.

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

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

RESOLUTIONS

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

**R-09-173 RESOLUTION - AUTHORIZING IMMEDIATE EFFECTIVENESS OF
ORDINANCE NO. 09-1271**

WHEREAS, the Director of Law has recommended to the Borough Council that the amendment of Ordinance No. 04-1118 by the passage of proposed Ordinance No. 09-1271, may and should be made effective immediately upon adoption and publication in accordance with Borough Ordinance Section 2-3.1(f) in order to allow the advertisement of bids and sale of the properties intended under said Ordinance in an expeditious manner, and to minimize the effect of negative market conditions in the real estate market at present, and;

WHEREAS, the Borough Council of the Borough of Tinton Falls deems it in the best interest of the Borough of Tinton Falls to establish the attached Ordinance No. 09-1271 as effective upon passage and publication by the Borough Clerk,

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that it is the intention and will of the Borough Council of the Borough of Tinton Falls that Ordinance No. 09-09-1271 is and shall be effective immediately upon final passage, approval by the Mayor and publication by the Borough Clerk in accordance with Ordinance Section 2-3.1(f).

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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 Dr. Mayer.

**R-09-174 RESOLUTION - AUTHORIZING IMMEDIATE EFFECTIVENESS OF
ORDINANCE NO. 09-1272**

WHEREAS, the Director of Law has recommended to the Borough Council that the amendment of Ordinance No. 04-1119 by the passage of proposed Ordinance No. 09-1272, may and should be made effective immediately upon adoption and publication in accordance with Borough Ordinance Section 2-3.1(f) in order to allow the advertisement of bids and sale of the properties intended under said Ordinance in an expeditious manner, and to minimize the effect of negative market conditions in the real estate market at present, and;

WHEREAS, the Borough Council of the Borough of Tinton Falls deems it in the best interest of the Borough of Tinton Falls to establish the attached Ordinance No. 09-1272 as effective upon passage and publication by the Borough Clerk,

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that it is the intention and will of the Borough Council of the Borough of Tinton Falls that Ordinance No. 09-1272 is and shall be effective immediately upon final passage, approval by the Mayor and publication by the Borough Clerk in accordance with Ordinance Section 2-3.1(f).

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.

Mr. Morrill advised Council that the reason for the amendment is to switch Emily Peck from Public Member #3 to Alternate Member #4 and Nicole Mayer from Alternate Member #4 to Public Member #3. The reason for the change is Emily Peck is a great asset to the committee however, she rather not do the secretarial work such as meeting minutes. Nicole Mayer volunteered to switch positions and take on the secretarial duties of the committee.

**R-09-175 RESOLUTION – AMENDING R-09-122 - APPOINTING MEMBERS TO THE
COMMUNITY ACTIVITIES COMMITTEE**

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

| | | |
|------------------|------------------------|----------------------------|
| Duane Morill | Council Liaison | Term to Expire: 12/31/2009 |
| Sherrri Eisele | Borough Representative | Term to Expire: 12/31/2009 |
| Beth Hessek | Public Member #1 | Term to Expire: 12/31/2010 |
| Christina Warren | Public Member #2 | Term to Expire: 12/31/2010 |
| Nicole Mayer | Public Member #3 | Term to Expire: 12/31/2009 |
| Robert Harvey | Alternate Member #1 | Term to Expire: 12/31/2010 |
| Claude Campbell | Alternate Member #2 | Term to Expire: 12/31/2010 |
| John Diezman | Alternate Member #3 | Term to Expire: 12/31/2009 |
| Emily Peck | Alternate Member #4 | Term to Expire: 12/31/2009 |

ROLL CALL

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

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

R-09-176 RESOLUTION - COMPENSATED ABSENCE - RETIREE

WHEREAS, Robert Congell has been employed by the Borough of Tinton Falls as a Technician II/Crew Leader since November 26, 1996, and;

WHEREAS, on June 1, 2009, Robert Congell will retire with 12 ½ years of dedicated service, and;

WHEREAS, Robert Congell will be entitled to compensated absence benefits according to Borough Ordinance #9-8.1c and 9-7.3c. The benefits are not to exceed \$5,677.00, and;

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WHEREAS, in accordance with NJSA 40A:9-165, the governing body must authorize all benefits, and;

WHEREAS, before any payment is made, the Chief Financial Officer must certify that sufficient documentation exists as to the amount of the accumulated absence, and that funds are available to pay the amount due.

NOW, THEREFORE BE IT RESOLVED by the Borough Council that subject to the certification of funds availability by the Chief Financial Officer, that Robert Congell receive the aforementioned compensated absence benefits.

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-09-177 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR
PALUMBO OFFICE BUILDING, BLOCK 123, LOT 51.01**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Palumbo Office Building, Block 123, Lot 51.01, and

WHEREAS, by letter dated April 28, 2009 (said letter attached and hereby made part of this Resolution), the Engineer (Leon S. Avakian, 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 Palumbo Office Building, be released upon the payment of all outstanding inspection fees.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

Mr. Berube advised that Mr. Hilla had provided a letter dated May 12, 2009 amending letter of April 28, 2009 and requested Council vote on the amended amounts.

Mr. Hilla advised that the new amounts for the bonds would be as follows:

| | |
|-----------------------|--------------|
| Performance Guarantee | \$107,381.56 |
| Surety | \$96,643.40 |
| Cash Guarantee | \$10,738.16 |

**R-09-178 RESOLUTION – RELEASING MAINTENANCE GUARANTEES FOR TINTON
FALLS CENTER TRASH ENCLOSURE, BLOCK 123, LOT 51.01**

WHEREAS, the developer has requested the release of Maintenance Guarantees for Tinton Falls Center Trash Enclosure, Block 123, Lot 51.01, and

WHEREAS, by letter dated April 28, 2009 (said letter attached and hereby made part of this Resolution), the Engineer (Leon S. Avakian, 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 Tinton Falls Center Trash Enclosure, be released upon the payment of all outstanding inspection fees.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-09-179 RESOLUTION - REDUCING PERFORMANCE GUARANTEES - BECKER'S
TREE SERVICE**

WHEREAS, the developer for Becker's Tree Service has requested the reduction of Performance Guarantees, and

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WHEREAS, by letter dated May 12, 2009 (said letter hereby attached and made part of this resolution) the Borough Engineer recommends that the Performance Guarantee be reduced based on the amount of work completed, and

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Performance Guarantees for Becker's Tree Service, be reduced in accordance with said letter from the Borough Engineer.

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. Skudera.

**R-09-180 RESOLUTION – AUTHORIZING MAYOR, ADMINISTRATOR AND
DIRECTOR OF PUBLIC WORKS TO EXECUTE TWA-1 FORMS PROJECT:
MEADOWS AT TINTON FALLS**

BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the following are hereby authorized to execute TWA-1 forms on behalf of the Borough of Tinton Falls for the Meadows at Tinton Falls:

Mayor.....Peter Maclearie
Administrator.....W. Bryan Dempsey
Director of Public Works.....John Bucciero

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-09-181 RESOLUTION - AUTHORIZING THE EXECUTION OF A CERTAIN DEED
TO SATISFY THE REQUIREMENTS OF THE STATE OF NEW JERSEY DEP
GREEN ACRES PROGRAM AND THE MONMOUTH COUNTY OPEN SPACE
TRUST FUND FOR PREMISES KNOWN AS BLOCK 35, LOT 1.04 IN THE
BOROUGH OF TINTON FALLS, NJ**

WHEREAS, the Borough of Tinton Falls has received notification of an award of the New Jersey Green Acres Grant and Monmouth County Open Spaces Grant to reimburse the Borough for the acquisition of Block 35, Lot 1.04 in the Borough of Tinton Falls for open space and conservation purposes; and,

WHEREAS, under the rules of the applicable New Jersey Green Acres Program and the Monmouth County Open Space Trust Fund Program, restrictions on the use of this property reflecting the regulations of those two programs are required to be recorded in the office of the Monmouth County Clerk; and,

WHEREAS, the Director of Law of the Borough of Tinton Falls has recommended the execution of the attached Deed to satisfy the requirements of the State of New Jersey Department of Environmental Protection Green Acres Program and Monmouth County Open Space Trust Fund Program in the form attached hereto; and,

WHEREAS, the Mayor and the Borough Council of the Borough of Tinton Falls have deemed it in the best interests of the Borough of Tinton Falls to satisfy all of the above program requirements and to execute the attached Deed,

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the Mayor, Borough Clerk, Chief Financial Officer, Administrator of the Borough of Tinton Falls, and other appropriate Borough Officials are hereby authorized to execute the attached Deed establishing and recording the restrictions as required under the New Jersey DEP Green Acres Program and Monmouth County Open Space Trust Fund Program, together with any and all documents as may be deemed necessary by the Director of Law to satisfy such program requirements.

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.

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**R-09-182 RESOLUTION – APPROVAL TO SUBMIT APPLICATION AND EXECUTE A
GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF
TRANSPORTATION (NJ DOT) FOR THE HERITAGE BOULEVARD
IMPROVEMENT PROJECT**

WHEREAS, The New Jersey Department of Transportation (DOT) is committed to advancing projects that enhance safety, renew the aging infrastructure and support new transportation opportunities and, via the Transportation Trust Fund, provides the opportunity for State assistance to local governments for the funding of road, bridge, and other transportation projects;

WHEREAS, the Borough of Tinton Falls desires to receive Department Municipal Aid in order to reconstruct and resurface Heritage Boulevard.

NOW, THEREFORE BE IT RESOLVED, that the Borough Council of the Borough of Tinton Falls formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are hereby authorized to submit an electronic grant application identified as MA-2010-Tinton Falls Borough-00031 to the New Jersey Department of Transportation on behalf of the Borough of Tinton Falls.

BE IT FURTHER RESOLVED, that the Mayor and Municipal Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Tinton Falls and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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 Dr. Mayer.

**R-09-183 RESOLUTION - HONORING EAGLE SCOUT ACHIEVEMENT OF COLIN DU
BOIS**

WHEREAS, Colin du Bois has been involved in scouting since 2001, and

WHEREAS, Colin, has earned 23 merit badges, hiked 34 miles, camped out 93 nights, and volunteered over 200 hours of community service, and

WHEREAS, Colin, as a member of Troop 124, achieved many honors such as Senior Patrol Leader; and,

WHEREAS, the honor of Eagle Scout is only bestowed to 2% of all boys who join the ranks of Scouting, and

WHEREAS, the Mayor and the Borough Council of the Borough of Tinton Falls would like to commend Colin for his achievement in reaching a goal that a few Scouts acquire.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Borough Council of Tinton Falls that Colin du Bois be congratulated for receiving the rank of Eagle Scout, and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Boy Scouts of America, Troop 124.

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-09-184 RESOLUTION – HONORING EAGLE SCOUT ACHIEVEMENT OF PATRICK
HARTMAN**

WHEREAS, Patrick Hartman has been involved in scouting since 2001, and

WHEREAS, Patrick has earned 21 merit badges, hiked 14 miles, camped out 47 nights, and volunteered over 150 hours of community service, and

WHEREAS, Patrick, as a member of Troop 49, achieved many honors such as Troop Guide, Assistant Patrol Leader, Patrol Leader, Assistant Senior Patrol Leader; and

WHEREAS, the honor of Eagle Scout is only bestowed to 2% of all boys who join the ranks of Scouting, and

WHEREAS, the Mayor and the Borough Council of the Borough of Tinton Falls would like to commend Patrick for his achievement in reaching a goal that a few Scouts acquire.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Borough Council of Tinton Falls that Patrick Hartman be congratulated for receiving the rank of Eagle Scout, and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Boy Scouts of America, Troop 49.

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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-09-185 RESOLUTION – HONORING EAGLE SCOUT ACHIEVEMENT OF
MATTHEW SLOWINSKI**

WHEREAS, Matthew Slowinski has been involved in scouting since 2001, and
WHEREAS, Matthew has earned 21 merit badges, hiked 26 miles, camped out 85 nights, cycled 150 miles, and volunteered over 105 hours of community service, and
WHEREAS, Matthew, as a member of Troop 49, achieved many honors such as Quartermaster, Historian, Assistant Patrol Leader, Patrol Leader, Assistant Senior Patrol Leader; and
WHEREAS, the honor of Eagle Scout is only bestowed to 2% of all boys who join the ranks of Scouting, and
WHEREAS, the Mayor and the Borough Council of the Borough of Tinton Falls would like to commend Matthew for his achievement in reaching a goal that a few Scouts acquire.
NOW, THEREFORE BE IT RESOLVED, by the Mayor and Borough Council of Tinton Falls that Matthew Slowinski be congratulated for receiving the rank of Eagle Scout, and
BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the Boy Scouts of America, Troop 49.

ROLL CALL

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

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

R-09-186 RESOLUTION – APPROVAL OF BILLS – MAY 19, 2009

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending May 19, 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 | \$ 214,664.78 |
| TRUSTS | 18,244.79 |
| CAPITAL | 2,520.00 |
| DEVELOPER ESCROW | 6,741.92 |
| DOG TRUST | 37.80 |
| GRANT FUND | 6,286.40 |
| SEWER UTILITY | 16,330.11 |
| ADDITIONS | <u>1,013,299.94</u> |
| | \$ 1,278,125.74 |

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 to Workshop, seconded by Dr. Mayer.

ROLL CALL

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

TIME: 11:06 P.M.

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WORKSHOP MEETING

New Business

Dr. Mayer briefly discussed the CGI Video Streaming Agreement and requested a Resolution be placed on the agenda for the next Council meeting.

Dr. Mayer thanked Mr. Campbell for bringing to his attention the Borough's agreement with Comcast.

Mr. Dempsey recommended utilizing Freeholder Clifton as he works for Comcast. Mr. Dempsey suggested maybe he could attend a Technical Advisory Committee meeting and overview what Comcast can provide as well as providing some information on what Verizon should be providing to us.

Mr. Morrill questioned if Council would be willing to discuss the 2009 Road Program at a lesser amount.

Council agreed to discuss the 2009 Road Program at a future Workshop Meeting.

Mr. Dempsey advised that he received notification from the County stating that they will be paving Swimming River Road from Route 537 to Tinton Avenue as well as paving Asbury Avenue from Shafto Road to the entrance of the landfill.

ADJOURNMENT

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 11:11 P.M.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

APPROVED AT A MEETING HELD ON: AUGUST 4, 2009