

REGULAR/WORKSHOP MEETING
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Borough Clerk calls the meeting to order at 7:32 p.m.

Borough Clerk reads 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 stand for the salute to the Flag.

ROLL CALL:

PRESENT: Mrs. Barrett, Mr. Skudera, Mr. Tobin

ABSENT: Mr. Allen, Mr. Ford

ALSO PRESENT: Mayor Peter Maclearie
W. Bryan Dempsey, Administrator
James E. Berube, Director of Law
Stephen Pfeffer, Chief Financial Officer
Karen Mount-Taylor, Borough Clerk
Gerald Freda, Borough Engineer
Bill Birdsall, Borough Engineer

APPROVAL OF MINUTES – None

REPORTS

Mayor Maclearie has a couple of recreation updates. The Father/Daughter Dance is this Sunday, at the Sheraton in Eatontown. There are over four hundred and ninety (490) that have signed up to come to this dinner. The Egg Hunt is scheduled for three o'clock (3:00 p.m.) on March 31, 2007 at the Sycamore Avenue Complex. The rain date is scheduled for the following day at two o'clock (2:00 p.m.). Registration for T-Ball is continuing through March 30th, and the teen soccer program has started. For those interested, the opening day for Little League is Saturday, April 14th, at nine o'clock (9:00 a.m.).

Mayor Maclearie says that the Fort Monmouth Economic Revitalization Planning Authority has a meeting tomorrow at seven o'clock (7:00 p.m.) at Maple Avenue School in Oceanport. He states that he is looking forward to when we can finally host these meetings in town beginning in April or May, after we move next door and have the facility set up.

Mr. Dempsey says that the Council will see a resolution in their packet tonight for ANJEC Grant for "build-out analysis." He apologizes for its late arrival, but it needed a resolution from the Council for this to be approved.

Mr. Dempsey states that he has been speaking with the Judge and the Court Administrator elected to Shared Services with the Borough of Oceanport for the court recording system video conferencing. He thinks that they will have a workshop item at the next meeting to discuss this. He believes that it is beneficial to the Borough to allow Oceanport to use our video conferencing because both the judge here and in Oceanport is the same, and we would receive minimal revenues from it at no cost.

Mr. Dempsey reports that the commercial trash notices are going out this week, with a starting collection of payment day on May 1, 2007.

Mr. Pfeffer states that they are currently updating the Open Space inventory listing. There are still a couple of properties that they have to go through that need to be resolved. There are some differences on the report versus what would show up on the Borough's records, but they hope to be done with those by Friday.

Mr. Pfeffer says that he has sent the Council Members an update on the budget of the Local Exam Option that we are under this year. This year we are allowed to examine the budget ourselves, pass a resolution at the end of the process, and then send it to the State; that is unless the Council wants the State to do the examination. If any of the Council Members are a little concerned and would prefer the State to do this, then he would say to have the State take care of it. We have a former resolution ready if this is the case.

Mr. Skudera asks if we have done this examination ourselves in the past.

Mr. Pfeffer responds that we have done this at least one (1) other time. One time we had to waive doing this because the State said we were eligible, and then later said that they had made a mistake. Another time we did it ourselves. He says that regardless of whether the State

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does it or we do it, he still has to do the exact same thing either way. He still has to go through the same steps, so it does not matter to him as to what the Council's decision is.

Mr. Dempsey questions as to who would do this internally. Mr. Pfeffer replies that he would be the one to do this. Mr. Dempsey asks if we can get our own professional to do this, outside of the State. Mr. Pfeffer says that you would have to pay for an outside professional, whereas the State does this at no cost.

The packets Mr. Pfeffer provided the Council with contain the criteria the State would use for their examination. They would review the budget to see if it adds up, if the statutory calculations of certain numbers are proper, and if the State aid is right. These are the same things that he has to do. The State does not make any recommendations at all; they look at it as a mathematical and a technical review.

Mrs. Barrett asks if the updated list on the Recreation and Open Space Inventory would also include the funding that went into the different properties. Mr. Pfeffer responds that the changes were updated. Anything on the list that says "unfunded" means that the State did not pay for it. "Funded" just means that they State contributed through Green Acres. He only knows of five (5) properties that were purchased. Three (3) of these properties will come from the State, and the other two (2) will come from the Borough.

Mrs. Barrett states that the Open Space Committee would like more of a clarification on the numbers in the inventory. Mr. Pfeffer responds that he had sent the Committee a letter asking for input and has not heard anything back from them. He sent letters to the Boards, engineering, and the assessor. He has received some information back from the Boards, and he has been working hand-in-hand with the assessor on this because he is the most important person in this process.

Mr. Pfeffer states that on the old list, the only funded property was Riverdale Park.

Going back to the subject on the self-review of the agenda, Mr. Pfeffer states he understands that the agenda cannot be amended, but if the Council would prefer to have the State perform the review, he can at least notify the State and say that we will have the resolution at the next meeting.

Without a formal resolution, Mr. Skudera is in favorite of looking into both Mr. Pfeffer and the State doing the examination of the budget. Mr. Tobin and Mrs. Barrett concur.

Mr. Pfeffer says that he will send the State an email and let them know, and they will do the resolution at the next meeting.

Last Thursday, Mr. Skudera went along with members of the Tech Advisory committee on a walk-through of Borough Hall. He says that they looked at the server rooms and the Council Chambers. He says that they need to think about where the best location is to place the projection system for the audience and the members of the Council. He states that he is going to hold the information for designing a website until the next meeting when Mr. Allen and Mr. Ford are present. He says that the presentation is pretty lengthy, so he is going to send the Council copies before the meeting.

Mrs. Barrett says that last Wednesday, March 14, 2007, they resumed their Master Plan hearing upon to the public. Any property owners with concerns in regards to the plan were able to address the Planning Board. The meeting closed to the public hearing, and they moved onto deliberating the Planning Board with the Planners. They broke the municipality up into four (4) pieces: northwestern, southwestern, northeastern, and southeastern. As of right now, the Planning Board has approved the northeastern and southeastern sections of the municipality. At their next meeting on March 28th, they will begin looking at the southwestern and northwestern parts of the municipality. They are looking to possibly accept a Master Plan, and then move it forward to the Council.

Mrs. Barrett says that there was something brought up in regards to the Fort Monmouth property during the Master Plan meeting. The Planners suggests that the property is left as Open Space Government use, and there is an option that we may go forward with as far as planning it more specifically to the zoning. She wants to hand this over to Mayor Maclearie because he is the one that is actually considering an additional planning phase for the Fort.

Mrs. Barrett says that there is a Council meeting on April 10th, and we are reviewing the budget. She feels that we should put an additional meeting on for the purpose of the Master Plan hearing in the month of April.

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Mr. Tobin says that at the last meeting, Mrs. Barrett said that she was going to note to the Planning Board that we had expressed an interest. He inquires if she noted that to them and if they had any feedback.

Mrs. Barrett says that as it stands right now, the Chairman is anticipating being able to review a wrap-up and adopt the draft that they have so that it can be given to the Council, however she cannot guarantee that this is going to happen. She states that they do need to notice ten (10) days prior to a meeting, and she thinks that it would be wise to get an extra meeting in next month.

Mr. Tobin says that at the last meeting when all five (5) Council Members were there, he thought they had agreed to go ahead with another meeting. He asks Mr. Dempsey and Mayor Maclearie if that was the case. Mayor Maclearie says that even if the Master Plan was finished next week, then perhaps the last week in April might be a good time for the meeting. He would suggest later in the month so that Planning Board meetings are in between the Council meetings.

Mrs. Barrett asks if they want to make this additional meeting on a Tuesday night, or if they might want a notice for another day of the week. Mr. Tobin says there is only one Tuesday they could have because the School Board election is April 24th. Mayor Maclearie says that they should schedule the meeting for April 24th, and if the Master Plan does not come through at the next meeting or two, they will have plenty of time to cancel that date.

Mr. Dempsey suggests that they wait until March 28th, and if the Master Plan goes through, then they can just go ahead and notice. The Master Plan should be wrapped up March 28th.

Mrs. Mount-Taylor suggests that a motion is offered that if the Planning Board completes the Master Plan by March 28th, then a special meeting for the Council would be held on April 24th, 2007, at 7:30p.m., only for the discussion of the Master Plan.

Mrs. Barrett offers a motion to have a meeting on April 24, 2007, at 7:30p.m., for discussion of the Master Plan, seconded by Mr. Skudera.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mayor Maclearie wants to follow up with Mrs. Barrett's discussion on the Fort Monmouth Property that was not spelled out in the Master Plan. He states that he had pushed for a really defined zone for it, thinking that it was too broad. He would like to have detailed specifics for that property. As a Borough, we have asked for more than half of the property. The Fort has over two hundred and forty (240) acres. We have put in notice of interest for a lot of land, some of which including fifty (50) acres for Open Space and ten (10) acres for affordable housing. He figures that we may as well ask for the firehouse to replace one that we need in the Borough, a fire training academy, and a shooting range.

Mayor Maclearie says that we might as well ask for the property, and zone around what we know. It was not a question of needing a lot of input because we already have covered what the zones should be on that property. If you leave the rest for the current facilities that are there, you will not lose any jobs. The people that are working there will still have the ability to come back and work in the offices that remain. Mayor Maclearie says that they are going to sit down with the Planner this week. Hopefully at the next meeting, they will be able to present a vision of that property to the Planning Board, and then back to the Council.

Mrs. Barrett asks if this will come back when the draft has been approved by the Planning Board and then comes to the Council. Mayor Maclearie responds that he thinks they are going to get it to the Planning Board first so that it can back through the Master Plan process back to the Council.

Mayor Maclearie says that he has spoken to Rick Harrison at FMERPA. There are small tours going out there now. If anyone wants to find time to go on any one of the various small tours that are going on, please contact Mr. Harrison. He is expecting either emails or phone calls from the Council Members.

Mr. Tobin reports that three (3) fire companies in the Borough of Tinton Falls rolled to a fire last Saturday at 9:00a.m., and did not leave until after 2:00p.m. The fire was in a brand new home. The fire had been burning for quite some time, with people noticing it around 5:00a.m. and not knowing where the fire was coming from. The fire company took the first hose into the house

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and noticed that the floor was burning through like a blow torch. Fortunately all of the firemen came out safely. They worked to make sure that there was no damage to the other houses in the area, but the house itself was a complete and total loss. There were five (5) fire companies, three (3) of which were from Tinton Falls, with one (1) company was on standby, and the other two were EARL and Fort Monmouth. The police and the County Fire Marshall's Office were also there. It turned out to be an amazingly coordinated event, and Wayside Road remained opened the whole time, with the exception of people crossing the street. Mr. Tobin wants to thank everyone involved for such a good job.

Mr. Tobin like to pass on to the Public Works Department the continued calls and comments of support for the incredible job that they are doing with trying to catch up on the trees after the storm. Every time the wind blows, more branches fall. They are putting in many hours of overtime just to try and to get caught up. He has heard a lot of good things about the DPW.

Municipal Building Update – Mr. Birdsall says that the project is moving along very nicely. Today the fire sprinkler tests were passed, and the ceiling tiles have begun going up. Tomorrow the crew will be working full-blast putting the ceiling tiles up. As the ceiling is completed in each room, the carpet contractor will be coming in and installing the carpets. Once the carpets are done, the rooms are basically complete. The counters are in and the doors are up. They are in the process of putting the door closers on and wiring up some of the magnetic locks. They are working from the basement of the administrative wing up, and they expect to have the administrative wing completed either the end of this week or early next week. After that, they will be moving to the police wing and doing the same things over there.

The police wing is completely painted, all of the ceiling grids are up, and the sprinklers are installed. The ceiling tiles and carpet installers will be moving to complete the rooms. The installation of all of the jail cells should be completed tomorrow. Today the doors and the locks were installed on the cells. The plumber still needs to come back and put the plumbing fixtures in. The cells will then be painted and completed.

Mr. Birdsall reports that the data contractor has most of the data system in as far as all of the wiring. They are now moving into the police department to get all of the police equipment racks in and get the equipment ready to go. The control contractor has just about completed all of the control work. The control work consists of the controls that run the HBAC system. It is a very complicated system with fourteen (14) different units in the building. Each unit runs off of several different controllers and thermostats. A lot of work has gone into this, and he believes the contractor has completed about all of that work.

Today, the window and door contractor installed the enclosures in the vestibules where you come in the front door. He expects that this work will be completed by Thursday in that area. All of the carpentry is completed in the administrative and police wings, as well as the front entry. The only room left to be finished is the court room. All of the framing work is complete and most of the sheetrock is complete. Today they were insulating the ceiling. Once the insulation is up, they can hang the hung ceiling in that room and put all of the light fixtures in. After that, the wall coverings will go on and the dais will be brought in. This will probably be the last room to be completed.

Mr. Birdsall says that the building is really coming together very fast. There were so many people working in there today, and they are really making a concentrated effort to get this building done.

Mr. Tobin says that we have a target date of next Monday. At the last meeting we were pretty sure that we may be close to that. He asks Mr. Birdsall what he thinks now.

Mr. Birdsall responds that at the last meeting he mentioned the delay in getting the sprinkler system tested. The testing was originally anticipated to occur a week ago last Friday, but did not happen until today. He says that they were about ten (10) days behind on the sprinkler testing. That really held up the getting the ceiling tiles in, the carpet tiles, and a couple of rooms where sheetrock ceilings have to go up. Because of this, Mr. Birdsall would say that they are in the neighborhood of being ten (10) days behind.

Mr. Tobin inquires as to why there was a ten (10) day delay on the sprinkler testing. Were we waiting on an independent company, or what?

Mr. Birdsall replies that it was a combination of getting certain rooms completed and getting certain piping complete. They could not install all of the sprinkler heads until the entire drop ceiling was in. The drop ceiling was contingent upon getting all of the sheetrock done. He says that everything hinges on something else in this project.

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Mr. Tobin asks if the new date would be April 5th or 6th, since that would be ten (10) days out. Mr. Birdsall replies that with the exception of the meeting room which will probably lag behind a bit, the main two (2) sections should be completed about then. The meeting room will probably be about a week behind that.

Mr. Tobin asks when they would be able to move everything over since the hallways have not been completed. Mr. Birdsall responds that the hallways and stairwells will not be wallpapered until after all of the furniture has been brought in. Mr. Tobin inquires when the furniture would be able to be moved in. Mr. Birdsall says that it depends on the telephone and data systems, which he does not have a handle on.

Mr. Dempsey says that they will be in the new building in the middle of April. If the building is finished around April 10th, as indicated, they would be in by the next week without a problem.

Mrs. Barrett wants to make sure that they are looking to be in, and fully operational, by the week of April 23rd. They have a May election and a School Board election.

Mr. Birdsall says that they will definitely be in by May. They will definitely be in the building by the election. All of the computer equipment has been ordered. As he understands it, all of the computer equipment and servers will be in there and main-framed before anything is moved over.

Mr. Tobin inquires how they are doing with the budget. Mr. Birdsall responds that there have not been any change orders since the last updates that he gave the Council. Mr. Tobin questions if they are under eight percent (8%). Mr. Birdsall replies yes.

Revaluation Update – Scott Imbriaco, Assessor of Tinton Falls, reports that he has received literature from Realty Appraisal, and has given information to the Mayor and the Council. As of March 1, 2007, the contract has been approved amending the revaluation contract date to reflect 2008. Realty Appraisal is preparing the notification letter, as well as the informational flyers, that are going to be sent out to all of the properties. They are plotting the current sales, and they are putting the zoning information on the tax map. They are preparing inspection forms for the field, and they are calculating the lot sizes.

Mr. Imbriaco received a letter from Neil Rubenstein at the end of last week stating that they are looking to mail out the notification letters along with the informational flyers either the last week of March or the first week of April. Two (2) weeks after that you can start to expect their people knocking on the door looking to start inspecting the properties. The letter that is attached in the information Mr. Imbriaco provided is the letter that will be sent out to every property owner. It will be sent out on his letterhead and in a Borough envelope. The letters will be signed by him. The letter will provide the property owners with sufficient information about the revaluation process, along with who to let into their homes. Realty Appraisal will be providing the Borough with information about who all of their inspectors are. This information will be run by the police department. If any member of the public does not feel comfortable, or if the inspector's name is not on the list, they can call the police department who will have all of the information on file.

Mr. Tobin asks if that means that the police department is doing background checks on the inspectors. Mr. Imbriaco replies "yes."

Mr. Imbriaco adds that he has spoken to Mr. Dempsey and wants to utilize the Borough website to update the public and the Council on any information that he gets about the revaluation. This way they can hopefully post what neighborhoods the inspectors are in.

Mr. Imbriaco states that everything has to be done by October 1, 2007 for the 2008 year. The notification letters of the new assessments should be mailed sometime in November. After the letters are mailed, informal hearings will start where the tax payers can come in and meet with the revaluation company to go over their new assessments. In terms of inspections, Realty Appraisal is looking to be inspecting from April through September.

Mayor Maclearie asks for clarification for the record. He asks if the individuals that will be doing the walk through the town are certified appraisers. Mr. Imbriaco responds that no, they are not certified; they are there just to collect data. They will not be formulating any assessments. The assessments will be done by the certified appraisers of the firm: Mr. Rubenstein and his brother.

Autism Awareness Month – Mayor Maclearie reads the proclamation declaring the month of April as Autism Awareness Month.

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PETITIONS – Mrs. Mount-Taylor, the Borough Clerk, reports that the municipal election will be held on May 8, 2007. Three (3) of the council seats are up for this election. Last Thursday at 4:00p.m. was the deadline to file petitions. She has received six (6). These petitions are not in the order they will be on the ballot, but merely in the order that they were received. They were received on two (2) different slates. Gary A. Baldwin, Duane M. Morrell, and Brendan P. Tobin were on the Ethics and Government slate. Kim A. Barrett, Richard E. Calvert, and Charles P. Lomangino on the Tinton Falls First slate.

ORDINANCES FOR INTRODUCTION – None

ORDINANCES FOR FINAL CONSIDERATION –

Borough Clerk reads Ordinance No. 07-1216: An ordinance amending Chapter 7 of the general ordinances of the Borough of Tinton Falls prohibiting the operation of low speed vehicles

There being no questions from the public, Mr. Skudera offers a motion to open the public hearing, seconded by Mrs. Barrett.

ROLL CALL:

AYES: ALL IN FAVOR

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers a motion to close the public hearing, seconded by Mrs. Barrett.

ROLL CALL:

AYES: ALL IN FAVOR

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers a motion to adopt Ordinance No. 07-1216, seconded by Mrs. Barrett.

Mrs. Barrett asks for clarification. They had specified that the definition of a low-speed vehicle was twenty five (25) miles or over. Is that correct?

Mr. Dempsey replies that the State statute defines it as a motorized vehicle which does not exceed the speed of twenty five miles per hour (25 MPH).

Mrs. Barrett has a concern about individuals that are handicapped. For those people that have to use a motorized wheelchair or some other device, are they included in this ordinance? Mr. Dempsey responds that no, they are not included. This ordinance deals with vehicles that are designed for operation on the road. Personal mobility devices are not included. The proposed ordinance describes the types of vehicles which are not included as referred to the statute, so that if the government by executive order decides to allow certain mobility vehicles, it will be defined on the statute. This way you will be in compliance with whatever the then-State statute is, and it will be easier to enforce.

Mr. Skudera questions item C of the ordinance. He asks if this protects places that have Title 39. He inquires if that is what the wording means.

Mr. Berube says that it is a provision that says wherever there is a technical definition, we always reflect back to the State definitional section, and that is that 39.1.1. Mr. Skudera says that he did not see anything else under Title 39. He questions that if a place that had Title 39 had a low-speed vehicle, would that be allowed or disallowed, or what would happen. Mr. Dempsey replies that the prohibition could be enforced in the areas where there has been a request to enforce Title 39.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

PUBLIC DISCUSSION

Mr. Skudera offers a motion to open the public discussion, seconded by Mrs. Barrett.

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ROLL CALL:

AYES: ALL IN FAVOR

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

PUBLIC DISCUSSION NOW OPEN

Joe Fama, 36 Gallant Fox Road. He knows that as of April 2, 2007, there is a period closing for tax appeals on the current tax bill. He inquires if any appeal process that results in a revaluation of your property, will that property be revaluated again in the Borough-wide revaluation, and does it make sense to do that. He also questions that if there are enough properties that are revaluated now as a result of appeal, would it make sense to exclude them and not have to pay so much for the revaluation contract.

Mr. Imbriaco responds that every year, every resident has the right to file an appeal if they feel that they are over-assessed. It is obviously very important to file an appeal if you feel that you are over-assessed. Right now we are not at one hundred percent (100%), but our ratio is at forty three percent (43%). If Mr. Fama were to file an appeal this year and get a reduction, that does not say that when the revaluation is implemented that he could not get another reduction. He is looking at two (2) different years, and a lot of things can happen from one year to the next. Our ration was fifty percent (50%) last year and we are at forty three (43%) now. This shows a substantial drop in the market value, and you can see the sales in the neighborhood.

To make certain he understand, Mr. Fama says that even if you filed an appeal for this year, you would still be part of the revaluation. Mr. Imbriaco says that is exactly right. If you obtain a new value this year by filing an appeal, you will have another new value next year because we are going to be at a hundred percent (100%). This year you are looking at a percent whereas next year you will be at a hundred percent (100%). If your home is worth nine hundred thousand (\$900,000), next year your new assessment should be nine hundred thousand (\$900,000).

Mr. Fama has a question about the Fort Monmouth properties. He understands that the Borough has put in a rather ambitious document seeking use of a significant portion of those properties. He hopes that we are not in a situation of "be careful what you wish for because you might just get it." If we did get access and use of all of these things, how are we going to pay for it? What would the firing range and a fire academy and everything else do to the tax burden of the residents? He is concerned that we are not just out to grab because it is there, and then all of a sudden we have it because no one else wants to pay for it, and we have to pay for it.

Mr. Tobin responds that we have asked for a PBC, a military term meaning Public Benefit Conveyance. It used to be when they closed military outposts, they just gave away the land. One day somebody said that all of the land was worth a lot of money. Now when they go out, they allow a process where the County and Boroughs can ask for the land and a variety of things. The firing range is already built, and it brand new. It is for ceramic bullets which make it environmentally sound. The fire training ground is one (1) of two (2) in the entire world that can simulate the real-world fire conditions. Middletown has a live-burn center, only one (1) of three (3) or four (4) in the state. Here you can actually see real flames without using smoke machines to simulate. Fire companies come from all over and pay a lot of money for the live-burn, real world scenarios. This is a money-maker for Middletown. If we can acquire the fire training center for free and make money on it, we will look to use it as a money-maker. If they want us to buy it, then we will have to decide if it is worth the dollar rates that they will have set.

Mayor Maclearie says that it could be free or discounted. If we were not to receive the fire training center for free, we would not purchase it to lose money. We would only do it on a shared basis with the town and the state on these facilities. A lot of what we asked for is open property.

Mr. Fama states that he thinks it is good that the Borough wants to control that property as much as possible, but he is concerned that we would be circumspect about what it would cost us in the long-run to do so. He does not think that anyone would want to hear that their taxes are going up another twenty five percent (25%) because we would have to pay for what we have built up at Fort Monmouth.

Mr. Tobin replies that they are looking for ways to generate income without any cost to us. That is what we are looking to do with the property that we have requested.

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Gary Baldwin, 201 Sandy Cove. With the revaluation process, will the inspectors that come to knock on the doors have identification that they can produce to the public to assure the residents that they are legitimate inspectors? And if so, will that be put in the letters so that the people who get the letters will know what to ask the person for at the door.

Mr. Tobin reads a paragraph from the letter:

For your protection, each representative of Realty Appraisal Company will be provided with a letter of identification, as well as photographic identification. Please be sure to ask for the letter and the photo I.D. and **do not** permit anyone who is unable to properly identify him or herself into your property.

He says that the police will have copies of the letter but will not post what it looks like online because of easy forgery. He likes how they will also be doing background checks on everyone. The police department will have all of the information and it is something that you can readily check with the Borough police.

Nancy Fama, 36 Gallant Fox Road. She is very excited that the Revaluation is happening in a timely matter. She is involved with the neighborhood watch in Willowbrook and likes to keep the residents informed. She appreciates the updates from this meeting. She would like to know if they are going to get monthly updates from Mr. Imbriaco, and if so, when will next month's be so that she can get that information out to the community. Also, with regards to those people who work, she inquires what happens if they are not home during the day when the revaluation is being done.

With regards to not being home, Mr. Imbriaco says that the inspectors will make three (3) attempts. On the third attempt, they will leave a little card on your door with a number to call. You are to call and make an appointment. They should be available up until 7:00 or 8:00 at night doing inspections, and he believes they will inspect on Saturday and Sunday as well. Also, if they were to come at an inconvenient time, you can ask them to come back and they will.

Mr. Imbriaco adds that he is going to try to give the Borough's webmaster any updates that he gets to put on the website. He adds that he has no problem with coming back to give a report every other meeting.

Mrs. Barrett would like to make a recommendation to have a letter sent to the residents that have a neighborhood watch so that they can give it to the associations of where they live. Mr. Imbriaco responds that he can absolutely do that.

Ed McCullough, 15 Woodchuck Court. He informs Mr. Dempsey that he has spoken with Keith Henderson. He said that at their last meeting in Trenton, they formed a task force. Mr. Henderson provided him with a list of things that he and the three (3) people on the task force will need. Mr. McCullough says that he will give the list to Mr. Dempsey later.

Rachel Kenny, Mike Zach, and Jackie Maclearie. Ms. Penny states that the three (3) of them are from Relay for Life, for the American Cancer Society. They are on the committee for the Middletown relay. They are here to advertise. Relay for Life is an overnight walk to raise money for cancer. This walk will occur on June 15th-16th. They have received a lot of involvement from schools. Last year Monmouth Regional had about seventy (70) students that attended, and this year they are working on getting students from the middle school and Swimming River. They are also looking for adult participation. They are looking to see if anyone from the Council is interested in creating a team or giving donations. Also, if anyone is interested in more information, they can leave their name and phone number or email address and one of these three (3) committee members for the Relay will get in touch with them. Or, for more information, go to their website: <http://acsevents.org/relay/nj/Middletown>. The money that anyone wants to donate now, as well as the money collected later, will all go towards Relay for Life. There are flyers with this information for everyone to take on their way out tonight.

Ms. Maclearie states that they got an idea from the Autism Awareness. They were wondering if they could do some sort of town-wide cancer awareness support. Other towns have May Day on May 1st, which is American Cancer Society Day. They do not know how to go about doing something like this though.

Mayor Maclearie states that he is sure they can find out.

Duane Morrill, 86 Cloverdale Circle. He would like to know who is handling the background checks on the revaluation inspectors, and how extensive it will be.

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Mr. Tobin says that the police will be doing pretty extensive background checks.

There being no further comments from the public, Mr. Skudera offers a motion to close the public discussion, seconded by Mrs. Barrett.

ROLL CALL:

AYES: ALL IN FAVOR

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

PUBLIC DISCUSSION NOW CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER – Mrs. Barrett states that at the last Council meeting she questioned what was happening with the signs on Pine Street. She saw that there was a memo on March 15th directed at Public Works. She knows they are responsible for making the signs, but wants to know if anyone has an idea on when this will be.

Mr. Tobin has an update saying that they should start on those in two (2) to three (3) weeks. Mr. Dempsey adds that they have to call for a mark-out. Mr. Tobin says the mark-out is to make sure that they are not sticking the poles into any cables or anything.

Mrs. Barrett questions if it is two to three (2-3) weeks from when the letter dated March 15, 2007. Mr. Tobin responds that it usually takes two (2) weeks to get a mark-out done. Once the signs are ready, they will be stuck in the ground.

Mrs. Barrett questions if the signs will be ready by that time. Mr. Dempsey says according to John Bucciero, the signs will be ready and installed in two to three (2-3) weeks.

Mrs. Barrett says that at the last meeting, Mr. Baldwin spoke of a presentation given in Seabrook regards on what they were trying to do on Asbury Avenue and Essex Road. She had requested a copy of the disc from that presentation, and has not yet received anything.

Mr. Tobin said that the disc was given to him as an outside thing, not something through the Borough. He would have to go through his records to see where it is so that he can get her a copy.

Mrs. Barrett states that she assumed Mr. Dempsey would have it. Mr. Dempsey replies that it was his understanding that the presentation was given by the County. He is waiting to hear back from Joe Etoe to see if he has copies of this.

Mr. Tobin adds that they can get copies of the disc from Mr. Baldwin since that is where the disc came from. Mrs. Barrett said she did not direct the question at Mr. Baldwin before because she assumed the administration had the information.

Mr. Dempsey questions if the County gave out the discs. Mr. Tobin replies that the presentation was taped, and what was aired on the Seabrook TV station was burned onto a disc.

Mrs. Barrett is aware that subcommittees were set up in regards to the officials that are to be hired by the Planning and Zoning Boards. As of right now, neither Board has any recommendations or have actually hired their professionals. Traditionally they reorganize in June and are in place for July. Last year it was brought up that they should probably be on the same fiscal calendar that we are, and Council went forward and changed it to January. We are now in March and nothing has happened.

Mr. Dempsey said that the subcommittee was set up by the Planning Board. He does not know what their timeframe is, but he emailed the Chairman of the Planning Board today because he was the one that coordinated both meetings.

Mrs. Barrett asks what the purpose of the subcommittee being as we have never had one for this before. Mr. Dempsey replies that the purpose of the subcommittees is to go through all of the RFP's that were received, and they would select who they wanted for their professionals. The subcommittee would go through the RFP's and make a recommendation to the Planning Board or the Zoning Board.

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Mrs. Barrett asks if the Planning and Zoning Boards have to hire the professionals that the subcommittee has recommended. Mayor Maclearie states that the Boards can hire whoever they want. The subcommittees help to narrow down the process.

Mr. Dempsey adds that he does not know when the subcommittees meet, and he is just waiting for them to tell him who they want. He has talked to the Zoning Board Chairman at their meetings and has not gotten a response.

Mrs. Barrett questions if there is any way that we can "hold their feet to the fire" and say that we need this done by the end of April. Mr. Dempsey responds that he understands that the Boards are autonomous Boards and they have the right to make those decisions in the timeframes that they have. We have accommodated with that last resolution, but acknowledges that Mrs. Barrett's point is well taken that a decision should be made as soon as practicable. Certainly, the Master Plan has protracted that timeframe, but he does not think that they are beyond the bounds of reason in terms of getting around to this now that the Master Plan may be voted on at the next Master Plan meeting.

Mrs. Barrett questions if the whole meeting on April 10th will be devoted to the budget. Mr. Dempsey replies no, it will not be. You can approve the budget that night, or if it has to be amended, move to carry it to the next meeting.

Mrs. Barrett states that last year when we went through the budget process, there were two (2) others members on the subcommittee. The budget was waylaid for quite some period. She had requested to be on the committee this year, which she is. She also requested that each department had to get their budget in as close to the end of the year as possible so that we would have a leg-up on approving this since the year is from January to January. It has not happened this way and she is disappointed because she does not understand what the delay was in getting this done. Initially she and Mr. Allen stated that they would like to meet with the different department heads. That has not happened, and they are looking to approve the budget next month, in April. She does not want to be stuck waylaying the process and is curious as to why this is not something that we do as standard practice to get the department heads together for a public hearing.

Mr. Tobin responds that there was an extensive delay because the State was not sure if they were going to put a four percent (4%) cap on it or not which would have affected the entire way that we do everything. He asks if there is a "drop dead date" of when this has to be done.

Mr. Pfeffer replies that there is no "drop dead date." They have the public hearing date, and at that time we have many options. We could adopt, amend, or carry. We do not have to adopt that night.

Mrs. Barrett says that it is her preference, and only her preference at this point, that we try to expedite adopting a budget. Mr. Pfeffer replies that the entire budget process for 2007 has been pushed back. Theoretically, if you had your budget ready to go on January 2nd, you could not adopt it. The State has to approve all of the adoptions within a certain timeframe. State aid is the usual thing that holds up the delay of all budgets.

Mrs. Barrett reiterates that she would have liked the preparation of the budget to have happened a little sooner and for there to have been more dialogue between the department heads, the subcommittee, and possible the Council. She thinks that this would be more productive. She proposes that this is the venue that we take for next year.

Mayor Maclearie states that it was a courtesy that there was a finance committee, and Mrs. Barrett could not have gotten anything until the last meeting. It was a courtesy that she was able to see it and have it for months. For as long as she has had the information, she has never brought up the concern of having a public meeting until now. He states that they have done their best to let her participate, ask questions, and get involved as the budget was being developed and dealt with.

Mrs. Barrett also voices concern that there are three (3) other Council members that are not on the subcommittee. She does not want to make it seem counterproductive that there are two (2) people who have seen this information, and then it is just dropped in front of the other three (3) members.

Mr. Dempsey responds that what Mrs. Barrett is referring to is NJSA-4069845; the particular budget provisions that pertain to Faulkner Act communities like ours. The normal budgetary processes are done under Title 40A in other towns. We have a kind of particularized process because there is a significant division between administrative responsibilities and the executive

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function of the Mayor, as well as the legislative functions of the Council. This is why the Faulkner Act separates these. He says that what Mrs. Barrett is referring to is a 1950 statute that does provide that the process would be such that in November there would be public meetings shared by the administration, at which time department heads would give open public testimony. He also refers her to Amendment 6946.1 which was adopted in 1989. It says that whenever the State in fact extended the date for the filing of a proposed budget because of its delays, all of those processes would be pushed back to sixteen (16) days before the necessary date as well. The reality is, in 1950, people probably could form a budget and have those kinds of discussions in November and December of every year. For at least the last fifteen (15) years with the State running a budget deficit, and not sometimes certifying its own budget until June, the relative merits of that 1950 statute are minimal ineffective practice guides, an exercise that is meaningless. He would not characterize the process that may have occurred during the past six (6) years in the Borough as being in accordance with that guideline, where the statute of reality is that the statute cannot be followed because of the State's inability to provide either income (revenue-side figures) or expense cap figures as well. To even propose a departmental budget would be an almost useless exercise.

Mr. Dempsey does not want Mrs. Barrett to feel the process that has been undertaken has been illegal. He wants her to feel comfortable moving forward with the budget.

Mr. Pfeffer adds that the hearings Mrs. Barrett is talking about are an administrative process. It is a meeting between the Mayor and the department heads. There is no public participation at these hearings, including the Council. The hearings are open to the public if they want to sit in the room and listen to what is said, but it clearly just an administrative function. It is called a public hearing because the public can attend, but it is really just dialogue between the Mayor, or his delegate, and the department heads.

Mrs. Barrett states that she understands this, but she thinks that it might benefit the Council to know how the department heads came up with their various budgets.

Mr. Dempsey adds that because of the very clear separation between executive and legislative, even if a meeting were to be held by the Mayor with the department heads, a Council member would assume a position of a public member. He is not sure as to how that would speed or not the consideration by the Council of the budget when it is presented for review by the Council.

Mayor Maclearie says that we can do it this way next year to the best that we can.

Mr. Skudera says that we could do that this year. We have enough time to get the department heads in here and talk to Council and give a report. He believes that Council has the authority to do that. Mr. Dempsey responds that the guideline to which Mrs. Barrett was referring does not involve Council participation or questioning. Even though the budget is in the Council's hands right now, they cannot request information and reports from the department heads directly. They certainly can ask questions of the Administrator and Mayor as to the budget that is presented, but not the department heads.

Mr. Dempsey states that the department heads are himself, Stephen Pfeffer, Jim Berube, and John Bucciero. Scott Imbriaco is not a department head, and neither is the Recreation Director. If there are comments of the department heads, they can be directed to these four (4) men, but he thinks that the Council is looking for the Recreation Director, the foreman of the Public Works Department, the Court Administrator, and all of those other individuals to come in. he asks if he is correct.

Mr. Skudera replies he think it would be benefit for the Council if they either came in or gave a report. Mayor Maclearie asks what kind of report. They have a thick budget and would like to know what answer Mr. Skudera wants that is not answered in there. Mr. Skudera responds that he wants to see why things were raised this year. The budget that we have this year is not bad, but since we raised it twenty seven percent (27%), it would be nice if we could get these numbers down. If possible, perhaps we could work with the auditor on this. Mr. Skudera questions if Council can appoint the auditors to do this job. Mr. Tobin replies just so long as they appropriate the funds.

Mr. Skudera says that he wants the Council to do its job to the fullest to get those numbers in the budget down.

Mrs. Mount-Taylor explains that when the Council introduces the budget, it becomes the Council's budget. They introduce it and schedule a public hearing for the public to participate. It will be advertised in the March 22nd Coaster. If the Council chooses to close the public hearing at that date, they can. The Council can then chose to adopt, carry, or amend as Mr. Pfeffer had

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stated earlier. On the motion for adoption, you can have your questions and if you do not want to adopt it you can carry it to another meeting. Either way, there still has to be the public hearing on April 10th because the public needs to talk about the budget, and then it will come back to the Council. It is the Council's budget. Prior to the introduction at the last meeting, it belonged to the Mayor. In order to increase the budget, you need four (4) votes from the Council, and in order to decrease it, you need three (3).

Mr. Pfeffer says once the budget is introduced, it follows the Local Budget Law. A simple majority can change the budget in either direction once it is introduced. All changes are made through the amendment process.

Mr. Skudera states he knows that the Crawford House is going to be used as a storage center, but he would like to get some guidelines on what will actually be put there before they start putting all this money into it.

Mr. Tobin says that they will go over that at the next meeting.

Mr. Tobin adds a note in regards to the memory of the first Chief of Police of Tinton Falls, James Herring. Chief Herring was a big fan of the saying "if you can't eat it, don't bring it to the table." With that in mind, they have decided to take the money they were going to use on flowers and donated it in his name to the food bank in Neptune.

Mrs. Mount-Taylor adds that the Borough Clerk's Office has now been staffed with a Deputy Borough Clerk by the name of Kelly Johns, and an assistant by the name of Cheryl West. Neither have any experience, but they will be attending school.

RESOLUTIONS

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-094 RESOLUTION – Authorizing and Confirming
W. Bryan Dempsey to Act in the Absence of the Borough Clerk**

BE IT RESOLVED, that W. Bryan Dempsey 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 February 20, 2007.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-095 RESOLUTION – Reconfirming and Renumbering
Resolution from February 20, 2007 and March 6, 2007**

BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the following Resolutions are hereby Reconfirmed and Renumbered.

R-07-061 RENUMBERED R-07-068 APPROVAL OF BILLS – FEBRUARY 20, 2007

R-07-062 RENUMBERED R-07-069 INTRODUCTION OF 2007 MUNICIPAL BUDGET

R-07-063 RENUMBERED R-07-070 HONORING ED BREIDENBACH

R-07-064 RENUMBERED R-07-071 DESIGNATING THE MONTH OF MARCH AS "WOMEN'S HISTORY MONTH"

R-07-065 RENUMBERED R-07-072 SUPPORTING A-3444/S2183

R-07-066 RENUMBERED R-07-073 DECLARING GYPSY MOTH AS A PUBLIC NUISANCE

R-07-067 RENUMBERED R-07-074 AUTHORIZING MAYOR TO FILE NOTICE OF INTENT FOR VARIOUS PROPERTIES CONTAINED IN FORT MONMOUTH PURSUANT TO BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994

R-07-068 RENUMBERED R-07-075 AUTHORIZING MONMOUTH COUNTY MOSQUITO COMMISSION EXTERMINATION COMMISSION TO APPLY PESTICIDES FROM AIRCRAFT

R-07-069 RENUMBERED R-07-076 COMPENSATED ABSENCE – RETIREE - JOY FOSTER

R-07-070 RENUMBERED R-07-077 2007 EMERGENCY TEMPORARY APPROPRIATIONS #2

R-07-071 RENUMBERED R-07-078 AUTHORIZING EXECUTION OF ADDENDUM TO AGREEMENT FOR SALE OF EXCESS SEWER CAPACITY

R-07-072 RENUMBERED R-07-079 AUTHORIZING EXECUTION OF DEVELOPER'S AGREEMENT WITH AVALON BAY COMMUNITIES

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R-07-073 RENUMBERED R-07-080 ALLOWING FOR 0% INTEREST PENALTY ON 2007 1ST QUARTER SEWER BILLS FOR CERTAIN PROPERTIES

R-07-074 RENUMBERED R-07-081 ACCEPTANCE OF STREET LIGHTING – CROWN POINTE AT WILLOWBROOK

R-07-075 RENUMBERED R-07-082 AUTHORIZING EXECUTION OF CP#1 FORMS FOR THE PINES AT TINTON FALLS

R-07-076 RENUMBERED R-07-083 EXTENSION OF PROFESSIONAL SERVICES CONTRACTS PS#04-06, PS#05-06, PS#14-06

R-07-077 RENUMBERED R-07-084 AUTHORIZING CHANGE ORDER #24 – NEW MUNICIPAL BUILDING

R-07-078 RENUMBERED R-07-085 AUTHORIZING CHANGE ORDER #25 – NEW MUNICIPAL BUILDING

R-07-079 RENUMBERED R-07-086 REDUCING PERFORMANCE GUARANTEES – GREENBRIAR FALLS

R-07-080 RENUMBERED R-07-087 WAIVING ELECTRICAL PERMIT FEES DUE TO ICE STORM

CONSENT AGENDA

R-07-081 RENUMBERED R-07-088 REFUNDING TAX OVERPAYMENT – 114/24.01 \$4,730.88

R-07-082 RENUMBERED R-07-089 REFUNDING TAX OVERPAYMENT - 114/23.03 \$7,384.61

R-07-083 RENUMBERED R-07-090 REFUNDING TAX OVERPAYMENT – 114.01/21.02 \$1,016.00

R-07-084 RENUMBERED R-07-091 REFUNDING RECREATION FEES – COTTELL \$44.00

R-07-085 RENUMBERED R-07-092 REFUNDING TAX OVERPAYMENT – 114.01/19.06 \$23,787.46

R-07-086 RENUMBERED R-07-093 APPROVAL OF BILLS – FEBRUARY 6, 2007 - \$6,456,807.34

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

R-07-096 RESOLUTION – Tonnage Grant Application

WHEREAS, The Mandatory Source Separation and Recycling Act, P.L.1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, It is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, The New Jersey Department of Environmental Protection is promulgating recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, The recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, A resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Borough of Tinton Falls to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, Such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW THEREFORE BE IT RESOLVED by the Borough of Tinton Falls of the Borough of Tinton Falls that Borough of Tinton Falls hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Jill Pegosh, Department of Public Works to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-097 RESOLUTION – Compensated Absence-Retiree
– Daniel Reevey**

WHEREAS, Daniel Reevey has been employed by the Borough of Tinton Falls as Foreman in the Department of Public Works since April 1, 1972, and;

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WHEREAS, on April 1, 2007, Daniel Reevey will retire with 35 dedicated years of service, and;

WHEREAS, Daniel Reevey will be entitled to compensated absence benefits according to the Borough Ordinances #9-8.1c and 9-7.3c. The benefits are not to exceed \$18,000.00, and;

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 Daniel Reevey receive the aforementioned compensated absence benefits.

Trust Fund Accumulated Leave Compensation

/s/ STEPHEN PFEFFER, Chief Financial Officer

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers a motion to table R-07-098, seconded by Mrs. Barrett.

R-07-098 RESOLUTION – Appropriation Reserve Transfer

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-099 RESOLUTION – Accepting the Transfer of
Block 124.63, Lot 29.01-CJS Investments, Inc.**

WHEREAS, CJS Investments, Inc., was granted final Planning Board Approval under Resolution of the Planning Board of the Borough of Tinton Falls dated 12/27/06 concerning the minor subdivision of Block 124.63 Lot 29.01; and,

WHEREAS, CJS Investments, Inc., pursuant to the terms of that Planning Board Approval desires to transfer Block 124.63 Lot 29.01 to the Borough of Tinton Falls in satisfaction of the conditions imposed by the Planning board of the Borough of Tinton Falls; and

WHEREAS, the Borough of Tinton Falls desires to accept conveyance of same upon those terms and conditions; and

WHEREAS, as part of the transaction in accepting said parcel, the Borough of Tinton Falls has agreed to undertake the payment of accrued taxes and the sewer charges from the date of the dedication of said lands pursuant to the conditions of the Borough of Tinton Falls Planning Board in the amount of \$19,000.00 which amounts were budgeted in the 2006 Budget for the Borough of Tinton Falls; and for which a final figure can not be ascertained until the certification of the 2007 budget for the Borough of Tinton Falls.

NOW, THEREFORE, be it resolved by the Borough Council of the Borough of Tinton Falls that the Mayor, Borough Administrator, Borough Clerk and appropriate Municipal Officials are hereby authorized to execute any documents necessary to accept the transfer of title to premises known as Block 124.63 Lot 29.01 comprising of a parcel approximately 9.02 acres, also shown on the Map entitled "Minor Subdivision, Shafto Road, Lot 29.01, Block 124.63 in the Borough of Tinton Falls, Monmouth County, New Jersey" by Challner & Associates, LLC Toms River, New Jersey, dated 12/7/2006.

BE IT FURTHER RESOLVED, that the Chief Municipal Financial Officer shall be and hereby is authorized to transfer up to \$19,000.00 from the appropriate 2006 Budget for the payment of accrued tax and sewer liabilities as aforesaid.

/s/ BRENDAN P. TOBIN, Council President

Mrs. Barrett inquires if Block 124.63, Lot 29.01 is current on their taxes. She knows that there was an issue with the farm assessment.

Mr. Dempsey replies that he was advised that they are current on all taxes up till the first quarter of 2007.

Mrs. Barrett questions if they are still under farm assessment or if they are under a regular tax.

Mr. Dempsey responds that he believes the farm assessment has been deleted and then are now assessed as regular property.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: Mr. Tobin

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Mrs. Mount-Taylor advised to let the record show that this Resolution carries because two (2) is the majority of the three (3), and the other two (2) Council Members are not here.

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-100 RESOLUTION – Opposing S-457 and A-3870
Amending the Time of Decision Rule**

WHEREAS, Senate bill S-457 and Assembly bill A-3870 are intended to modify the “time of decision” rule which currently allows municipalities to change the zoning regulations during the pendency of an application for development; and

WHEREAS, under the bill the ordinances in effect at the time of an application is submitted shall govern the review of that application, and any decision made following upon that review;

WHEREAS, “the time of decision rule” is a judicially recognized principal that decisions are to be made on the basis of laws, ordinances and regulations in effect at the time the decision is rendered; and

WHEREAS, courts have applied the “time of decision rule” to correct errors in zoning ordinances, thus giving local legislators the opportunity to correct legislative policy that had been found to be imperfectly expressed;

WHEREAS, the “time of decision rule” has permitted a municipality to give additional legislative consideration to serious and substantial land use planning concerns that for whatever reason, had not been previously addressed in the ordinance;

WHEREAS, application and zoning changes require public discussion and hearings, and S-457/A-3870; would permit developers to “beat the clock” by filing applications and freezing the ability of local officials to act;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls urges our State Legislators to oppose A-457/A-3870;

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to Senator Ellen Karcher, Assemblyman Michael Panter and Assemblywoman Jennifer Beck, the sponsors of S-547 and A-3870, members of the Senate Community and Urban Affairs Committee and the Assembly Housing and Local Government committee, the New Jersey State League of Municipalities and the Office of the Governor.

/s/ BRENDAN P. TOBIN, Council President

Mrs. Barrett questions if any information had been given to the Council about this.

Mr. Dempsey responds that this resolution results from a recommendation for the New Jersey League of Municipalities, who put out a position paper on the Senate Bill S-457 and the Assembly Bill A-3870. They recommended that all of their members pass this resolution.

Mrs. Barrett asks for confirmation that this resolution is stating that they will not support S-457 and A-3870. Mr. Dempsey replies that that is correct. He says that the proposed amendments change what is the existing law that says the Council would have the right to zone properties even during the time of a pending application before either of the Boards. This is proposed to be changed under those Assembly Bills and Senate Bills.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mr. Tobin.

**R-07-101 RESOLUTION – Authorizing the Mayor and Municipal
Clerk to Execute a Contract for Telephone Services**

WHEREAS, the Borough of Tinton Falls requires a company to provide telephone service in the new municipal building; and

WHEREAS, any contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefore and shall be awarded by resolution of the governing body if the subject matter is in accordance with NJSIA 40A:11-5 (f); and

WHEREAS, National CLEC is recognized as a company regulated by the Board of Public Utilities as required, and is able to provide a hosted VOIP phone service; and

WHEREAS, many meetings were held with the Technical Advisory Committee and the vendors; and National CLEC Services, LLC, 620 Tinton Avenue, Tinton Falls, NJ 07724, was recommended by the TAC; and

WHEREAS, James E. Berube, Jr., Director of Law, has reviewed and made changes to the contract and approves of the final contract to be supplied;

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

- 1) That the Mayor and Borough Clerk are hereby authorized to enter into a three (3) year contract with National CLEC Services, LLC, 620 Tinton Avenue, Tinton Falls, NJ 07724, for the provision of a hosted VOIP phone service for the fees set forth therein.
- 2) That a copy of this Resolution shall be forwarded to National CLEC Services, LLC along with a copy of the executed contract.

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/s/ BRENDAN P. TOBIN, Council President

Mrs. Barrett questions if this is time-sensitive.

Mr. Dempsey replies that it is time-sensitive because the building is there. This is a recommendation that was presented probably two (2) months ago from Paul Hughes of the Technical Advisory Committee. He suggested that they approve Reynwood, who does business as National CLEC Services.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

R-07-102 RESOLUTION – Authorizing the Award of a Fair and Open Contract for RFP #3-07 Professional Auditing Services – Hutchins, Farrell, Meyer, & Allison, P.A.

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

WHEREAS, such professional Auditing services can only be provided by licensed professionals, and the firm of Hutchins, Farrell, Meyer & Allison, P.A. is so recognized; 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 Tuesday, December 5, 2006 the solicitation for receipt of proposals from auditing firms for said services and proposals were publicly opened and read on Monday, December 18, 2006; and

WHEREAS, the Borough received two (2) proposals from Auditing firms which have been reviewed, and it was determined the following firm has satisfied the requisites contained in the request for proposals to be considered for professional Auditing services for the 2007 audit; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$40,000.00 for the December 31, 2007 audit, plus miscellaneous reimbursables;

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

1. The firm of Hutchins, Farrell, Meyer & Allison, P.A., 912 Highway 33, Suite 2, Freehold, NJ 07728 is hereby retained to provide professional auditing services for an amount not to exceed \$40,000.00 as described in the proposal as amended.
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.

I hereby certify funds are available as follows contingent upon the necessary funds being appropriated by the governing body in the 2007 Municipal Budget:

CURRENT FUND: Finance: \$25,600.00 SEWER: \$14,400.00

/s/ STEPHEN PFEFFER, Chief Financial Officer

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

R-07-103 RESOLUTION – Authorizing the Award of a Fair and Open Contract for Professional Engineering Services 2007 Trust Fund Project – Hope Road – Phase II & 2007 Road Program Contract PS #5-07

WHEREAS, the Borough of Tinton Falls has a need for professional engineering services for the 2007 NJDOT Trust Fund Project - Hope Road, Phase II and 2007 Road Program as a non-fair and open contract pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, such professional engineering services can only be provided by licensed professionals in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a), and the firm of Birdsall Engineering, Inc. , 611 Industrial Way West, Eatontown, N.J. 07724 is so recognized; and

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WHEREAS, the Borough Administrator has determined and certified in writing that the value of the acquisition will exceed \$17,500.00; and

WHEREAS, the term of this contract is for one year from date of award; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$297,000.00 plus miscellaneous reimbursables for engineering services described on proposal attached dated January 26, 2007; and

WHEREAS, Birdsall Engineering, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Birdsall Engineering, Inc. has 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 Birdsall Engineering, Inc. from making any reportable contributions through the term of the contract, and

WHEREAS, Local Public Contracts Law, NJS A 40A:11-1 et seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Birdsall Engineering, Inc. is hereby authorized to provide professional engineering services described above for an amount not to exceed \$297,000.00 plus miscellaneous reimbursables; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this Resolution and the Contract with the Clerk of the Borough of Tinton Falls; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby directed to publish a public notice of this award as required by law.

I hereby certify funds are available contingent upon expiration of the 20 day estoppel period from: Capital Account 07-1215-4505 \$297,000.00

/s/ STEPHEN PFEFFER, Chief Financial Officer

Mr. Skudera says the other resolution was fair and open and this is non-fair and open. He inquires why that is.

Mr. Berube replies that they may recall that this proposal has really come from about six (6) months of review by Birdsall as the engineers. When there was discussion as to whether to put this out as a fair and open versus non, the amount of work, time, and effort that Birdsall had already invested with their work as Borough Engineer was discussed, and it probably would have been more expensive to have draft RFPs and to seek outside bidding. Any savings that they might have received was through the award this way. It was discussed and it was the Council's decision to continue Birdsall as a non-fair and open based on their familiarity, their prior work in the Borough, and the continuity of this with other projects. Also, the whole process of getting this to be a fair and open would have been more expensive than anything they might have saved.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett

**R-07-104 RESOLUTION – Release of Performance Bond –
Red Bank Cabinets – Block 13.04, Lot 67**

WHEREAS, the developer has requested the release of Performance Guarantees, and

WHEREAS, by letter dated March 5, 2007 the Borough Engineer (Birdsall Engineering, Inc.) has certified that the developer has completed the required improvements and recommends that the Performance Guarantee be released upon the posting of Maintenance Guarantees in the amounts specified in said letter and upon the payment of any outstanding engineering and inspection fees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Performance Guarantees be released upon the posting of Maintenance Guarantees and upon the payment of any outstanding engineering and inspection fees.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-105 RESOLUTION – Release of Performance Bond –
WHTG Tower Corp. – Block 115, Lot 5.02**

WHEREAS, the developer has requested the release of Performance Guarantees, and

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WHEREAS, by letter dated February 26, 2007 the Borough Engineer (Birdsall Engineering, Inc.) has certified that the developer has completed the required improvements and recommends that the Performance Guarantee be released upon the posting of Maintenance Guarantees in the amounts specified in said letter and upon the payment of any outstanding engineering and inspection fees.

WHEREAS, by letter dated February 26, 2007, the Borough Engineer (Birdsall Engineering, Inc.) recommends the waiving of the posting of a Maintenance Bond.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that Performance Guarantees be released pursuant to the letter dated February 26, 2007 (hereby attached and made part of this resolution), and upon the payment of any outstanding engineering and inspection fees.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: Mr. Tobin

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-106 RESOLUTION – Approving Raffle License Application
RA#07-05 Church of Anselm – On Premise 50/50**

WHEREAS, the Church of St. Anselm has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA# 07-05, 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# 07-05 be and the same is hereby approved as follows:

NAME: Church of St. Anselm Identification No.: 456-1-19385
LOCATION: 1028 Wayside Rd, Tinton Falls, NJ 07712
DATE: May 4, 2007 7:00 p.m. - 11:00 p.m.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mr. Tobin.

**R-07-107 RESOLUTION – Approving Raffle License Application
RA#07-06 Church of Anselm – On Premise Raffle**

WHEREAS, the Church of St. Anselm has filed an application, which has been found to be complete, for a Raffle License which has been assigned number RA# 07-06, 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# 07-06 be and the same is hereby approved as follows:

NAME: Church of St. Anselm Identification No.: 456-1-19385
LOCATION: 1028 Wayside Rd, Tinton Falls, NJ 07712
DATE: May 4, 2007 7:00 p.m. - 11:00 p.m.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mrs. Barrett offers a motion to table R-07-108, seconded by Mr. Skudera.

R-07-108 RESOLUTION – Sewer Easement – Foxchase III

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

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NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

R-07-109 RESOLUTION – ANJEC – Environmental Commission Grant

WHEREAS, the Council of the Borough of Tinton Falls, in Monmouth County, New Jersey, is desirous of analyzing the long term effect of development on the Borough and its citizens in terms of population, employment, transportation, air pollution, water supply and pollution, and public capital costs; and

WHEREAS, the Borough understands that funding may be available from the Geraldine R. Dodge Foundation as administered by the Association of NJ Environmental Commissions (ANJEC) under its Smart Growth Planning Grants Program to conduct a study, commonly known as a “build-out analysis”, of the long-term impacts of development in the Borough; and

WHEREAS, the Tinton Falls Environmental Commission was established by ordinance on November 21, 1989 and has applied to ANJEC for grant funds to conduct such a study,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls, understanding the nature of such a study, hereby supports the effort of the Environmental Commission to apply for grant funds, and guarantees provision of matching funds up to Five Thousand Dollars (\$5,000.00) in support of the build-out analysis.

/s/ BRENDAN P. TOBIN, Council President

ROLL CALL:
AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin
NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-110 RESOLUTION – Approval of Bills –
March 20, 2007 – \$955,802.99**

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending March 20, 2007,

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 | 145,475.07 |
| TRUST | 569,846.40 |
| CAPITAL | 45,335.62 |
| DEVELOPER | 43,075.02 |
| DOG TRUST | 2,022.23 |
| GRANT FUND | 660.45 |
| SEWER UTILITY | 23,303.60 |
| ADDITIONS | <u>126,084.60</u> |
| | 955,802.99 |

CERTIFICATION
/s/ STEPHEN PFEFFER, Chief Financial Officer

ROLL CALL:
AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin
NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

CONSENT AGENDA

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-111 RESOLUTION – Refunding Tax
Overpayment – 129.13/20.52 \$1,113.42**

WHEREAS, an overpayment of 2007 1st quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company twice.

| <u>Name</u> | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|--------------------------|--------------|------------|---------------|
| July Pich & Edda Serrano | 129.13 | 20.52 | \$1,113.42 |
| 23 Forrest Court | | | |
| Tinton Falls, NJ 07753 | | | |

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and,

WHEREAS, said error has resulted in an overpayment of 2007 1st quarter taxes in the amount of \$1,113.42, as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,113.42 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls hereby certify the amount of overpayment to be \$1,113.42.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-112 RESOLUTION – Refunding Tax
Overpayment – 124.47/9 \$1,531.63**

WHEREAS, an overpayment of 2006 4th quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and by the Title Company.

| <u>Name</u> | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|------------------------|--------------|------------|---------------|
| Viktor & Margit Sapp | 124.47 | 9 | \$1,531.63 |
| 34 Jonathan Drive | | | |
| Tinton Falls, NJ 07753 | | | |

and,

WHEREAS, said error has resulted in an overpayment of 2006 4th quarter taxes in the amount of \$1,531.63, as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,531.63 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls hereby certify the amount of overpayment to be \$1,531.63.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-113 RESOLUTION – Refunding Tax
Overpayment – 124.09/16 \$1,453.46**

WHEREAS, an overpayment of 2007 1st quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company paying twice.

| <u>Name</u> | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|--------------------------------------|--------------|------------|---------------|
| Countrywide Home Loans - Refund Unit | 124.09 | 16 | \$1,453.46 |
| 1757 Tapo Canyon Road | | | |
| Suite 300 MS - SVW-24 | | | |
| Simi Valley, CA 93063 | | | |

Re: R. Marino/S. Briamonte

11 Flintlock Drive

and,

WHEREAS, said error has resulted in an overpayment of 2007 1st quarter taxes in the amount of \$1,453.46, as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,453.46 is hereby approved for the aforementioned property.

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I, Carol Hussey, Tax Collector of the Borough of Tinton Falls hereby certify the amount of overpayment to be \$1,453.46.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-114 RESOLUTION – Refunding Tax
Overpayment – 16/1.02 \$463.50**

WHEREAS, an overpayment of 2007 1st quarter taxes on the following property has been paid in error creating an overpayment by the Attorney and by the Homeowner.

| <u>Name</u> | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|----------------------|--------------|------------|---------------|
| Lennar Corporation | 16 | 1.02 | \$463.50 |
| 800 West Main Street | | | |
| Freehold, NJ 07728 | | | |

Re: 2 Hazelwood Terrace

and,

WHEREAS, said error has resulted in an overpayment of 2007 1st quarter taxes in the amount of \$463.50, as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$463.50 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls hereby certify the amount of overpayment to be \$463.50.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-115 RESOLUTION – Refunding Tax
Overpayment – 16/1.03 \$463.50**

WHEREAS, an overpayment of 2007 1st quarter taxes on the following property has been paid in error creating an overpayment by the Attorney and by the Homeowner.

| <u>Name</u> | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|----------------------|--------------|------------|---------------|
| Lennar Corporation | 16 | 1.03 | \$463.50 |
| 800 West Main Street | | | |
| Freehold, NJ 07728 | | | |

Re: 4 Hazelwood Terrace

and,

WHEREAS, said error has resulted in an overpayment of 2007 1st quarter taxes in the amount of \$463.50, as certified by the Borough Tax Collector.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$463.50 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls hereby certify the amount of overpayment to be \$463.50.

ROLL CALL:

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AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin
NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-116 RESOLUTION – Refunding Recreation Fees
– Walker – \$44.00**

WHEREAS, during the month of February 2007 fees totaling \$44.00 were paid by a resident of Tinton Falls for their child's participation in youth soccer program.

WHEREAS, said money was deposited by the Borough of Tinton Falls during the month of February;

WHEREAS, during the month of February, the Recreation Superintendent was informed by the resident that the child in withdrawing her child from the program due to the fact it is being held indoors. A refund in the amount of \$44.00 shall be issued to the resident, for their child Chyna Walker.

| | |
|---------------|----------|
| Carole Walker | \$44.00 |
| <hr/> | |
| Total | \$ 44.00 |

NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that refund in the amount of \$44.00 be issued.

ROLL CALL:
AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin
NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

Mr. Skudera offers the following Resolution and moves its adoption, seconded by Mrs. Barrett.

**R-07-117 RESOLUTION – Refunding Escrow Fees
– Hughes – \$868. 74**

WHEREAS, the following listed applicant has posted consultant escrow fees in conjunction with a Planning Board application in accordance with the Borough of Tinton Falls Land Use Ordinance, and

WHEREAS, the Planning Board Secretary, Erin Swartz, has certified the following listed applicant's account is deemed closed and no additional funds for consultants will be required, and

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

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

| | | |
|-------------------------------------|------------|----------|
| DONALD HUGHES BLK 31.02, LOTS 7 & 8 | 1350-A0986 | \$868.74 |
|-------------------------------------|------------|----------|

ROLL CALL:
AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin
NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

Mrs. Barrett offers the following Resolution and moves its adoption, seconded by Mr. Skudera.

**R-07-118 RESOLUTION – Pursuant to N.J.S.A.
10:4-13 – Executive Session**

BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that pursuant to N.J.S.A. 1:4-13, the Council shall adjourn to Executive Session for the purpose of discussing litigation.

BE IT FURTHER RESOLVED that upon conclusion of said matter(s) this discussion will be disclosed by the Borough Clerk via Executive Session Minutes upon written authorization from the Director of Law.

ROLL CALL:
AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

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NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None

WORKSHOP MEETING

Mr. Skudera offers a motion to move to the Workshop portion of the meeting, seconded by Mrs. Barrett.

ROLL CALL:

AYES: ALL IN FAVOR

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

TIME: 9:23p.m.

Reconvene at: 9:33p.m.

ADMINISTRATORS REPORT

Liberty Park II – Mr. Dempsey says that we have received a grant for Liberty Park II. We had put in for two hundred and fifty thousand dollars (\$250,000) and were rewarded two hundred and eight thousand (\$208,000). We are up to the discussion of how to fund the two hundred and eight thousand (\$208,000) on the project. Some people are concerned about the cost of the facility. It does not have to be four hundred and sixteen thousand dollars (\$416,000). We could scale it down to meet whatever number we are looking to go to.

Mr. Tobin replies that we could also put this out to bid and find out where the bids fall. Mr. Dempsey replies that that is correct. Mr. Berube adds that the ordinance has to be in place before we put the project out to bid.

Mrs. Barrett inquires what the anticipated number of games that will be played each year when they open the field. Mr. Dempsey responds that there will be about six (6) weeks of football, not including the possibility of playoffs. There would probably be five (5) games a day. It is an all-day event that starts with flag, then the little kids, and then eventually works up to the bigger kids. The season runs from September through November.

Mayor Maclearie adds that the teams do not play at home every week. They want to play home because they get to run the concession stands. The games are only played on Sundays.

Mrs. Barrett states that she attends the Open Space meetings. She is not a member of the committee, but she attends as a member of the public. This issue was brought up to the Committee. There were two (2) requests. The first request was that they wanted to be notified when there is funding available. After having reviewed the figures, the second request is that the project does not exceed the four hundred and sixteen thousand (\$416,000).

Mr. Dempsey responds that Mr. Allen, a member of the Open Space Committee, had indicated to him during a phone conversation that the Open Space Committee would like to see no more than the two hundred and eight thousand rewarded (\$208,000). The four hundred and sixteen thousand (\$416,000) would be the cap.

Mrs. Barrett states that she would like to weigh in on this as an individual. She is not saying that there is not a need for a snack center or possibly storage there, but she is still having a hard time believing that it would cost four hundred and sixteen thousand dollars (\$416,000). The Council is being asked to give permission for this to be done. As a Council, they can still not accept the bids.

Mr. Dempsey responds that the Council can decide to not accept the bids if they feel they are too excessive or if they do not meet the needs. He says that you could do alternate bids as Mr. Hilla indicated. You could have bids for block for Option A, metal sheeting as Option B, and vinyl siding as Option C. The inside of the building would all be the same, but the outside would be different based on the material used.

Mrs. Barrett adds that it seems that some of the projects that the Open Space Committee wants to pursue may be overlapping with the Environmental Commission. She asks if the Environmental Commission has been notified of this particular grant. Mr. Dempsey replies that no, they have not. Mrs. Barrett says that she is foreseeing a project in the future that both the Open Space Committee

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and the Environmental Commission would support: The Greenways. She would like to recommend the possibility that the grant is written up next September addressing that the Chairs of both committees agree on it.

Mr. Dempsey says that they can do that. This was discussed at an Environmental Commission meeting that he and the Mayor attended. The Commission indicated that a number of years ago they had a plan developed using waterways for recreational facilities. It would go along the river walk. There is also going to be a walking track around Sycamore that would have a tie in to that. This could be a very viable project.

Mr. Dempsey adds that the biggest thing that the County wants is acquisition. If we do not have an acquisition project, then he would say that we should apply for this.

Mayor Maclearie says that he thinks that we should see what the list is from the Open Space Committee. We have not received any feedback as to the priorities. He would hate to jump over and prioritize anything before seeing a list and a formal presentation.

Mrs. Barrett states that we have lost two (2) Open Space Committee Members. In the past, there was a member that was part of both Boards; Open Space and Environmental Commission. She asks if that could be done again. Mayor Maclearie says that if we can find someone that wants to cross over to both Boards, than that is not a problem.

Mr. Tobin wants to revert back to the length of the football season. One thing that dictates the length of the season is the availability of the fields. Once this field is set, it will change a lot of things. We will no longer be using the field in Eatontown and cramming into Monmouth Regional High School. He lives right by the soccer field. On June 23rd, the fire department is celebrating their seventy fifth (75th) anniversary. He asked about using the parking over there. He was told that was no problem because soccer does not start for another couple of weeks. Soccer runs day and night, but it is a short season as well where there is a big burst and then nothing and the facilities remain closed. The length of the season needs to be a contributing factor to the size of the building and what it needs. We need to find out and make sure so that we do not have a similar situation to Sycamore where we got the park for free and then found a whole list of things that we need. He wants to make sure that for whatever we do with this park, we have a full scope of what we need and do, and get real honest assessments from those that will be participating before we ahead and just make a decision one way or the other.

Mr. Dempsey inquires if he can put a bond ordinance on.

Mrs. Barrett questions if bathrooms will be put in. Mr. Dempsey replies "yes." Mrs. Barrett questions if refreshment concession is a full-blown functioning kitchen. Mr. Dempsey replies that it would be an area where a concession stand could be set up. There will not be any fryers or grills supplied. It would be an area with a sink, refrigerator, and storage closet. It would be the same thing that is at the Sycamore facility.

Mr. Skudera adds that he would like to get the price scaled down. The estimate given was not just an estimate, it was based on square footage and dollar amounts. It was a good everyday estimate. The amount could be higher or lower than that, but he still thinks that the starting point is a little too high for this.

Mr. Hilla says that when they do an estimate they layer it on the high side. They anticipate escalating costs. He does not want the Borough to fall short. He says that he is sensitive to change order and bonding issues. They try to give the Borough a responsible estimate that has some room in it. However, this site in particular has things that you do not ordinarily have. Water, sewer, and electric come into this site some four- or five hundred (400-500) feet from the road, which is not cheap. There is a sewer line in the street that would have to be run all the way in. The picnic area is a structure. It has a framed roof with structural members in it. You do not need this to have the bathrooms, or to necessarily have the concession stand, but it provides a safe haven for people as protection from the sun and any storms that arise.

Mr. Skudera says that it would be nice to have something there and he is very grateful for the grant that we have, so we should see if we can match that grant.

Mr. Hilla questions if they just matched the grant amount, what would they do for the engineering.

Mrs. Barrett questions as to how long we have to accept this grant. Mr. Dempsey replies that they have until June 14, 2007.

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Mr. Pfeffer states that he spoke to Steve Taylor the other day, and he suggested that the Borough gets the paperwork in right away. We have been granted site assessment approval.

Mrs. Barrett inquires as to how long after that we have to complete the project. Mr. Pfeffer says that the timeframe is two (2) years, and he thinks that it might be two (2) years from the date of award. He acknowledges that he could be wrong without reading to grant more closely.

Mr. Skudera asks if there can be anything in the contract that states that there could not be change orders. Mr. Pfeffer says that a project of this size absolutely could have change orders. There is always going to be the potential for contingency in any project.

Mr. Hilla responds that this project would be more manageable. The utilities could have some issues because it would require digging holes and we do not know what is in the ground.

Mr. Dempsey inquires if the utilities are going to be bid as part of the contract. Mr. Hilla replies that they would have to run the services to more or less the structure. The electric company would set the meter and that sort of thing, but we would be responsible for the bulk of the utilities.

Mr. Tobin asks how they want to bond this project: Propose the four sixteen (\$416,000) for total cost? Mr. Dempsey and Mrs. Barrett both express they think this is the way to go. Mr. Skudera adds that they can hopefully get a decent building for the four hundred sixteen thousand (\$416,000) since you can buy some decent homes for that amount.

Mrs. Barrett says that they still need to bid this project and it still could come in lower or come in higher.

Mr. Pfeffer says that there will be a professional service contract for engineering that would go against the four hundred sixteen thousand (\$416,000). Mr. Tobin says that if we find the whole thing ridiculously overpriced, we can just vote down the bids.

Ordinance Revision as it relates to the Master Plan – Mr. Dempsey states that he has a meeting set up for tomorrow with himself, Heyer & Gruel, the planners, and the codification company to work through the details of what Heyer & Gruel is going to prepare as the ordinances, and what the codification company can do on their side to limit the cost. He will have a concrete number for the Council at the next meeting as to what this will be. The code company feels that they are capable of handling putting the ordinances into place once they receive them from Heyer & Gruel, as opposed to Heyer & Gruel doing everything for us. Hopefully the details can be worked out and it will cost less than the seventy thousand dollars (\$70,000).

Essex Road – Pine Street – Mr. Dempsey reports that back in 2001, the Borough hired into an agreement in regards to the Essex Road/Pine Street realignment. There were some issues that the Borough was responsible to take care of. The Borough was to waive all of the permit fees. One of Mr. Dempsey's concerns though is that they are responsible to pay for all engineering construction costs incurred by the County for the new Essex Road alignment and the new Pine Street alignment. It does not provide an amount, just that we are responsible for all of it. The agreement also indicates that we have to vacate the right of way of the existing Pine Street and Essex Road in accordance with the concept plan. His real concern is that we are responsible to require any land necessary to construct the realignment Pine Street and realignment Essex Road in accordance with the final construction plans and including the property for wetlands mitigation. His only concern is that if you do not have a willing property owner, you are talking condemnation. The County is still working on their side of the agreement. Smith Magee is working with the County on the acquisition of whatever the County has to do on their part. We have to work out things on our side and look at this agreement because it spells out some things that we may have issues with.

Mrs. Barrett inquires if there is any responsibility in regards to the developer that had built the mall on the corner of Essex and Asbury since there seem to be continual problems. Mr. Dempsey responds that he does not know anything about this. He knows that this agreement predates when the mall project was approved.

The Council asks Mr. Dempsey to provide them with copies of the agreement.

Mr. Dempsey states that he does not know if the County will submit a bill to the Borough for the costs, but his concern is if there happens to be a change of faces out in the County, then someone might force the bill on us and he does not want that to occur.

Radio Communication Tower – Mr. Dempsey states that there is good news and bad news about the radio communication tower. The good news is that we put a contingency in the building. This was one of the items that was estimated. We thought that the cell towers could be built on the site here

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and we would be able to utilize the cell tower for the radio communications equipment. Cell tower companies are not coming to the Borough, so the issue remains that we have to build a radio communications tower. Currently, we can connect the existing tower to the new building and function as it is as long as this building is here. Once this building goes away, we will have issues with the tower. He proposes that we go out to bid and have a tower built on the facility. This way we would not have to worry about the existing tower which is outdated. We would not have to worry about a cell company coming and giving us money for a communications tower. This would probably be done within the next two (2) months, and he believes the bids will be somewhere in the forty five to fifty thousand dollar (\$45- 50,000) range.

Double A and Forgotson Property Discussion – Mr. Dempsey says that they need to discuss what we want to do as far as the end result of this. The Borough did two (2) subdivisions of the properties. There was an intention to sell the properties off. This was referenced in different materials. A bond ordinance was passed that the properties would be sold or proceeds of the subdivision would go back.

Mrs. Barrett asks if that means that we would have to sell the properties. Mr. Tobin says that we would according to the ordinance.

Mr. Dempsey responds that according to the ordinances at the time, the direction was that it was going to be sold. The properties do not have to be sold. They could be repaired if the Council wanted to.

Mrs. Barrett questions if Mr. Dempsey is looking for an absolute definitive answer tonight on these properties. Mr. Dempsey replies that he thinks the issue is the easements. He says that we need to get the easement process started that we have to put on the properties. We need something to move forward with.

Mr. Berube says that resolutions and bond ordinances have been passed to acquire the properties, and a resolution had been passed to hire Ms. Zakalak to prepare the application for the subdivision and transfer because it is on the Borough's historic list. Ms. Zakalak needs to file that application, but in order to do so, she has to have the easement that the DEP requires. The present application is for the Council's approval for the administration to sign the easements. The easements contain the Borough's affirmative willingness to undertake the obligations in the easement, which includes maintenance or the sale. There is a little bit more work to do now that the State has changed its covenant easement process. Ms. Zakalak will have to prepare a conditions report and do a little bit more documentation that was originally expected in the prior easements. Stacy has indicated that she has received an email from Ms. Zakalak where the actual cost to the Borough is not expected to be any more than what was anticipated for the original application. Stacy needs the direction of the Council to allow the authorization to execute the easements for both properties.

Mrs. Barrett asks how Ordinance 00-1037, dated March 21, 2000, plays into this issue. She believes the ordinance is from when they first purchased the properties. Mrs. Barrett is the only with the copy of the ordinance. She states that she also has additional paperwork which specifies the criteria for power and new procedures of the Tinton Falls Historic Preservation Commission. There are also criteria for designation that it is a historic site.

Mr. Dempsey responds that if it is a historic site, there is an issue that you cannot do anything with the house. Mrs. Barrett says that it just states the criteria for a historic site. She is a little confused because it is historic and we bought it to keep it out of the hands of a developer, but yet we cannot develop it because it is wetlands. She refers to this as a vicious cycle.

Mr. Tobin says that on the August 13, 2003 Open Space Declaration, there are only two (2) properties in the Borough that are listed under Note 2, one being Forgotson and the other being Double A. It says that only a portion of the properties listed in the area shown approximated projection proposed subdivision by Borough. The idea that we had all along was that we would parcel up the property: subdivide and sell these houses to people who were going to fix them up and take care of them. This is the track the Mr. Tobin thinks they should go on. He suggests that we sell the properties to recover the general dollars for the Borough.

Going back to Mrs. Barrett's comment on the properties being designated historic, Mr. Dempsey says that it is on their list to look into this.

Mrs. Barrett states that she does not know if these properties are preserveable. They were bought back in 2000 and have been sitting there without and heat, electric, or water. She has no guarantee that an individual will come in, buy the house, and then turn around to her committee and say that they cannot do anything with it because it is a mess. She questions as to how much control they

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would have over its being preserved its historic state. If they are told they have to sell this property, then they have to; but she states that she is inclined to say no.

Mr. Tobin says that either way, they lose with this. He wants to find the way in which they will lose the least. He suggests they do what they said they were going to do and parcel off for the one little piece that we do not turn into a park. We take the other part that we have at Forgottson and make it part of that walkway. We do not have to do something with every piece.

Mr. Skudera asks if there will be an easement anyway. Mr. Dempsey replies that the way the property was subdivided on the side between Charlie Browns and the side where the existing driveway is, you have twenty point zero six (20.06) feet. Mr. Skudera inquires that going into the future if anything wanted to be done, we do have that easement to use. Mr. Dempsey responds that the Borough owns basically twenty (20) feet.

Mr. Skudera inquires that if nothing has been done to the house in so much time, what is stopping someone from saying that they cannot do anything and then building a different house there. Mayor Maclearie says that he thinks that a historic building in a historic district regulates what goes on the property, and it has to fit the needs of the Historic Committee.

Mr. Dempsey states that if there are no bidders on the property, then you know that there is no value in the house. Then you can go back and possibly demolish the house if you choose to. Or, you could put in the bid specks that they have to go through the house prior to bidding, and come up with how they are going to fix the house. It can be an iron clad as much as Mr. Berube can make it, that they cannot demo the house after purchasing it. They perspective bidders coming in would know that there is no option of tearing the house down, so they would have to bring their engineers and architects in look to see what they can do, and look at the ordinances and see how they comply. If they do not bid, then we may be back here in three (3) months with the same issue and you can tear the house down if you do not want to move forward.

Mr. Berube adds that you could make a requirement that if they buy the property of the house and then sell it, it would be under the same agreement to restore it, or there would be no agreement. Once these easements are given to the DEP, the State requires that they are recorded in the change of title. Anybody that would bid on the house and does a title search would notice that those restrictions are etched in, and they will know the subject of those restrictions when they take over.

Mr. Dempsey states that the question tonight is does the Council want to produce a resolution authorizing the Mayor and Borough Clerk to consent and execute the easements required by the DEP to go forward with the application. Mr. Skudera says yes to this. Mrs. Barrett says "no." Mr. Tobin says "yes." Mr. Tobin adds that he knows one of the Council Members that is not here tonight is against it, but he does not know about the other one.

Zoning Board Members – Mr. Tobin asks the Mayor if he has his list of those he would like to recommend. Mayor Maclearie says that he slipped, but that he will get them. Mr. Tobin asks if they can check the Open Space Committee to see if anyone has expressed an interest in the Zoning Board.

Dog License Fees – Mr. Dempsey reports that the State just authorized legislation that would authorize municipalities to increase their dog license to a maximum of twenty one dollars (\$21.00). Currently, the annual license is seven dollars (\$7.00). He asks the Council what they would like to do.

Mrs. Barrett responds that she wants the increase.

Mr. Skudera asks what this money would fund. Mr. Dempsey replies that it would help to fund the animal control contract. Mr. Skudera inquires if animal control is a requirement of state, and also services the entire community. Mrs. Barrett responds that this is correct. He asks as to what good it does to burden those people with a fee for a fund that services the entire town.

Speaking a dog owner, Mrs. Barrett says that she pays the fee. She comes from the standpoint that not everyone in the Borough owns an animal that is licensed. Some of them do not want to pay all of the fees for a service that they are not using. She states that they have to create some sort of balance.

Mr. Dempsey says that the current license fee is eight dollars and twenty cents (\$8.20) for a spayed dog. If you go to twenty one dollars (\$21.00), you will be at twenty four dollars and twenty cents (\$24.20) on a non-spayed dog, and twenty two dollars and twenty cents (\$22.20) on a spayed dog.

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Mr. Tobin states that it is kind of harsh to triple this fee in one (1) year. If we triple it, he thinks that there will be a lot more dogs without licenses being chased on the roads.

Mr. Dempsey says this is case because if you go up to the twenty one dollars (\$21.00), it becomes an enforcement issue.

Mr. Skudera asks if there is any way of trimming those costs. Mr. Dempsey responds that he cannot see any way of trimming the licensing cost.

Mrs. Barrett states that she has no problem increasing the fee. Mr. Tobin asks by how much. She replies that Neptune went from eight dollars and twenty cents (\$8.20) to twelve (\$12.00), and she thinks that that is reasonable. That is an extra three dollars and eighty cents (\$3.80) per license. She does not know what it will be on the percentage of neutered animals; she does not have that number. Neptune continued and went to fifteen (\$15.00).

Mr. Dempsey says that you are allowed to go up to twenty one dollars (\$21.00) on your annual license. In our ordinance, there are different "kickers." There are additional charges on top of that seven dollars (\$7.00). Twenty cents (\$0.20) goes to the Pilot Clinic Fund and a dollar (\$1.00) goes to the State for spaying and neutering programs.

Mr. Tobin states that he would like to see the guidelines from towns other than Neptune, which is our neighboring town. He thinks that having to pay twenty four dollars eighty cents (\$24.80) is brutal. We need to have a document stated that if the dog spayed or neutered it costs this much, and if not it costs this much.

Mr. Dempsey asks would it would be: Neutered – \$12.00; non-fixed – \$15.00

Mrs. Barrett and Mr. Tobin think that increase is fine. Mr. Skudera admits that he is not comfortable with this, but the majority is in favor.

This increase would go in effect for 2008.

ENGINEER'S REPORT – Mr. Birdsall states that they have indications from DEP that our TWA permit for Mayberry Pump Station is eminent and we will be going to bed either later this week or early next week for that project. We are looking for a mid- to late-April bid receipt so that the Council may be able to award at their May meeting.

UNFINISHED BUSINESS – Mr. Skudera has a follow-up about the Crawford house. A long time ago they thought about volunteers for the Committee. He forwarded the Council the names of five (5) people. They try to get ten (10) or twelve (12), and they are trying to get this thing moving fast. He also has a project planner and the uses for the building, who is going to staff it, what will be funded, etcetera. It is going to cost a lot of money to fix this up, and he wants to make sure that people in town are interested, and what the purpose of the building is going to be for.

Mr. Tobin asks what he wants to do with this next. He responds that in the next newsletter he would like to get information out about the Committee and how to join.

NEW BUSINESS – None

Mr. Skudera offers a motion to adjourn to the Executive Session, seconded by Mrs. Barrett.

ROLL CALL:

AYES: Mrs. Barrett, Mr. Skudera, Mr. Tobin

NAYS: None

ABSENT: Mr. Allen, Mr. Ford

ABSTAIN: None

Time of Adjournment: 10:37p.m.

Reconvene at: 11:02p.m.

Mr. Skudera offers a motion to adjourn, seconded by Mr. Tobin.

ROLL CALL:

AYES: ALL IN FAVOR

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NAYS: None
ABSENT: Mr. Allen, Mr. Ford
ABSTAIN: None
Time of Adjournment: 11:02p.m.

Respectfully submitted,

KAREN MOUNT-TAYLOR
BOROUGH CLERK

Approved at a meeting held on: September 4, 2007.