

**REGULAR/WORKSHOP MEETING
BOROUGH COUNCIL
SEPTEMBER 2, 2008**

All present stood for Salute to Flag.

Council President called regular meeting to order at 7:31 P.M.

Borough Clerk read the following statement: "Pursuant to Section 5 of the Open Public Meetings Act, adequate notice of this meeting has been provided by posting on the bulletin board at Borough Hall and by notification to the Asbury Park Press, the Newark Star Ledger, and the New Coaster at least 48 hours prior to the meeting."

ROLL CALL

PRESENT: Mr. Ford, Mr. Lomangino (appointed to Councilmember-at-Large Vacancy), Mr. Morrill, Mr. Skudera, Mr. Baldwin

ABSENT: None

ALSO PRESENT: Peter Maclearie, Mayor
W. Bryan Dempsey, Administrator
James Berube, Director of Law
Karen Mount-Taylor, Borough Clerk
Maggie Pereira, Assistant to Borough Clerk
Al Hill Jr., Borough Engineer

APPROVAL OF MINUTES

Mr. Skudera offered a motion to approve the minutes of July 15, 2008, seconded by Mr. Ford.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Councilmember-at-Large Vacancy

Mr. Skudera offered a motion to nominate Charles Lomangino, seconded by Mr. Ford.

Mr. Berube advised that the Chair has not requested nominations nor has there been a motion to open the nominations.

Mr. Baldwin asked for a motion to open the nominations.

Mr. Morrill offered a motion to nominate Andrew Mayer.

Mr. Baldwin stated he did not ask for nominations; he asked for a motion to open the nominations.

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

Mr. Baldwin asked for a nomination from Council to fill the vacant seat.

Mr. Morrill offered a motion to nominate Andrew Mayer

Mr. Skudera offered a motion to nominate Charles Lomangino

Mr. Baldwin stated that he heard the nomination from Mr. Morrill for Andrew Mayer first and stated he calls for a second.

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Mr. Baldwin stated hearing no second, that nomination dies.

Mr. Skudera offered a motion to nominate Charles Lomangino, seconded by Mr. Ford.

Mr. Baldwin asked if there were any further nominations. Seeing none, Mr. Baldwin asked for a motion to close the nominations.

Mr. Ford offered a motion to close the nominations, seconded by Mr. Skudera.

ROLL CALL

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

ROLL CALL (vote on Mr. Lomangino)

AYES: Mr. Ford,
NAYS: Mr. Morrill

Mr. Morrill stated no with an explanation

Mr. Berube stated he apologizes. Mr. Morrill indicated he wanted to make some comments; it should have been opened up to Council's discussion before the vote. Mr. Berube asked the Council President if they could rescind the vote on Mr. Lomangino and open it up to Council for discussion and then recall the vote on Mr. Lomangino's nomination. Council agreed.

Mr. Morrill stated on two occasions Mr. Lomangino has tried to talk this Board out of voting on items that have brought in revenue and created jobs for the town in lieu of a business him or his family member personally owns. The first being the building of the new Borough building and the second was continuing with commercial pickup. Mr. Morrill gave details of both occasions.

Mr. Morrill stated that in past discussions the administration has stated that we will perform background checks on all new hires and questioned if this would include Mr. Lomangino.

Mr. Berube advised that State Statutes are now reclassifying elected officials such that they are not Borough employees but you may be entitled to certain benefit programs but as elected officials rather than employees. In addition, technically speaking, the policy that Mr. Dempsey reported in the last meeting is really an administration policy for background checks on new hires. Mr. Berube stated that policy is not yet completed and his recommendation would be that that policy only applies to employees that might be hired by the administration under the Faulkner Act and would not apply to this position.

Mr. Skudera stated for the record that there are State Statutes pertaining to elected officials and we have to be careful on this.

ROLL CALL (vote on Mr. Lomangino)

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

Mr. Baldwin stated at this time Mr. Lomangino is entitled to take a seat on Council.

Karen Mount-Taylor, Borough Clerk, swore Mr. Lomangino into Council.
(Term to Expire: November 4, 2008)

Confirmation of Council President

Mr. Skudera offered a motion to open the nominations, seconded by Mr. Ford.

ROLL CALL

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

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Mr. Skudera offered a motion to nominate Gary Baldwin as Council President, seconded by Mr. Morrill.

There being no further nominations, Mr. Skudera offered a motion to close nominations, seconded by Mr. Lomangino.

Mr. Ford commended Mr. Baldwin as Deputy Council President.

ROLL CALL

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

ROLL CALL (vote on Gary Baldwin)

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

Nominations for Deputy Council President

Mr. Ford offered a motion to open the nominations, seconded by Mr. Skudera.

ROLL CALL

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

Mr. Ford offered a motion to nominate Michael Skudera for Deputy Council President, seconded by Mr. Morrill.

There being no further nominations, Mr. Morrill offered a motion to close the nominations, seconded by Mr. Ford.

ROLL CALL

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

ROLL CALL (vote on Michael Skudera)

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

Public Hearing – R-08-279 – Monmouth County Municipal Open Space Grant

Mr. Morrill offered a motion to open the Public Hearing on an application with the Open Space Trust Fund, seconded by Mr. Skudera.

ROLL CALL

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

PUBLIC HEARING OPEN

Mr. Dempsey stated that every year Monmouth County has an Open Space Grant Program the Borough applies for. In the past, we received funding for the Somers Track on Riverdale Avenue, for lighting at Sycamore, and for a concession stand at Liberty Park. This year the

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application will be for an Open Space acquisition of the DeLisa property on Wayside Road. The County will give up to \$250,000 for a matching grant program. The property is currently under contract by the Borough for \$500,000.00 with an option if naming rights are given and is allowed by the court, it would be \$450,000.00 so your match at the minimum will be \$225,000 or \$250,000 if you get the full match from Monmouth County. Monmouth County has been supportive of Tinton Falls throughout the year so there is no reason why we would not be funded at least the \$225,000 or \$250,000. This ties into the Open Space Committee's trail program.

Leo Christofili, 328 Riveredge Road, questioned if the money that Tinton Falls pays for the Delisa property, assuming they get the grant, will be coming from bonded money or cash flow from the Open Space Trust Fund.

Mr. Dempsey stated Mr. Pfeffer projected using cash for that purchase.

Mr. Christofili asked Council to consider leaving the Delisa property untouched and undeveloped without being touched by any bulldozer of any kind for any construction purposes.

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

ROLL CALL

AYES: All in favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Ford requested a Point of Order to ask why we had a Public Hearing on this Resolution and asked why it is set in the agenda the way it is.

Mr. Hilla, Borough Engineer stated he can not speak as to why it is placed in the agenda where it was but it is a requirement of the Monmouth County Open Space Program to have the Public Hearing and have minutes certified by the Clerk as well as the Resolution. This is a primary requirement by Monmouth County for this program.

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

**R-08-279 RESOLUTION – AUTHORIZING THE FILING OF AN APPLICATION WITH
THE MONMOUTH COUNTY OPEN SPACE TRUST FUND - BLOCK 86, LOT 1,
2040 WAYSIDE ROAD**

WHEREAS, the Monmouth County Board of Chosen Freeholders has approved an Open Space Trust Fund and established a Municipal Open Space Program to provide Program Grant funds in connection with municipal acquisition of lands for County park, recreation, conservation and farmland preservation purposes, as well as for County recreation and conservation development and maintenance purposes; and

WHEREAS, the Governing Body of the Borough of Tinton Falls desires to obtain County Open Space Trust Funds in the amount of \$250,000.00 to fund the acquisition of the Delisa Property located at 2040 Wayside Road, Block 86, Lot 1; and

WHEREAS, the total cost of the project including all matching funds is approximately \$600,000 including soft costs (ie appraisals, survey, site assessment, legal, etc.)

WHEREAS, the Borough of Tinton Falls will be holder of any interest acquired with County Open Space Trust Funds.

NOW, THEREFORE, BE IT RESOLVED BY Borough Council THAT:

1. W. Bryan Dempsey, Borough Administrator is authorized to (a) make an application to the County of Monmouth for Open Space Trust Funds, (b) provide additional application information and furnish such documents as may be required for the Municipal Open Space Grants Program and (c) act as the principal contact person and correspondent of the above named municipality; and
2. The Borough of Tinton Falls is committed to this project and will provide the balance of funding necessary to complete the project in the form of non-county matching funds as required in the Policy and Procedures Manual for the Program; and
3. If the County of Monmouth determines that the application is complete and in conformance with the Monmouth County Municipal Open Space Program and the Policy and Procedures Manual for the Municipal Grants Program adopted thereto, the municipality is willing to use the approved Open Space Trust Funds in accordance with such policies and procedures, and applicable federal, state, and local government rules, regulations and statutes thereto; and

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4. W. Bryan Dempsey, Borough Administrator, is hereby authorized to sign and execute any required documents, agreements, and amendments thereto with the County of Monmouth for the approved Open Space Trust Funds; and

5. This resolution shall take effect immediately.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Note: Roll was called twice by Karen Mount-Taylor, Borough Clerk. First roll call did not include Mr. Lomangino. Clerk gave her apologies and asked Mr. Lomangino if he was ok with voting on the Resolutions.

Council's Report

Mr. Ford stated the Library Board is having a meeting this Thursday. Mr. Ford stated he will give Council and the public an update on same at the next Council meeting.

Mayor's Report

Mayor Maclearie updated Council and the public on FMERPA (Fort Monmouth Economic Revitalization Planning Authority). Mayor Maclearie advised that there is a special meeting scheduled for here tomorrow at 7:00 P.M. for the public's interest which will be the scheduled vote.

There was a discussion amongst the Mayor and Council to amend the agenda to include a Resolution for Fort Monmouth and the Borough's lack of approval.

Mayor Maclearie advised September 20th is volunteer day at the Oak Tree Lodge to give a little thank you to those that spend hours on the Borough's Boards and Commissions that go un-thanked for all those efforts.

Mr. Baldwin suggests that the Council bring the Workshop Item B-1 onto the regular meeting.

Mr. Skudera offered a motion to amend the agenda to move the Workshop Item "Fort Monmouth Discussion" under Unfinished Business to Reports, seconded by Mr. Morrill.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Council had a lengthy discussion on this issue and agreed they would like to support the Mayor's decision and create a Resolution on same for tomorrow's meeting.

Mayor Maclearie stated the Memorandum of Understanding that they were looking for at one point had three areas (1) credit for the lost jobs (2) credit for the demolished housing, and (3) COAH credits for the HUD homeless accommodations.

Mr. Berube stated before there was a FMERPA, when it was merely the three towns running a planning authority, the issue of local zoning control was being discussed and the current governor decided to take that control away from all three towns and place it in the hands of FMERPA. They have instituted planning as a regional authority; they are not interested in allowing local zoning authority at this stage. However, there is a potential for requesting that the existing local zoning that has been imposed on the geographic properties will be assimilated by each of the towns and maybe implemented in the implementation authority, which is the next step in this program.

Mr. Berube stated he could read the created Resolution into the record, transcribe it afterwards and have it over to FMERPA by tomorrow's meeting.

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**R-08-287 RESOLUTION – INDICATING LACK OF APPROVAL FOR FORT
MONMOUTH REUSE AND REDEVELOPMENT PLAN AND HOMELESS
ASSISTANCE SUBMISSION**

WHEREAS, the Fort Monmouth Economic Revitalization Planning Authority (FMERPA) has provided and prepared a presentation regarding the Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission; and

WHEREAS, the Fort Monmouth Economic Revitalization Planning Authority (FMERPA) has scheduled a vote for approval of the Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission for Wednesday, September 3, 2008; and

WHEREAS, the Borough of Tinton Falls, by its Mayor and representatives, has been participating in the development of the Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission from its inception along with the Mayors and representatives of the Boroughs of Oceanport and Eatontown; and

WHEREAS, the proposed Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission contains certain assumptions as to the implementation of recent Third Round Regulations promulgated by the Council on Affordable Housing (COAH); and

WHEREAS, the Council on Affordable Housing has been contacted by FMERPA and the Borough of Tinton Falls and other towns seeking clarification of the obligations to be imposed by the Third Round Regulations on the lands which will be subject to the FMERPA Reuse and Redevelopment Plan and Homeless Submission; and

WHEREAS, there have been continuing meetings between FMERPA, representatives of the three hosts communities, and the Council on Affordable Housing to resolve these issues; and

WHEREAS, the Borough of Tinton Falls has secured additional time within which to secure Council on Affordable Housing clarification to the obligations under a Third Round Plan; and

WHEREAS, the Council on Affordable Housing has not provided a binding Memorandum of Understanding regarding those issues left unclarified, more in particular as to the following:

1. Number of lost jobs that will result in the closing of Fort Monmouth and credit for lost jobs as contained in the COAH plan and Third Round regulations
2. The credit for demolished housing based on a closing date of August, 2005 and credits for the difference between total units on the Fort as of August 31, 2005 and the proposed 1,500+ units under the FMERPA plan
3. Obligations regarding credits for HUD related affordable housing including daycare centers, single adult shelters, assisted living, single family units for permanent supportive housing, and housing for domestic violence victims
4. A framework for COAH compliance and the variables occurring as a result of a forecast between local and regional economic impacts in the implementation of a 20 year plan for re-use area as opposed to the 2004 – 2018 compliance required under Third Round COAH rules.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the sentiment of the Borough Council of the Borough of Tinton Falls be communicated to the Fort Monmouth Economic Revitalization Planning Authority (FMERPA) that it does not support and does not approve of the vote for approval of the present Fort Monmouth Reuse and Redevelopment Plan and Homeless Assurances Submission until and unless the Borough of Tinton Falls receives a binding Memorandum of Understanding from the Council on Affordable Housing containing clarification of the above issues.

Karen Mount-Taylor stated for the record the Resolution will be know as R-08-287 and will be titled Resolution Indicating Lack of Approval for Fort Monmouth Reuse and Redevelopment Plan and Homeless Assistance Submission.

Mr. Ford offered a motion to accept the Resolution, seconded by Mr. Morrill.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Mayor Maclearie stated he met with Cornel Christian, Commander at Fort Monmouth, and they spoke regarding a community covenant to support the military personnel in the area. Mayor Maclearie suggested whatever benefits we could offer as a Borough to the armed service personnel such as what we do for our firefighters or other volunteers, etc. to recognize the people who fight for our country would make them very happy and feel welcomed to the community.

Mr. Morrill suggested we do the same for them as all our volunteers, which is an annual \$300.00 exemption of fees credit.

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Karen Mount-Taylor stated Council would have to amend the Ordinance but a Resolution could be made to help the Mayor out immediately and then provide an amendment to the Ordinance.

Administrator's Report

The modular offices have been removed in the back to Oceanport. The remaining office will be moved to the Library within the next week or so.

Volunteer Day is September 20th at the Oak Tree Lodge in Wall Township.

Community day is being worked on and will be held on October 11th. There will be a movie shown at dusk. Details are being worked on and hopefully at the next meeting everything will have been ironed out.

As for the stamped concrete at Society Hill, the contractor was out there last week and put a sample down for the association to look at. There were two colors that they liked and the contractor came out at and put both of them down with the stamped pattern that they chose. Hopefully by the end of the week we will have a color sample and a pattern they like and we will start the work within the next two weeks.

The development Ordinances are done and copies were given out. If there are any objections he would put them on the website for everyone's review. It would be up to the Council to decide on a date to introduce them and it would go to the Planning Board for their recommendation then back to Council for a Public Hearing and second reading.

On the Double AA and Forgottson property, Stacy has had some communication with the State on easements that we need. She is here tonight to give a brief description on same.

Council had a discussion regarding the Master Plan Ordinances. Mr. Baldwin stated Council will have a discussion on this at the September 16th meeting and it will be placed on the agenda for Council's vote at the October 7th meeting.

Mr. Berube requested that Mr. Lomangino now resign from the Zoning Board.

Mr. Lomangino stated for the record, as of today, he formally resigns from the Zoning Board.

Stacy Slowinski, 755 Tinton Avenue, Chairman of the Historic Commission, stated we are trying to get the mentioned properties (Double AA and Forgottson) sold and into private hands. Most recently the State required an easement be passed in order to sell these properties and Council approved same. Our consultant sent the application in. The response from the State was this was fine however, due to cutbacks at the State, they are no longer in position to hold these easements.

Director of Law's Report

The challenge to Fox Chase II and the Affordable Housing Agreement that was reached between the Borough and the Affordable Housing unit owners and Fox Chase II Condominium Association was dismissed by order of Judge Waldmen on August 4, 2008.

R-08-203 Ratification of Advice and Consent for the Appointment of our Municipal Prosecutor is technically needed to be reappointed July 1st; we are making that retroactive.

R-08-281 Acceptance of Deeds of Easement for Road Widening and Sanitary Sewer Easements from Marla Hoffman, this is the paperwork that puts into place a settlement of some litigation before all of us got here. As to the reconfiguration of Squakum Road, the work has already been done and everything has been accepted. Ms. Hoffman has signed off on those deeds.

There is a request for a brief executive session for the purpose of potential litigation in which the Borough may be involved with regarding structures within the historic district. The details may be made public when and if appropriate upon the settlement of that claim in litigation.

Engineer's report – Al Hilla, Jr.

2008 Road Program

There is one remaining punch list item which is to fix some puddling on Linda Lane. All other punch list items have been completed by the contractor. This work should start within the next week to rectify that drainage problem.

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Sycamore Soccer Field Trails

Work is to begin; the contractor will mobilize on Monday – weather permitting. He will begin work on Tuesday to install the trails around the soccer field at Sycamore Soccer Complex.

Sycamore Avenue Sidewalk Project

A second round of notices have been sent out to the property owners – some for information purposes; some for conflicts. We have only had about a 60% contact rate back from those folks. On top of that we are still awaiting the soil conservation and the County approvals for this work. The implementation of the project is somewhat dependent on those approvals. We are cutting it close for getting them implemented this year.

Borough Clerk's Report

Karen Mount- Taylor advised that petitions are available in the Municipal Clerk's office from 9:00 a.m. to 4:00 p.m. and they will require 133 signatures. The deadline is September 11th at 4:00 p.m. for council's vacancy. If Mr. Lomangino would like to be placed on the ballot he would turn in a petition along with any other interested party in the Borough who is a registered voter and has resided in the Borough of Tinton Falls for at least one year.

PETITIONS – None

ORDINANCES FOR INTRODUCTION

Borough Clerk read Ordinance No. 08-1251 entitled: AN ORDINANCE AMENDING ORDINANCE NO. 96-918 PROVIDING FOR INCLUSION OF BLOCK 110.02, LOT 46.01

Mr. Morrill offered a motion to introduce Ordinance No. 08-1251, seconded by Mr. Ford.

ROLL CALL

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

Ordinance No. 08-1251 in Full/Ordinance Book #3

ORDINANCES FOR FINAL CONSIDERATION – None

PUBLIC DISCUSSION

Mr. Skudera offered a motion to open the Public Discussion, seconded by Mr. Ford.

ROLL CALL

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

PUBLIC DISCUSSION OPEN

Peter Karavites, 784 Sycamore Avenue, spoke regarding FMERPA with respect to the number of COAH units and the Master Plan.

Lauren Mayer, 46 Sam Drive gave Council a short report to review and to be included in the minutes that she created entitled: Safe Bicycle Path to Tinton Falls Middle School, which describes her proposed near and long term plan, alternatives/issues and a map showing same.

Report on file in the Borough Clerk's Office

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Leo Christofili, 328 Riveredge Road, spoke regarding background checks, feasibility studies on new library, operating costs for Crawford House, the \$8,000 increase of a Non-Union member (requested that Council be aware of other jobs that employee holds), and questioned budget items as the copy of the budget that Council made available to the public had pages missing.

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

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mr. Morrill stated the next Open Space meeting is next Monday, September 8th at 7:00 p.m. and invited Lauren Mayer to submit her plan to them so they can look over it and see what they could do with that.

RESOLUTIONS

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

**R-08-203 RESOLUTION – CONFIRMING APPOINTMENT OF PROSECUTOR -
TINTON FALLS MUNICIPAL COURT**

BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the appointment of Michael Fitzgerald as Prosecutor, Tinton Falls Municipal Court by Mayor Peter Maclearie is hereby confirmed.

ROLL CALL

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

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

**R-08-253 RESOLUTION - RELEASING MAINTENANCE GUARANTEES PARK PLACE
III TOPEKA COURT BLOCK 124.50 LOT 252**

WHEREAS, the developer of the Park Place III Topeka Court Block 124.50 Lot 252, has requested the release of the Maintenance Guarantee

WHEREAS, by letter dated July 29, 2008 the Engineer (Leon S. Avakian, Inc.) has certified that the bonded items are in satisfactory condition and therefore recommends the release of the Maintenance Guarantee 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 the Maintenance Guarantee for the Park Place III Topeka Court Block 124.50 Lot 252 be ad the same is hereby released upon the payment of any outstanding engineering and inspection fees.

Mr. Skudera stated he still has not heard anything back as to if anything has been done to adjust their concerns.

Mr. Dempsey stated he met with Lou Lobosco today. They went out to the sight and they feel that their engineering report that they submitted for these bond releases are reflective. There are some issues with some dead trees but at the time the maintenance bond release was issued by Avakian, the trees were replanted and they were alive at that time.

Mr. Berube stated that Mr. Lobosco advised us that he did have contact with the association in June of this year and that there were no issues raised by the property managers at that time. These were maintenance bonds that technically have already expired and unless Mr. Lobosco

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details in his report items which were not in fact completed during the maintenance period, we have no legal jurisdiction to withhold release of those bonds. If these Resolutions were delayed, the Borough would be subjected to a potential lawsuit for the clearance of those maintenance bonds and upon success would be required to pay costs, fees and perhaps a penalty.

ROLL CALL

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

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

**R-08-254 RESOLUTION - RELEASING MAINTENANCE GUARANTEES PARK PLACE
II PHASE A SECTION 2 BLOCK 124.50, LOT 1001**

WHEREAS, the developer of the Park Place II Phase A Section 2 Block 124.50 Lot 1001, has requested the release of the Maintenance Guarantee

WHEREAS, by letter dated July 29, 2008 the Engineer (Leon S. Avakian, Inc.) has certified that the bonded items are in satisfactory condition and therefore recommends the release of the Maintenance Guarantee 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 the Maintenance Guarantee for Park Place II Phase A Section 2 Block 124.50 Lot 1001 be ad the same is hereby released upon the payment of any outstanding engineering and inspection fees.

ROLL CALL

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

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

**R-08-255 RESOLUTION - RELEASING MAINTENANCE GUARANTEES PARK PLACE
II PHASE A SECTION 2 (AMENDED) BLOCK 124.50 LOT 1001**

WHEREAS, the developer of the Park Place II Phase A Section 2 (Amended) Block 124.50 Lot 1001, has requested the release of the Maintenance Guarantee

WHEREAS, by letter dated July 29, 2008 the Engineer (Leon S. Avakian, Inc.) has certified that the bonded items are in satisfactory condition and therefore recommends the release of the Maintenance Guarantee 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 the Maintenance Guarantee for Park Place II Phase A Section 2 (Amended) Block 124.50 Lot 1001 be ad the same is hereby released upon the payment of any outstanding engineering and inspection fees.

ROLL CALL

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

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

**R-08-280 RESOLUTION - AMENDING RESOLUTION R-07-040 EXTENDING NON-
FAIR & OPEN CONTRACT FOR PROFESSIONAL ENGINEERING SERVICES –
DRAINAGE IMPROVEMENTS AT RIVEREDGE ROAD AND WOODLAND
MANOR CONTRACT PS #1-07**

WHEREAS, the Borough of Tinton Falls adopted Resolution R-07-040 on February 6, 2007, wherein Birdsall Engineering, Inc., 611 Industrial Way West, Eatontown, NJ 07724 was awarded a contract for the above project for an amount not to exceed \$39,200.00; and

WHEREAS, the contract has expired and requires an extension of one (1) additional year at no additional cost as the project is not yet complete; 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 NJSA 40A: 11-1 et. set. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

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

1. The firm of Birdsall Engineering, Inc., 611 Industrial Way West, Eatontown, NJ 07724 is hereby retained to provide engineering services as described above for an additional one year for the original amount not to exceed \$39,000.00.
2. The contract is awarded without competitive bidding as a "Professional Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) because it is for services performed by persons authorized by law to practice a recognized profession.
3. A copy of this Resolution as well as the contract shall be placed on file with the Clerk of the Borough of Tinton Falls.
4. The Borough Clerk is hereby directed to publish a public notice of this award as required by law.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-281 RESOLUTION - AUTHORIZING APPROVAL OF THE ACCEPTANCE OF
DEEDS OF EASEMENT FOR ROAD WIDENING AND A DEED OF SANITARY
SEWER EASEMENT FROM MARLA HOFFMAN – BLOCK 95, Lot 1, 7
SQUANKUM ROAD**

WHEREAS, the Borough of Tinton Falls, a municipal corporation of the State of New Jersey, is desirous of establishing the rights of way of Squankum Road and securing two road widening easements and a sanitary sewer easement on the property of the Owner located on 7 Squankum Road, Block 95, Lot 1 in the Borough of Tinton Falls, County of Monmouth in the State of New Jersey and

WHEREAS, Marla Hoffman is the sole owner of certain properties known as Block 95, Lot 1, in the Borough of Tinton Falls, County of Monmouth in the State of New Jersey and

WHEREAS, Ms. Hoffman is desirous of granting certain Deeds of Easement for Road Widening and for Sanitary Sewer purposes for Squankum Road along the property noted above in the Borough of Tinton Falls and

WHEREAS, the parties have agreed to certain terms and conditions for the grant of the Deeds of Easement for Road Widening and a Deed of Sanitary Sewer Easement as more fully contained in a certain Agreement for same attached herewith,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Mayor and Borough Clerk are hereby authorized to accept the attached Easements for Road Widening and Sanitary Sewer as to Block 95, Lot 1 in form attached hereto and to execute said deeds of road widening and sanitary sewer easements indicating acceptance thereof.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: Mr. Skudera

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

**R-08-282 RESOLUTION - AUTHORIZING FINAL CHANGE ORDER NO. 1
INCREASING CONTRACT #06-9 IN THE AMOUNT OF \$5,397.15
IMPROVEMENTS TO WARDELL AND SHARK RIVER ROADS**

WHEREAS, Contract #06-9 for Improvements to Wardell Road and Shark River Road was awarded to Stavola Contracting Co., Inc, P.O. Box 482, Red Bank, NJ 07701 by Resolution R-07-236 in the amount of \$509,955.00 at a meeting held on July 17, 2007; and

WHEREAS, Final Engineer's Certificate #2 dated August 14, 2008 (annexed hereto and made a part hereof) includes Change Order #1 which increases the contract in the amount of \$5,397.15 for a total contract in the amount of \$515,352.15;

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that Change Order No. 1 increasing Contract #06-9 in the amount of \$5,397.15 for a total contract in the amount of \$515,352.15 is hereby authorized for the above contract awarded to Stavola Contracting Co., P.O. Box 482, Red Bank, NJ 07701.

Mr. Skudera asked for the backup that was suppose to be made part of this Resolution.

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Mr. Berube advised that if anyone owns property on either of these two roads that might have been affected by this paving, it would be appropriate to abstain since this was a change order regarding those properties as well.

Karen Mount-Taylor stated she apologizes on behalf of the Borough Clerk's office as there is normally something from the Purchasing Agent attached. She suggested Council carry this Resolution until she is able to provide backup for same.

Mr. Dempsey gave Council a brief overview of the background for this Resolution.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-283 RESOLUTION – RELEASING PERFORMANCE GUARANTEES AND
WAIVING MAINTENANCE GUARANTEE PERIOD SYCAMORE AVENUE
SOCCER COMPLEX, STERLING FALLS, LLC.**

WHEREAS, the developer for Sycamore Avenue Soccer Complex, Sterling Falls, LLC. has requested the release of performance guarantees, and

WHEREAS, by letter dated August 25, 2008, the Engineer T&M Associates has recommended the release of said guarantees and recommends that upon the approval of the Director of Law said Maintenance Guarantee period be waived since the improvements have been in place for over two (2) years.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the performance guarantees for Sycamore Avenue Soccer Complex, Sterling Falls, LLC be and hereby is released, and

BE IT FURTHER RESOLVED, that based upon the approval of the Director of Law, the Maintenance Guarantee period be and hereby is waived.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-284 RESOLUTION – AUTHORIZING MAYOR & BOROUGH CLERK TO
EXECUTE AGREEMENT WITH COUNTY OF MONMOUTH SPECIAL
CITIZENS AREA TRANSPORTATION SYSTEM**

BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Mayor and Borough clerk are hereby authorized to execute a food shopping agreement with the County of Monmouth for Special Citizens Area Transportation System (S.C.A.T.) for 2009.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

**R-08-285 RESOLUTION - SPECIAL ITEM OF REVENUE STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY DIVISION OF HIGHWAY
TRAFFIC SAFETY 2008 OVER THE LIMIT UNDER ARREST MOBILIZATION**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and;

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount;

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NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls hereby requests the Director of the Division of Local Government Services to approve the insertion of a special item of revenue in the budget for the year 2008 in the amount of \$5,000 which is now available from the State of New Jersey, Department of Law and Public Safety, Division of Highway Traffic Safety.

BE IT FURTHER RESOLVED that a like sum of \$5,000 is hereby appropriated under the caption of:

State of New Jersey
Division of Highway Traffic Safety:
2008 Over the Limit Under Arrest Mobilization \$5,000

BE IT FURTHER RESOLVED that the Borough Clerk forward two (2) certified copies of the resolution to said Director for his review and approval.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

Karen Mount-Taylor stated unless someone from Council has something to offer, there are no exceptions.

R-08-286 RESOLUTION – APPROVAL OF BILLS – SEPTEMBER 2, 2008

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending September 2, 2008,

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 | 3,701,921.96 |
| TRUST | 4,869.26 |
| CAPITAL | 61,804.82 |
| DEVELOPER ESCROW | 24,850.00 |
| DOG TRUST | 2,195.23 |
| GRANT FUND | 566.65 |
| SEWER UTILITY | 22,802.30 |
| ADDITIONS | <u>147,458.46</u> |
| | 3,966,468.68 |

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Mr. Skudera offered a motion to amend the agenda to include Resolution R-08-289, seconded by Mr. Morrill.

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

R-08-289 RESOLUTION - COMPENSATED ABSENCE-RETIREE

WHEREAS, Christopher Camilleri has been employed by the Borough of Tinton Falls as Police Officer since December 1, 1999, and;

WHEREAS, on September 1, 2008, Christopher Camilleri will resign with over 8 ½ years of dedicated service, and;

WHEREAS, Christopher Camilleri will be entitled to compensated absence benefits according to Borough Ordinance #9-8.1c and 9-7.3c. The benefits are not to exceed \$19,900.00, and;

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

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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 Christopher Camilleri receive the aforementioned compensated absence benefits.

Certification of funds:

TRUST FUND-ACCUMULATED ABSENCES \$10,675
POLICE SALARY AND WAGES FOR \$ 9,225

ROLL CALL

AYES: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

Mr. Berube stated Executive Session would be for the purpose of litigation and prosecution of claims and advised following the executive session, there is no anticipation of any action being taken.

R-08-288 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. 10:4-13, the Council shall adjourn to Executive Session for the Purpose of Litigation and the Prosecution of Claims.

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: Mr. Ford, Mr. Lomangino, Mr. Morrill, Mr. Skudera, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:29 P.M.

WORKSHOP MEETING

New Business

Mr. Morrill discussed an article in the paper regarding the Department of Public Works in Manchester, which spent about \$14,000.00 to put in 25 globes/light tubes for solar energy. They did a savings study in the month of February, which according to the article, in the month of February alone in saved them \$400.00. Mr. Morrill suggested this might be something we would like to look into for our Department of Public Works.

Mayor Maclearie advised that there has been one or two other consultants that have come in and done some of the energy studies from Stockton. He spoke to a professor down there that had a graduate class that he offered to bring here. Mayor Maclearie stated he would be happy to inquire this as well as talking to that professor as it wouldn't cost the Borough anything for them to come in and give suggestions.

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EXECUTIVE SESSION

Mr. Skudera offered a motion to move into Executive Session, seconded by Mr. Ford.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:32 P.M.

Council reconvened at 9:55 P.M.

ADJOURNMENT

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 9:55 P.M.

Respectfully Submitted,

Karen Mount-Taylor, Borough Clerk

APPROVED AT A MEETING HELD ON: OCTOBER 7, 2008