

**REGULAR MEETING
FEBRUARY 21, 2017
BOROUGH COUNCIL**

Council President Baldwin called the regular meeting to order at 6:33 PM.

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 Coaster at least 48 hours prior to this meeting."

ROLL CALL

PRESENT: Ms. Fama, Mr. Manginelli, Mr. Pak, Mr. Roche, Mr. Baldwin

ABSENT: None

ALSO PRESENT: Maureen L. Muttie, Borough Clerk
Kira S. Dabby for Brian M. Nelson, Director of Law
Gerald M. Turning, Mayor
Michael Muscillo, Borough Administrator
Thomas Fallon, Director of Finance
Thomas Neff, Borough Engineer

EXECUTIVE SESSION

Mr. Pak offered the following Resolution and moved its adoption, seconded by Mr. Manginelli.

R-17-030 - RESOLUTION TO ENTER EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act provides that the Borough Council may go into executive session to discuss matters that may be confidential or listed pursuant to N.J.S.A. 10:4-12; and

WHEREAS, it is recommended by the Director of Law that the Borough Council go into executive session to discuss matters set forth hereinafter which are permissible for discussion in executive session.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the Council shall go into executive session to discuss the following items:

- 1) **Potential Property Acquisitions or Sales** – N.J.S.A. 10:4-12(b)(5)
None
- 2) **Personnel Matters** – N.J.S.A. 10:4-12(b)(8)
None
- 3) **Contract Negotiations** – N.J.S.A. 10:4-12(b)(4)
None
- 4) **Litigation/Potential Litigation** – N.J.S.A. 10:4-12(b)(7)
Dennehy v. Tinton Falls (ATOD March 2017)
Affordable Housing Mediation (ATOD April 2017)

ROLL CALL

AYES: Ms. Fama, Mr. Manginelli, Mr. Pak, Mr. Roche, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

Council President Mr. Baldwin advised that at this time Council would move to Executive Session.

Council President Mr. Baldwin advised that Council was back on the record at 7:35 P.M.

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Ms. Dabby advised that the following was discussed in executive session but no formal action taken:
Litigation and Affordable Housing requirements.

ROLL CALL

PRESENT: Ms. Fama, Mr. Manginelli, Mr. Pak, Mr. Roche, Mr. Baldwin

ABSENT: None

ALSO PRESENT: Maureen L. Muttie, Borough Clerk
Kira S. Dabby for Brian M. Nelson, Director of Law
Gerald Turning, Sr., Mayor
Michael Muscillo, Administrator
Thomas Fallon, Chief Financial Officer
Thomas Neff, Borough Engineer

All present stood for Salute to Flag.

APPROVAL OF MINUTES - None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Mayor's Report – Gerald M. Turning, Sr.

Mayor Turning had no report.

Engineer's Report – Thomas Neff

Mr. Neff addressed Resolution R-17-031, *Denying Release of Performance Guarantees – Greenbriar Falls Phase 1B*, on the agenda and the possible confusion by the Greenbriar residents concerning bond releases. He emphasized this bond release is being denied due to a punch list of items to be completed for Phase 1B. Also, clarified there is no action on Phase 2B tonight.

Finance Director – Thomas Fallon

Mr. Fallon reported the proposed 2017 budget had been completed with a draft to Council for review. He is looking to introduce the budget at the March 7th meeting and the public hearing and adoption at the April 4th meeting.

Borough Administrator – Mike Muscillo

Mr. Muscillo had no report.

Director of Law – Kira Dabby

Ms. Dabby had no report.

Borough Clerk's Report – Maureen L. Muttie

Ms. Muttie had no report.

Council's Report

Councilwoman Fama had no report.

Councilman Manginelli had no report.

Councilman Roche had no report.

Councilman Pak had no report.

Council President had no report.

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ORDINANCES FOR INTRODUCTION – None

ORDINANCES FOR FINAL CONSIDERATION

Ms. Muttie read Ordinance No. 2017-1410 entitled: **ORDINANCE WAIVING HEALTH CODE FEES FOR NON-PROFIT ORGANIZATIONS**

Mr. Pak offered a motion to open the Public Hearing on Ordinance No. 2017-1410, seconded by Mr. Roche.

ROLL CALL

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

PUBLIC HEARING OPEN

There being no comments from the public, Mr. Pak offered a motion to close the Public Hearing on Ordinance No. 2017-1410, seconded by Mr. Roche.

ROLL CALL

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

PUBLIC HEARING CLOSED

Mr. Baldwin asked if there were any comments from Council.

Mr. Pak offered a motion to adopt Ordinance No. 2017-1410, seconded by Mr. Roche.

ROLL CALL

AYES: Ms. Fama, Mr. Manginelli, Mr. Pak, Mr. Roche, Mr. Baldwin
NAYS: None
ABSENT: None
ABSTAIN: None

PUBLIC DISCUSSION

Mr. Pak offered a motion to open the Public Discussion, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC DISCUSSION OPEN

Nina Bell, 19 Majestic Drive, President of Greenbriar Falls Condo Association Board of Trustees – Ms. Bell stated the residents at Greenbriar had some concerns regarding the bond process and it would be good for Council to hear from

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them. Also, she stated having learned from her previous experiences with the builder Lennar that drainage issues are most problematic and the Association has sent out a questionnaire to the residents in the bondable areas about their drainage and grading. She expressed their wish to work with the Engineer in partnership to resolve any issues going forward.

Ken Brusca, 30 Mineral Springs Lane, Greenbriar – Mr. Brusca listed the items he felt the builder should address such as too much mud left in the area, dead bushes, incomplete walkway which is a safety hazard. All of this should be correctly addressed by the builder before any bonds are released.

Jamie Santillo, 19 Aspen Lane, Greenbriar – Due to their past negative experience with Lennar, Ms. Santillo would like the Borough to consult with the residents on all outstanding items to be fixed before releasing any funds to the builder. Also noted for repair are all three gates in the community are not working; Hance Avenue, North Gilbert and Sheila Drive; two roads not black topped and walkway not paved still gravel.

Charles Ingoglia, 33 Mineral Springs Lane, Greenbriar – Mr. Ingoglia stated a primary feature for the purchase of his house was the gated community and the safety and security that represents. Lennar needs to fix the gate and deliver what they promised.

Mr. Neff stated the gate is part of Phase 2B and emphasized the bond would not be released unless the gate was working and he communicated that to Lennar.

Norbert Gambuzza, 20 Majestic Drive, Greenbriar – Mr. Gambuzza laid out the past history with Lennar and their lack of quality construction work and the additional costs incurred by the Greenbriar residents. He asked that no bonds be released until the Greenbriar Board, Council and the engineer agreed on the completion of the work.

Carl Gubkin, 23 Mineral Springs Lane, Greenbriar – Mr. Gubkin explained the builder created a drainage problem on Chelsea Court and their installed fix to the problem has not been tested since there has not been a substantial rainfall recently. Also, some of the large shrubs have died already due to incorrect planting.

Mr. Neff in response to Mr. Baldwin's inquiry concerning drainage he stated if there is improper drainage in the common areas or someone's front yard he would get involved only to the extent he is notified. He is aware of all the issues represented and he listed in which Phase they will be addressed.

Frank Self, 20 Chelsea Court, Vice President of Greenbriar Falls – Mr. Self thanked the Borough and Council members for all their past help with dealing with builder problems and requested the Engineer keep in touch with Ms. Bell for any new issues.

Mr. Baldwin stated the Council will continue to work with everyone and Ms. Bell can keep in touch with the Engineer who will work from his punch list.

Mayor Turning stated the Borough will make sure all bondable issues are resolved before any bonds are released.

Denise Catalano, 11 Alpine Trail – Ms. Catalano announced they are taking applications for the Community Gardens 2017.

There being no other comments from the public, Mr. Pak offered a motion to close the Public Discussion, seconded by Mr. Roche.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC DISCUSSION CLOSED

RESOLUTIONS

Mr. Pak offered a motion to approve Resolution R-17-031, seconded by Ms. Fama.

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**R-17-031 - RESOLUTION DENYING RELEASE OF PERFORMANCE GUARANTEES
GREENBRIAR FALLS – PHASE 1B
BLOCK 16 LOT 1
BLOCK 19 LOT 11.02**

WHEREAS, the developer has requested the release of Performance Guarantees for Greenbriar Falls – Phase 1B - Block 16 Lot 1, Block 19 Lot 11.02; and

WHEREAS, by letter dated February 9, 2017 (said letter hereby attached and made part of this Resolution) the Engineer, T&M Associates, has outlined the items which need to be addressed prior to the release of performance guarantees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that based on the facts as set forth in the Engineer's letter of February 9, 2017, that the developer's request for a release of the Performance Guarantees be and hereby is denied.

ROLL CALL (to approve Resolution R-17-031)

AYES: Ms. Fama, Mr. Pak, Mr. Roche, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: Mr. Manginelli

CONSENT AGENDA

Ms. Pak offered a motion to approve the Consent Agenda, seconded by Ms. Fama.

ROLL CALL (to approve Consent Agenda)

AYES: Ms. Fama, Mr. Manginelli, Mr. Pak, Mr. Roche, Mr. Baldwin

NAYS: None

ABSENT: None

ABSTAIN: None

**R-17-032 - RESOLUTION AUTHORIZING THE COUNTY OF MONMOUTH MOSQUITO CONTROL DIVISION TO
CONDUCT AERIAL MOSQUITO CONTROL OPERATIONS WITHIN THE BOROUGH OF TINTON FALLS**

WHEREAS, The Monmouth County Board of Chosen Freeholders, pursuant to N.J.S.A. 26:9-27 et seq. has elected through its Mosquito Control Division to perform all acts necessary for the elimination of mosquito breeding areas and/or to exterminate mosquitoes within the County; and

WHEREAS, the County has instituted an Integrated Pest Management Program consisting of surveillance, water management, biological control, and chemical control to exterminate the mosquito population within the County of Monmouth; and

WHEREAS, prior to conducting aerial dispensing operations over a designated "congested area," the County is required, pursuant to Federal Aviation Administration Regulation (FAR Part 137.51), to secure prior written approval from the governing body of the political subdivision over which the aircraft is to be operated; and

WHEREAS, the Borough of Tinton Falls is designated as a "congested area" by the Federal Aviation Administration and the County has requested that this governing body consent to its proposed aerial dispensing operations.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Governing Body hereby authorizes the County of Monmouth Mosquito Control Division or its agent to apply pesticides by aircraft for mosquito control in certain areas of the municipality designated by the County as being either larval mosquito habitat or areas harboring high populations of mosquitoes constituting either a nuisance, a health hazard, or both with the understanding that:
 - a. The County shall utilize pesticides, application equipment and aircraft that are approved for aerial applications by the applicable Federal (USEPA) and State (NJDEP) agencies, and
 - b. Such operations will be performed in compliance with applicable Federal and State regulations, and
 - c. The County will notify the police department of each municipality over which aerial pesticide operations are planned prior to commencement of such operations.

**R-17-033 - RESOLUTION AUTHORIZING CANCELLATION OF MUNICIPAL
CERTIFICATE OF SALE #3048**

WHEREAS, Tax Sale Certificate #3048 was issued to the Borough of Tinton Falls for delinquent sewer charges on Block 26.01 Lot 12 (6 Players Circle), assessed to Troy Brandstetter, at a tax sale held on December 21, 2016; and

WHEREAS, Wells Fargo Mortgage has redeemed Certificate #3048 by paying the full amount of the delinquency.

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NOW, THEREFORE BE IT RESOLVED, that the Mayor and Municipal Clerk of the Borough of Tinton Falls are hereby authorized to endorse Certificate of Sale #3048 for cancellation.
I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify that Tax Sale Certificate #3048 was redeemed on February 10, 2017.

R-17-034 - RESOLUTION REFUNDING ESCROW – 3A-REALTY, LLC

WHEREAS, the following listed applicant has posted consultant escrow fees in conjunction with various Land Use applications in accordance with the Borough of Tinton Falls Land Use Ordinance, and

WHEREAS, the Planning Board Secretary, Deanna Keefer, has certified the applicant’s account is deemed closed and no additional funds for consultants will be required,

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

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

3-A Realty LLC 3AR4853CO \$4314.46

R-17-035 - RESOLUTION REFUNDING CONTINUED CERTIFICATE OF OCCUPANCY “CCO” FEE AND CCO FIRE CERTIFICATE FEE

WHEREAS, a CCO fee in the amount of \$90.00 was paid by Jodi Monetti, 6 Nutmeg Court; and

WHEREAS, said monies were deposited by the Borough of Tinton Falls during the month of February 2017;
and

WHEREAS, the applicant applied for a CCO for resale of her property at 6 Nutmeg Court and the deal fell through before inspections were completed. Applicant does not have another buyer at this time and requested a refund;
and

WHEREAS, the applicant informed the Code Enforcement official and a full refund in the amount of \$90.00 shall be issued.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that refund in the amount of \$90.00 be issued to Jodi Monetti.

R-17-036 - RESOLUTION – APPROVAL OF BILLS – FEBRUARY 21, 2017

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending February 21, 2017; and

WHEREAS, the Borough Council has reviewed said claims.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls, County of Monmouth, that the following claims be certified by the Chief Financial Officer for approval and payment.

SUMMARY

GENERAL	\$77,052.09
SEWER UTILITY	4,721.75
CAPITAL	985.35
TRUST FUNDS	12,619.55
GRANT FUND	7,121.34
DOG TRUST	978.60
ESCROW FUND	855.00
ADDITIONS	1,496,171.07
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	1,593,383.41

ADJOURNMENT

Mr. Pak offered a motion to adjourn, seconded by Ms. Fama.

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ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 8:17 PM

Respectfully Submitted,

Maureen L. Muttie, Borough Clerk

APPROVED AT A MEETING HELD ON: September 5, 2017