

**REGULAR AND WORKSHOP MEETING
MAY 18 2021
BOROUGH COUNCIL**

Council President Buckley called the Regular Meeting to order at 7:30 PM. The meeting was held via remote means using the Webex Meeting Platform under rules established under NJSA 10:4-8(b) which allows meetings to be held digitally during a State of Emergency.

Open Public Meeting Statement: Call To Order – 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, posting on the Borough Website and Facebook Page and by Notification to The Asbury Park Press, The Newark Star Ledger, and The Coaster at Least 48 Hours Prior to the Meeting.

ROLL CALL

PRESENT: Mrs. Clay, Mr. Manginelli, Mr. Nesci, Mr. Siebert, Ms. Buckley

ABSENT: None

ALSO PRESENT: Melissa Hesler, Borough Clerk
Kevin Starkey, Director of Law
Thomas Fallon, Acting Borough Administrator/Director of Finance
Thomas Neff, Borough Engineer
Mark Shaffery, Director of Public Works

SALUTE TO THE FLAG: Council President Buckley invited everyone attending the remote meeting to join in saying the Pledge of Allegiance.

Council President’s Introduction

Good Evening everyone, I am Council President Tracy Buckley. We are holding this meeting remotely utilizing the Webex platform. Joining me remotely are my fellow Councilmembers Risa Clay, John Manginelli, Mike Nesci and Brock Siebert, as well as, CFO and Interim Borough Administrator Tom Fallon, Borough Clerk Melissa Hesler, Director of Law Kevin Starkey, Borough Engineer Tom Neff, Tinton Falls Dept of Public Works Director Mark Shaffery, and IT Director Dan Romanov.

I would like to give special thanks to IT Director Dan Romanov for setting up this Webex meeting and managing the technical aspects of utilizing the Webex platform.

This is a live digital Council Meeting that we are holding under the rules established under NJSA 10:4-8(b), which allows this meeting to be held digitally during a State of Emergency. For those not familiar with the Webex platform, it allows members of the public to dial in from their computer, utilizing the Webex app, or from a regular phone utilizing a dial in number and meeting passcode. If you wish to be heard at the public comment portion of the meeting, please use the “Raise Your Hand” function on the Webex platform and we will call upon you one at a time. For those dialed in via phone only, I will open the floor up to phone comments during the public comments sections as well. To mute or unmute your phone press *6. You will be asked to state your name and address for the record and observe a time limit of three minutes.

We would like to commend our Borough municipal employees from every department for all of their hard work in keeping the Borough functioning during this difficult time.

Moreover, we would like to commend our Tinton Falls Office of Emergency Management, Tinton Falls Police Department, Tinton Falls Emergency Medical Services, Tinton Falls Fire Companies and Tinton Falls Dept of Public Works for your work on the front lines of this ongoing pandemic and for keeping us safe.

In these challenging times, the best we can do is to be kind to one another and remember courtesy is also contagious.

APPROVAL OF MINUTES- None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Council President Buckley stated that Mayor Perillo asked that the following proclamation be read into the record:

**Proclamation June 2021 LGBTQ+Pride Month
in the Borough of Tinton Falls
May 18, 2021**

WHEREAS, the Borough of Tinton Falls is home to people of all backgrounds including those who identify as LGBTQ+; and

WHEREAS, LGBTQ+ people transcend across all races, nationalities, cultures and ethnicities; and

WHEREAS, each year in June marks the anniversary of the Stonewall Rebellion that gave birth to the modern movement to advance the rights of LGBTQ+ persons and those committed to justice and equality celebrate during the month of June the notable achievements and outstanding service that LGBTQ+ Americans make to our Borough, State and Nation; and

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WHEREAS, June has been recognized since 1970 by our country, one year after the Stonewall Rebellion, took place on June 28th 1969, to commemorate the impact the movement has had on society and 2021 marks the 52nd anniversary of Stonewall, an important milestone in the history of our country; and

WHEREAS, during the month of June, throughout the nation, numerous organizations, governments and others recognize the rights of LGBTQ+ persons during PRIDE celebrations throughout the world.

NOW, THEREFORE, the Mayor and Council of the Borough of Tinton Falls do hereby proclaim June 2021 LGBTQ+ PRIDE Month and encourage all people of the Borough of Tinton Falls to join us in celebrating.

Borough Engineer – Thomas Neff

Mr. Neff reported that Resolution R-21-099 for the Award of Contract #21-1 for the Sycamore Park Improvement project is on the consent agenda. He stated that multiple bids were received and the lowest bidder was Precise Construction. The bid came in below the estimated bid price. Mr. Neff stated that he wanted to remind the public that NJ American Water Company is continuing their water main project. The portion of Hope Road, south of Tinton Avenue has been complete and they will be continuing with work on Tinton Avenue heading east toward Eatontown. He advised for travelers to expect detours and traffic considerations in that area for a few weeks.

Director of Finance/ Acting Borough Administrator- Thomas Fallon

Mr. Fallon stated that he wanted to reiterate Mr. Neff’s comments about the Sycamore Park project. The bids came in much lower than expected. This is going to be a great addition for the community. Mr. Fallon stated that the Monmouth County Reclamation Center report for March and April are expected by the end of this week and they will post on the website when received. Mr. Fallon reported that the Borough summer camp plans have been finalized and all information will be posted on the Recreation Department website tomorrow and sent out through the school system. Camp will be held from July 12th through Aug. 5th at Atchison School and Sycamore Park. Mr. Fallon extended a big thank you to recreation director Sherri Eisele for her work in finalizing these plans while adhering to the required COVID restrictions

Director of Law- Kevin Starkey- No report

Borough Clerk – Melissa Hesler- No report

Council’s Report

-Mrs. Clay reported that Community Day will be back and details will be provided during upcoming meetings. Mrs. Clay stated that she was happy to see that the Borough has recognized Pride Month with a proclamation.

-Mr. Manginelli- No Report

-Mr. Nesci reported there will be a Planning Board Meeting on May 26th at 7 pm. He thanked Council President for reading the Pride Month Proclamation and hoped to see a flag flown at borough hall.

-Mr. Siebert thanked the Borough Council for adopting the supporting resolution for the Library Grant Application. He stated the Board will be submitting the grant before the June 4th deadline. Mr. Siebert stated it is an honor and a privilege to live in a town that is inclusive of everyone.

-Ms. Buckley commented that a flag has been donated to the Borough to support the Proclamation for Pride Month. She reported that the next Environmental Commission meeting will be held May 27th at 7:30, it will be virtual and details will be posted on the website.

ORDINANCES FOR INTRODUCTION – none

ORDINANCES FOR FINAL CONSIDERATION – none

PUBLIC DISCUSSION

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

ROLL CALL

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

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Council President Buckley explained that they would systematically recognize anyone that has dialed into this remote meeting via phone or via Webex platform to comment on any matter of their choice.

Debbie LaGattuta, 18 Williamsburg Drive- Ms. LaGattuta stated that she is following up with the Council regarding her suggestion at the last meeting to send a robocall to Borough residents reminding them about the dangers of fireworks and the impact the noise has on pets and Veterans with PTSD. She stated that she is quite hopeful that people will be cooperate with this request if reminded of the impact of the loud noise on others. Council President Buckley concurred that she thinks it is a good idea to send a reminder to the residents regarding the noise ordinance and what are legal and illegal fireworks. She stated that she reached out to Administration with the request to send the reminder call.

Mitch Kulberg, 21 Cedar Place- Mr. Kulberg echoed the Council comments regarding the Proclamation for Pride Month and stated it is great to live in a town that is so inclusive. He inquired if there was a cost to sending out the robocalls. Mr. Fallon said it is a flat annual fee for the service.

Council President Buckley asked if the Clerk received any written public comments. Mrs. Hesler stated there were none.

Mr. Siebert offered a motion to close the Public Discussion, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC DISCUSSION CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER

Mr. Siebert stated that he wanted to thank the Firefighters from the three Tinton Falls Fire Companies that went to Ocean County to support them in the wildfires this week and hoped for their safe return.

RESOLUTIONS – None

CONSENT AGENDA

Mr. Siebert offered a motion to approve the Consent Agenda, seconded by Mr. Nesci.

ROLL CALL

AYES: Mrs. Clay, Mr. Manginelli, Mr. Nesci, Mr. Siebert, Ms. Buckley
NAYS: None
ABSENT: None
ABSTAIN: None

R-21-096 Resolution Authorizing Submission of a Grant Application Under the New Jersey Library Construction Bond Act for Improvements to the Tinton Falls Library

WHEREAS, the New Jersey State Library, has solicited grant applications under the New Jersey State Library Construction Bond Act P.L. 2017, c.149 and N.J.A.C. 15:24-1 et seq. (hereinafter the “Bond Act”); and

WHEREAS, the Mayor and Borough Council now desire to approve a dual application of the Borough of Tinton Falls and the Tinton Falls Public Library under the Bond Act and authorize the appropriation of \$150,000 as the Borough’s match to this Project;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of Tinton Falls that a dual grant application of the Borough of Tinton Falls and the Tinton Falls Public Library for Improvements to the Tinton Falls Library, as per attached Exhibit B, under the Bond Act be formally approved.

BE IT FURTHER RESOLVED that the Borough has appropriated the Borough’s share of the match to the grant of \$150,000 in the 2021 Municipal Budget.

BE IT FURTHER RESOLVED that the Acting Business Administrator, Thomas P. Fallon, is authorized to execute such dual grant application on behalf of the Borough.

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R-21-097 Resolution Authorizing the Execution of a Lease Between the Borough and the Tinton Falls Board of Education for Property Adjacent to the Athletic Fields at The Mahala F. Atchison Elementary School

WHEREAS, the Borough has had a lease with the Tinton Falls Board of Education since approximately 1999 for a portion of property adjacent to the athletic fields located at the Mahala F. Atchison (“MFA”) Elementary School, with a street address of 961 Sycamore Avenue, Tinton Falls, New Jersey, identified on the Official Tax Map of the Borough as Tax Lots 1 and 2, Block 44; and

WHEREAS, the 1999 lease has expired and the Borough desires to enter into a new Lease with the Board of Education for the same property; and

WHEREAS, the Borough has negotiated a new Lease in the form attached hereto; and

WHEREAS, the Borough also intends to make substantial improvements to the Leased Property as set forth on the exhibits to the Proposed Lease; and

WHEREAS, the Borough administration recommends to the Borough Council the approval of the Lease in the form attached hereto; and

WHEREAS, the State Department of Education has approved the form of Lease by letter dated May 10, 2021 (copy attached), and the Board of Education has indicated its intention to approve the Lease at its public meeting on May 26, 2021;

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

1. The Mayor is authorized, and the Borough Clerk to attest, to execute the Lease with the Tinton Falls Board of Education in the form attached hereto, for the lease of a portion of property adjacent to the athletic fields located at the Mahala F. Atchison (“MFA”) Elementary School, with a street address of 961 Sycamore Avenue, Tinton Falls, New Jersey, identified on the Official Tax Map of the Borough as Tax Lots 1 and 2, Block 44.
2. A certified copy of this Resolution shall be provided to the Tinton Falls Board of Education and to the Borough’s Chief Financial Officer.

R-21-098 Resolution Authorizing Contract for Professional Engineering Services – T & M Associates 2021 Sidewalk Improvement Program

WHEREAS, the Borough of Tinton Falls has a need for professional engineering services for the 2021 sidewalk improvement program; and

WHEREAS, T & M Associates is the Borough Engineer as approved by Resolution R-21-011 adopted on January 5, 2021; and

WHEREAS, these services will be described in proposal attached dated May 8, 2021; and

WHEREAS, this contract is to be awarded for an amount not to exceed \$124,350; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that T & M Associates, 11 Tindall Road, Middletown, NJ 07748-2792, is hereby authorized to provide professional engineering services as described in proposal dated May 8, 2021 for an amount not to exceed \$124,350; and

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

I hereby certify funds are available from: Ordinance 18-1430
/S/ Thomas P. Fallon, Chief Financial Officer

R-21-099 Resolution of Award of Contract #21-1 Sycamore Park Improvements Project

WHEREAS, two (2) bids were received on Friday, May 7, 2020 for Contract #21-1 for Sycamore Park Improvements Project; and

WHEREAS, Precise Construction, Inc., 1016 Highway 33, Freehold, NJ 07728 submitted the lowest responsible bid in the amount of \$1,149,376.50 for the above contract; and

WHEREAS, the Director of Law has found the bid to be in order, and Thomas P. Neff, P.E., P. P., C.M.E., T&M Associates recommends award in his bid report attached dated May 11, 2021; and

NOW, THEREFORE BE IT RESOLVED that Precise Construction, Inc., 1016 Highway 33, Freehold, NJ 07728 be awarded a contract in the amount of \$1,149,376.50 for the Sycamore Park Improvement Project;

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BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute a contract for the Borough of Tinton Falls as specified herein above.

I hereby certify funds are available from: Ordinance 20-1462
Thomas P. Fallon, Chief Financial Officer

R-21-100 Resolution - Refunding Sewer Overpayment

WHEREAS, the 2021 2nd quarter Sewer bill on the following property has been paid in error by the previous Homeowner through ACH debit.

| <u>NAME</u> | <u>BLOCK</u> | <u>LOT</u> | <u>TOTAL</u> |
|---|--------------|------------|--------------|
| Chen Chin Hsiu Lien 15771 Sweet Lemon Way Winter Garden, FL 34787 | 129.11 | 22 | \$94.75 |

Re: Hsiu Lien to D. & F. Shaiu
16 Shire Place

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$94.75 is hereby approved for the aforementioned property.

I, CAROL HUSSEY, Tax Collector of the Borough of Tinton Falls hereby certify the amount of error in payment to be \$94.75.

/S/Carol Hussey, Tax Collector

R-21-101 Resolution – Refunding Escrow – Al Covas

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 Zoning Board Secretary, Trish Sena, 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:

COVAS COV6403CO \$76.50

R-21-102 Resolution – Refunding Escrow – Thomas & Donna Heleotis

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 Zoning Board Secretary, Trish Sena, 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:

HELEOTIS HEL6361CU \$180.00

R-21-103 Resolution – Refunding Escrow – Galway Builders, 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 Zoning Board Secretary, Trish Sena, has certified the applicant’s account is deemed closed and no additional funds for consultants will be required,

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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:

GALWAY BUILDERS GAL6379CU \$27.75

R-21-104 Resolution – Refunding Escrow – Jemal’s Dogtopia

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 Zoning Board Secretary, Trish Sena, 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:

DOGTOPIA JEM6239CU \$3,781.12

R-21-105 RESOLUTION – Refunding Escrow – Stephen & Susan Fisher

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 Zoning Board Secretary, Trish Sena, 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:

FISHER FIS3897CU \$65.75

R-21-106 RESOLUTION – REFUNDING ESCROW – LISA IVANICKI

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 Zoning Board Secretary, Trish Sena, 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:

IVANICKI IVA3830CU \$31.25

R-21-107 Resolution – Approval Of Bills – May 18, 2021

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending May 18, 2021; 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.

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SUMMARY

| | |
|------------------------|----------------------------|
| GENERAL | 3,266,736.23 |
| SEWER UTILITY | 52,333.92 |
| GENERAL CAPITAL | 26,800.80 |
| GRANT FUND | 574.23 |
| TRUST FUNDS | 386,318.07 |
| DOG TRUST FUND | 2,650.00 |
| ESCROW | 150.00 |
| ADDITIONS | <u>1,659,900.95</u> |
| TOTAL | 5,395,464.20 |

CERTIFICATION OF FUNDS:
/S/Thomas P. Fallon, Chief Financial Officer

ADJOURNMENT TO WORKSHOP

Mr. Siebert offered a motion to adjourn to workshop, seconded by Mr. Manginelli.

ROLL CALL

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

Council President Buckley called the Workshop Meeting to order at 8:10 PM. The meeting was held via remote means using the Webex Meeting Platform under rules established under NJSA 10:4-8(b) which allows meetings to be held digitally during a State of Emergency.

Open Public Meeting Statement: Call to Order – 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, posting on the Borough Website and Facebook Page and by Notification to The Asbury Park Press, The Newark Star Ledger, and The Coaster at Least 48 Hours Prior to the Meeting.

ROLL CALL

PRESENT: Mrs. Clay, Mr. Manginelli, Mr. Nesci, Mr. Siebert, Ms. Buckley
ABSENT: None
ALSO PRESENT: Melissa Hesler, Borough Clerk
Kevin Starkey, Director of Law
Thomas Fallon, Acting Borough Administrator/Director of Finance
Thomas Neff, Borough Engineer

WORKSHOP MEETING

Good Evening everyone, I am Council President Tracy Buckley. We are holding this meeting remotely utilizing the Webex platform. Joining me remotely are my fellow Councilmembers Risa Clay, John Manginelli, Mike Nesci and Brock Siebert, as well as Mayor Vito Perillo, CFO and Interim Borough Administrator Tom Fallon, Borough Clerk Melissa Hesler, Director of Law Kevin Starkey and Borough Engineer Tom Neff, IT Director Dan Romanov.

This is a live digital Council Workshop Meeting that we are holding under the rules established under NJSA 10:4-8(b), which allows this meeting to be held digitally during a State of Emergency. For those not familiar with the Webex platform, it allows members of the public to dial in from their computer, utilizing the Webex app, or from a regular phone utilizing a dial in number and meeting passcode.

This workshop is being held to continue the discussion on the proposed changes to the current Firearms Ordinance. No formal action will be taken. We will aim to keep this to an hour, and as a general note, if we need to continue discussion, we can always carry to a future workshop meeting.

If time allows, we will have public comment at the end. If you wish to be heard during the public comment portion of the meeting, please use the “Raise Your Hand” function on the Webex platform and we will call upon you one at a time. For those dialed in via phone only, I will open the floor up to phone comments during the public comments sections as well. To mute or unmute your phone press *6. You will be asked to state your name and address for the record and observe a time limit of three minutes.

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UNFINISHED BUSINESS

-Discussion Cannabis Legislation – Municipal Ordinances to be adopted by August 21, 2021

Council President Buckley stated that this evening the discussion around the cannabis legislation will be continued regarding municipal ordinances that every municipality will be required to adopt by August 21, 2021. Special Counsel Brian Nelson is with us this evening, he gave a presentation at the last council meeting. Ms. Buckley explained that the Council must introduce some ordinance before the deadline, whether it be opt out temporarily or opt in, the goal is to introduce in June and adopt in July. She stated that one of the things learned from the last workshop is that the Borough can opt out entirely by ordinance and still opt back in at any time after that once the zoning questions and other questions are answered. Ms. Buckley stated that she received feedback from one Council member via email and would like to open the meeting to any other Council Members to get their feedback.

Councilwoman Clay stated that she has concern that if the Borough opts out now, with the number of licenses being limited and some already being spoken for, that the Borough will miss out on the availability of licenses at a later date. She stated that her other concern is that the residents overwhelmingly voted in favor of the legislation, and that she wants to be positive that we represent our constituents.

Council President Buckley stated that she understands and deferred to Mr. Nelson to see if it was his understanding that there won't be any licenses issued until 2022. Mr. Nelson confirmed that the CRC still has a lot of work to do, they still have to establish and adopt their rules later this year. He stated the Governor didn't anticipate any revenue from licensing and the State's fiscal budget year is upcoming, running from July 2021 to July 2022. The only anticipated revenue is from medical licenses. Mr. Nelson stated that he wouldn't anticipate anything being issued until next year.

Councilwoman Clay asked how many licenses will be issued and how many will be allocated to existing dispensaries. Mr. Nelson responded that state-wide, for non-micro cultivation licenses, existing medical marijuana facilities are grandfathered in and can be granted a cultivation license. There is a statutory cap of 37 cultivation licenses, 21 have already been called for by existing and pending licensees and licenses under the medical law. Mr. Nelson stated that there is no statutory cap on the other license classes, but the State would presumably have discretion on how many they would want to issue. The municipality can also limit the number within their towns. Mr. Nelson discussed the micro license qualifications and the applicability of the tax on sales that would benefit the municipality and stated he didn't believe there is a cap on those types of licenses but a municipality can limit the number through their local ordinance.

Councilman Manginelli asked if a licensee who holds a cultivation license, would be able to cultivate medical cannabis as well. Mr. Nelson confirmed that a cultivator would be able to provide the product regardless of what the end use is. Currently existing medical cannabis cultivators have priority and are already counted in the allocation of licenses, however without the CRC regulations it is hard to know what the licensees might need to do to formalize their interest in cultivating for recreational purposes. Mr. Nelson stated that the State will have to work out the process for current cultivator licenses, but that remains to be seen at this point. Council asked questions pertaining to medical vs. recreational cultivation process and the taxing process. Mr. Nelson stated that he would have to do some research and find out answer to many of the questions that are being posed. Mr. Nelson reminded Council that the discussion this evening has only to do with recreational cannabis licenses, and not medical. The State has total control over the medical and a completely different statutory scheme that governs that.

Councilman Manginelli stated that he doesn't think it is wise for Tinton Falls to jump into this process having so many unanswered questions.

Councilman Siebert stated that he would like to see Council how weighing in with their preferences. Mr. Siebert proposed that Council move forward to allow all licenses, and a certain amount be designated in certain areas within the Borough. He suggested Classes 1, 2, 3, 4, and 6 licenses be allowed in the IOP, MFG and MFG2 zones (industrial areas) and a retail license in those as well as the HCC zones, highway commercial, which matches the areas that liquor stores are allowed.

Council President Buckley stated that her initial thought was that all licenses be allowed when and stated she was on the fence about the retail licenses and would like to assess other municipalities to see if there were any problems. Ms. Buckley stated she would like the licenses to be limited to the MFG and MFG2 zones only to condense it a little more. She stated her personal preference would be to opt out initially to get through the August 21st date and allow time to have the questions that were posed answered, and then set a deadline date to opt back in. She stated this is all with the assumption that the CRC won't be issuing any licenses until 2022 so we are not missing out. Ms. Buckley proposed that the Council set a date to have an opt in ordinance prepared and ready for introduction in either October or November, so that we are complete by the end of this year. She stated that she does not feel comfortable opting into any decision having so many unanswered questions.

Councilman Siebert stated he wanted to clarify his previous statement in that he wasn't necessarily in favor of opting in or out, but rather to give signal that we are considering this in our town and that businesses could look to the future to set up shop in Tinton Falls and begin planning. There are people out there who are looking to invest and make plans.

Councilman Manginelli stated that he believes we have a consensus from Council to opt in, but it's how we do it, and that can't be done until all our questions are answered.

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Councilwoman Clay stated the only concern she has in opting out is that we are looking at 16 licenses remaining for cultivation, in the state, and she is concerned that investors are going to go to places that are ready now.

Special Counsel Nelson stated that the state has also been given a deadline to adopt emergency regulations, but their deadline is also sometime in August, which coincides with the Municipal deadline. This does not give a good timeline to have all the questions answered that you are seeking before the August 21st deadline.

Councilman Manginelli asked for clarification on the criteria for a major cultivator vs a microbusiness. Mr. Nelson stated that the statute defines a microbusiness. They define what is not a major cultivator, which would be anything that is 1,000 pounds, 1,000 plants and 2500 square feet or 10 or fewer employees, is a very small plant and considered a microbusiness. Major cultivator would be anything larger than that.

Borough Engineer Tom Neff stated that although the quantity of plants and pounds sound like a lot, the 2,500 square footage is a small space, and that type of use might be in more of a flex space. He stated that he doesn't believe there would be many microbusinesses in a standalone facility in a MFG or IOP district.

Council President Buckley asked if a microbusiness would have to be addressed in the ordinance as its own class. Mr. Nelson stated it fits under the rubric of the other licenses, just a smaller scaled operation, it would fall under grower, processor, wholesaler, distributor, retailer or delivery service.

Councilman Siebert asked if any Council member had a type of license they would not want to allow. Ms. Buckley stated there had been some discussion about retail, odor control and the smell that could potentially escape to adjacent businesses in a strip mall with adjoining walls that could be a potential problem.

Councilman Manginelli stated that he does not have any specific preference to type of licenses allowed. He stated that is why he prefers to wait to see how other municipalities handle situations such as this.

Further discussion followed regarding odor control concerns and as to who would be responsible for setting forth guidelines for businesses. Mr. Nelson stated that the licensed applicants will have to provide odor control measures to the State which will most likely be in the forthcoming regulations. Mr. Nelson stated that our ordinance can include the application of the Smoke Free Air Act so that people can't be smoking cannabis in a public space and a person could be summonsed for that. Mr. Nelson stated that if there is other technical operating issues the Borough would have to reach out to the State for guidance. Discussion followed about regulating signage size, architectural standards, and messages on the signage.

Council President polled the Council regarding opting out and setting the deadline to opt back in by the end of the year. Councilman Manginelli and Siebert indicated they are agreeable. Councilwoman Clay stated that she would also agree but expressed her concerns as to how to send the right signal to potential investors. Councilman Siebert stated that it seems to be the consensus to move forward and opt out with definite intentions to opt back in by the end of the year.

Borough Engineer Tom Neff stated that the Engineering and Zoning Offices receive calls from time to time from developers who reach out to inquire what is allowed and what is not allowed in the Borough. He stated with Council consent, we could relay a certain message related to the intent of the Borough, with the caveat that nothing has been adopted yet. Council concurred that this is a good idea. Mr. Nelson stated that in addition to introduction, the ordinance would need Planning board review for Master Plan conformance.

PUBLIC DISCUSSION – WORKSHOP MEETING:

PUBLIC DISCUSSION OPEN

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

ROLL CALL

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

Council President explained the procedure for making a comment using the "Raise Your Hand" function on the Webex platform and for those dialing in via phone. You will be asked to state your name and address for the record. To mute or unmute your phone press *6.

Mitch Kulberg, 21 Cedar Place, stated he is in favor of having these businesses in town and am also sympathetic to Council's issue with such little time and not so many rules from the State. He asked if the Borough could opt in for just cultivation licenses and opt out of everything else then opt back in at a later time for other licenses.

There being no further comments, *Mr. Siebert offered a motion to close the Public Discussion, seconded by Mr. Manginelli.*

ROLL CALL

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

**REGULAR AND WORKSHOP MEETING
MAY 18 2021
BOROUGH COUNCIL**

PUBLIC DISCUSSION CLOSED

NEW BUSINESS- None

ADJOURNMENT

Mr. Siebert offered a motion to adjourn, seconded by Mrs. Manginelli.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 8:45 pm

Respectfully Submitted,

Melissa A. Hesler, Borough Clerk

APPROVED AT A MEETING HELD ON: