

**REGULAR AND WORKSHOP MEETING  
OCTOBER 1, 2019  
BOROUGH COUNCIL**

Council President Baldwin called the regular meeting to order at 7:33 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: Mr. Manginelli, Mr. Pak, Mr. Siebert, Mr. Baldwin

ABSENT: Ms. Fama

ALSO PRESENT: Melissa A. Hesler, Borough Clerk

Kevin Starkey, Esq.

Vito Perillo, Mayor

Michael Skudera, Borough Administrator

Thomas Fallon, Chief Financial Officer

Thomas Neff, Borough Engineer

All present stood for Salute to Flag.

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**REPORT OF MAYOR/COUNCIL/ADMINISTRATION**

**Mayor's Report – Vito Perillo**

Mayor Perillo thanked everyone attending tonight's meeting.

**Engineer's Report- Thomas Neff**

Mr. Neff gave a brief overview of the two ordinances on the agenda for final consideration. He explained that these are both land use ordinances that are a result of the Master Plan Reexamination which was adopted by the Planning Board. The public hearing on these ordinances will take place tonight for anyone who has any comments or questions.

**Director of Finance- Thomas Fallon**

Mr. Fallon reported that the annual budget process will be starting again soon. Department head meetings will be held in November, and the budget should then be ready to present to Council in January. Moody's budget service will be preparing a report on the Borough of Tinton Falls' financial standings to bring our credit profile to date. Mr. Fallon stated that he is expecting a good report and will provide an update when it is received. He discussed the details of resolution R-19-163 which the Mayor asked to be placed on the agenda. Mr. Fallon stated that he recommends support of this resolution and recommends that council support this as well. He explained that the resolution would extend the 2% cap on arbitration awards.

**Borough Administrator- Michael Skudera**

Mr. Skudera discussed the land use ordinances on tonight's agenda and explained that the planners are present tonight to answer any questions the public may have. He recognized the hard work of the Zoning and Building Departments for getting these ordinances updated and making them more resident friendly. He reported the Hope Road paving and striping is complete and the road is now open. He reminded everyone that Tinton Falls Day is October 5, 2019 and the Borough is looking forward to another great event. He explained that the County rescheduled the Host Agreement meeting from today, to next Tuesday. The current agreement remains in effect until the negotiations are complete. Mr. Skudera also discussed phase 1 of the budget which is to replace worn out street signs to make them more visible. Council President Baldwin discussed the poor conditions of some of the Borough's roads, stating that many have not been repaved in recent years causing the striping to fade. Mr. Skudera asked Mr. Baldwin to provide him with a list of streets that may need to be repaved or restriped.

**Director of Law – Kevin Starkey**

Mr. Starkey had no report.

**Borough Clerk's Report- Melissa Hesler**

Ms. Hesler had no report.

**Council's Report**

Councilman Pak inquired about the process in which County roads are paved, he specifically mentioned the poor condition of Shafto Road. Mr. Skudera explained that the County does request the Borough's input, and he will add Shafto Road to the list.

Councilman Siebert discussed an email he sent to the Mayor last week regarding the security plan for Borough Hall. He stated that he was hoping to discuss this in Executive Session tonight, however it was cancelled. Mr. Siebert asked Mayor Perillo to clarify some of the answers to the questions he asked. Mayor Perillo stated that he answered all of Mr. Siebert's questions via email, and he does not wish to discuss the security plan any further in public.

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Councilman Manginelli inquired if North Gilbert Street is scheduled to be repaved, and Mr. Neff explained that it is not currently on the list. However, he will look to include it in the next road program.

Council President Baldwin gave a brief report of last week's FMERA meeting that he attended. FMERA has been working with the NJDEP to identify any environmental issues on the Fort property. They are continuing to offer tours of the Fort for those interested in purchasing a piece of the property. Tinton Falls is nearly complete in developing our portion of the Fort property, and there are only three small parcels left. The other two towns who house Fort property are about 50% complete in their development. Mr. Neff reported that the water tower behind Radar Properties will be coming down by the end of October.

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**APPROVAL OF MINUTES**

*Mr. Siebert offered a motion to approve the Regular/Workshop Meeting minutes for September 3, 2019, seconded by Mr. Manginelli.*

**ROLL CALL**

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

*Mr. Siebert offered a motion to approve the Regular Meeting minutes for September 17, 2019, seconded by Mr. Manginelli.*

**ROLL CALL**

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

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**ORDINANCES FOR INTRODUCTION-** None

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**ORDINANCES FOR FINAL CONSIDERATION**

Ms. Hesler read Ordinance No. 2019-1452 entitled: **ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND USE ORDINANCE OF THE BOROUGH OF TINTON FALLS, LOCATED IN CHAPTER 40 OF THE BOROUGH CODE, TO IMPLEMENT THE RECOMMENDATIONS OF THE PLANNING BOARD IN THE MASTER PLAN REEXAMINATION REPORT DATED AUGUST 28, 2019.**

*Mr. Pak offered a motion to open the Public Hearing on Ordinance 2019-1452, seconded by Mr. Manginelli.*

**ROLL CALL**

AYES: All in Favor  
NAYS: None  
ABSENT: Ms. Fama  
ABSTAIN: None

**PUBLIC HEARING OPEN**

*Sheila Hatami, 2 Palermo Drive-* Ms. Hatami had some questions regarding the changes in language of the Ordinance, specifically Section 8: 40-37 "Conditional Uses." She asked for clarification on this section that is now permitting three uses on a site which are a convenience store, gas station and car wash. Borough Planner Jen Beahm briefly explained the history of gas stations and how most Ordinances were not written to include a convenience store, that is now common with places like Wawa and Quick Check. This Ordinance creates conditional standards and therefore if these standards cannot be met, they must go before the Zoning Board for a use variance. Ms. Beahm explained that use of a car wash at a gas station/convenience store is generally uncommon. Ms. Hatami stated this is a very intense use of property. Borough Engineer, Tom Neff stated that they would also have to meet the other carwash requirement in the ordinance. Ms. Hatami inquired about Heritage Boulevard and the buffer requirement and the change in the setbacks. Ms. Beahm explained the reason for the changes which is intended to allow residents to better utilize their backyards, improve the aesthetics of the neighborhood, and prevent the owners of a single family to have to go before

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the Zoning Board which is an expense to the homeowner. A brief discussion ensued regarding the Ice King car wash sign. Borough Planner Jen Beahm explained that since the property fronts on a State Highway, there were no restriction on the size of the sign and further explained that our ordinance addresses the size of signs and because the property is on a State Highway, they are allowed a larger sign. She pointed out that the size of the sign is definitely locally controlled.

*There being no further comments, Mr. Pak offered a motion to close the Public Hearing on Ordinance No. 2019-1452 seconded by Mr. Manginelli*

**ROLL CALL**

AYES: All in Favor  
NAYS: None  
ABSENT: Ms. Fama  
ABSTAIN: None

**PUBLIC HEARING CLOSED**

*Mr. Siebert offered a motion to adopt Ordinance No. 2019-1452, seconded by Mr. Pak.*

**ROLL CALL**

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

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Ms. Hesler read Ordinance No. 2019-1453 entitled: **ORDINANCE AMENDING CHAPTER 40 OF THE BOROUGH CODE, ENTITLED "LAND USE REGULATIONS" TO CLARIFY THE ENFORCEMENT PROVISIONS FOR CERTAIN VIOLATIONS AND PENALTIES**

*Mr. Pak offered a motion to open the Public Hearing on Ordinance No. 2019-1453, seconded by Mr. Manginelli.*

**ROLL CALL**

AYES: All in Favor  
NAYS: None  
ABSENT: Ms. Fama  
ABSTAIN: None

**PUBLIC HEARING OPEN**

*There being no comments from the public, Mr. Pak offered a motion to close the Public Hearing on Ordinance 2019-1453, seconded by Mr. Manginelli.*

**ROLL CALL**

AYES: All in Favor  
NAYS: None  
ABSENT: Ms. Fama  
ABSTAIN: None

**PUBLIC HEARING CLOSED**

*Mr. Pak offered a motion to adopt Ordinance No. 201-1453, seconded by Mr. Manginelli.*

**ROLL CALL**

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

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**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: Ms. Fama  
ABSTAIN: None

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PUBLIC DISCUSSION OPEN

*Dottie Dittmer, 71 Santa Rosa Lane-* Ms. Dittmer stated that she wanted to express her gratitude and appreciation for the office of the Mayor. She explained that her daughter needed a sub-acute facility after a hospital stay, and she was placed in Wardell Gardens on Wardell Road. She discussed the horrible, deplorable conditions of this facility and the lack of proper care and resources for her daughter. She explained that she went to the State and County before coming to the Borough for help, however she never heard back. Ms. Dittmer praised and thanked Victoria Harris from the Mayor's Office, and John Mack from OEM for their compassion and help in this matter. Mr. Skudera stated that he was happy that the Borough was able to help. He explained that John, Victoria, and himself went to this facility to meet with the administrators to make sure they improve the conditions. Mayor Perillo and Council President Baldwin suggested contacting the State Ombudsman Office. Mr. Starkey explained that the State is responsible for the primary oversight of these facilities, however the Borough can help get the proper authorities involved.

*Gerry Turning, 32 Periwinkle Circle-* Mr. Turning discussed Resolution R-19-163 on tonight's Consent Agenda and inquired about who wrote this particular Resolution. Mr. Starkey explained that the Resolution was written by the New Jersey State League of Municipalities and he customized it for Tinton Falls. Mr. Turning asked Council not to vote on this Resolution tonight to allow the PBA to have a voice in this matter. He read excerpts from the Resolution and explained by passing this, the Borough would be taking a long term, permanent position. Police Unions bargain in good faith called binding arbitration. They into an agreement, in their contract to bargain with the governing body on all terms and conditions of employment. If they take an aggressive stance, it is their right to do that. It's the borough's responsibility to negotiate a fair and equitable contract, or you end up in binding arbitration. Mr. Turning stated that it is his belief that this was not thoroughly investigated or discussed, and that this resolution should never have been placed on the Consent Agenda and suggests it be removed.

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

**ROLL CALL**

AYES: All in Favor

NAYS: None

ABSENT: Ms. Fama

ABSTAIN: None

PUBLIC DISCUSSION CLOSED

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**MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER:**

In reference to Resolution R-19-163, Councilman Pak inquired about how many municipalities have adopted a Resolution like this one. Mr. Starkey explained that the League of Municipalities sent this out to every municipality in the State, however he does not know how many have adopted one. Mr. Starkey clarified that this Resolution does not change policy, however it is asking for consideration to extend a 2% CAP that was in place under Governor Christie which has expired. He explained that the Borough cannot put a 2% cap into place, that can only be done at the State level. Mr. Starkey gave a brief account as to why this cap was put in place. Council President Baldwin explained that he thought it was a good idea, however he was unaware of the impact it would have until Mr. Turning brought it to Council's attention. Mr. Starkey clarified that this Resolution was not tailored to individual towns.

**RESOLUTIONS**

Councilman Siebert requested that Resolution R-19-163 be removed from the Consent Agenda to be voted on separately this evening.

**Mr. Baldwin asked for a motion to approve this resolution. No motion was made and the resolution dies for lack of a motion**

**R-19-163 RESOLUTION URGING THE STATE TO EXTEND THE 2% CAP ON BINDING INTEREST ARBITRATION AWARDS (Resolution died for lack of a motion)**

**CONSENT AGENDA**

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

**ROLL CALL**

AYES: Mr. Manginelli, Mr. Pak, Mr. Seibert, Mr. Baldwin

NAYS: None

ABSENT: Ms. Fama

ABSTAIN: None

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**R-19-164 RESOLUTION AUTHORIZING CHANGE ORDER #1 INCREASING THE ROADWAY IMPROVEMENT PROGRAM ADD ALTERNATE #1 – 1 OKROS ROAD IN THE AMOUNT OF \$2,700.00**

**WHEREAS**, The Roadway Improvement Program – Hope Road was awarded to Earle Asphalt, Co., P.O. Drawer 556, Farmingdale, NJ 07727 , by Resolution R-19-076 in the amount of \$528,500.00, at a Council Meeting held on May 7, 2019 in which \$138,500.00 was for the Add Alternate #1, Okros Road; and

**WHEREAS**, Change Order #1 dated September 16, 2019 from Leon S. Avakian, Inc. (annexed hereto and part hereof) request an increase in the amount of \$2,700.00 for the Add Alternate #1 portion of the contract, for reasons described therein, for a total contract for the Add Alternate #1 in the amount of \$141,200.00;

**NOW, THEREFORE, BE IT RESOLVED** the Borough Council of the Borough of Tinton Falls authorizes change order #1 increasing The Roadway Improvement Program – Hope Road, Add Alternate #1, Okros Road in the amount of \$2,700.00 for a total contract in the amount of \$141,200.00 is hereby authorized for the above contract awarded to Earle Asphalt, Inc.

**R-19-165 RESOLUTION – RELEASING PERFORMANCE GUARANTEE UPON THE POSTING OF MAINTENANCE GUARANTEE – NJRC AQUATIC FITNESS CENTER – BLOCK 144 LOT 2.03**

**WHEREAS**, the developer has requested the release of Performance Guarantee posted for NJRC Aquatic Fitness Center at Tinton Falls Block 144 Lot 2.03.

**WHEREAS**, by letter dated September 23, 2019, the Borough Engineer (T&M Associates) has recommended the release of the guarantee as the developer has completed all of the improvements subject to the posting of the required maintenance guarantee as set forth in said letter (said letter hereby attached and made part of this Resolution) and the payment of any and all outstanding engineering and inspection fees.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls that Performance Guarantee for NJRC Aquatic Fitness Center Block 144 Lot 2.03 be released subject to the posting of the required maintenance guarantees and the payment of any and all outstanding engineering and inspection fees.

**R-19-166 RESOLUTION REFUNDING STREET OPENING BOND**

**WHEREAS**, On 8/8/2018, 18 Orchard Street, LLC 28 Riverside Ave Suite 2A, Red Bank, NJ 07701, posted a \$1,200.00 street opening cash repair deposit for a sewer installation at 52 Pear Street, Tinton Falls, NJ 07724.

**WHEREAS**, said funds were deposited by the by the Borough of Tinton Falls; and

**WHEREAS**, 18 Orchard Street, LLC 28 Riverside Ave Suite 2A, Red Bank, NJ 07701, has completed the work described in Street Opening Permit 2018-08-003; and

**WHEREAS**, the Department of Public Works has inspected street opening work, finds the site to be in compliance with Borough requirements, and the Director of Public Works recommends the release of the cash bond.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls, that the street opening cash repair deposit in the amount of \$1,200.00 posted by 18 Orchard Street, LLC 28 Riverside Ave Suite 2A, Red Bank, NJ 07701, be released.

**R-19-167 RESOLUTION REFUNDING STREET OPENING BOND**

**WHEREAS**, On 9/6/2018, Lombardo Builders & Developers, LLC, PO Box 585, Cliffwood, NJ 07721, posted a \$1,400.00 street opening cash repair deposit for a sewer installation at 700 Wardell Road, Tinton Falls, NJ 07753.

**WHEREAS**, said funds were deposited by the by the Borough of Tinton Falls; and

**WHEREAS**, Lombardo Builders & Developers, LLC, PO Box 585, Cliffwood, NJ 07721, has completed the work described in Street Opening Permit 2018-09-003; and

**WHEREAS**, the Department of Public Works has inspected street opening work, finds the site to be in compliance with Borough requirements, and the Director of Public Works recommends the release of the cash bond.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls, that the street opening cash repair deposit in the amount of \$1,400.00 posted by Lombardo Builders & Developers, LLC, PO Box 585, Cliffwood, NJ 07721, be released.

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**R-19-168 RESOLUTION - REFUNDING TAX OVERPAYMENT**

**WHEREAS**, an overpayment of 2019 3<sup>rd</sup> quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and by the Homeowner.

| <u>Name</u>   | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|---|--------------|------------|---------------|
| Andrew Mallin<br>504 Crawford Street<br>Eatontown, NJ 07724 | 129          | 2.07       | \$1,340.58    |

Re: 13 South Pointe Circle  
and,

**WHEREAS**, said error has resulted in an overpayment of 2019 3<sup>rd</sup> quarter taxes in the amount of \$1,340.58, as certified by the Borough Tax Collector.

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls that a refund in the amount of \$1,340.58 is hereby approved for the aforementioned property.

**R-19-169 RESOLUTION - CANCELLING TAXES FOR A VETERAN'S DEDUCTION**

**WHEREAS**, an overbilling of 2019 taxes has been made as a result of a Veteran's deduction for the year 2019 to property known as:

| <u>Name</u>  | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|--|--------------|------------|---------------|
| Warren R. & JoAnn Feinstein<br>53 Sunset Drive<br>Tinton Falls, NJ 07724 | 76.03        | 15         | \$250.00      |

and,

**WHEREAS**, said deduction has resulted in a cancellation of the 2019 taxes in the amount of \$250.00, as certified by the Borough Tax Collector.

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls that an adjustment in the amount of \$250.00 is hereby approved as a result of the cancellation of the taxes for the aforementioned property for the year 2019.

**R-19-170 RESOLUTION - CANCELLING TAXES FOR A VETERAN'S DEDUCTION**

**WHEREAS**, an overbilling of 2019 taxes has been made as a result of a Veteran's deduction for the year 2019 to property known as:

| <u>Name</u>   | <u>Block</u> | <u>Lot</u> | <u>Amount</u> |
|---|--------------|------------|---------------|
| Gabriela L. Pereira<br>71 Howard Avenue<br>Tinton Falls, NJ 07724 | 2.01         | 22         | \$250.00      |

and,

**WHEREAS**, said deduction has resulted in a cancellation of the 2019 taxes in the amount of \$250.00, as certified by the Borough Tax Collector.

**NOW, THEREFORE BE IT RESOLVED**, by the Borough Council of the Borough of Tinton Falls that an adjustment in the amount of \$250.00 is hereby approved as a result of the cancellation of the taxes for the aforementioned property for the year 2019.

**R-19-171 RESOLUTION – APPROVAL OF BILLS – October 1, 2019**

**WHEREAS**, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending October 1, 2019; and

**WHEREAS**, the Borough Council has reviewed said claims.

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**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**

|                        |                     |
|------------------------|---------------------|
| <b>GENERAL</b>         | <b>3,114,671.75</b> |
| <b>SEWER UTILITY</b>   | <b>289,305.74</b>   |
| <b>GENERAL CAPITAL</b> | <b>120,501.41</b>   |
| <b>GRANT FUND</b>      | <b>4,738.85</b>     |
| <b>TRUST FUNDS</b>     | <b>26,628.23</b>    |
| <b>DOG TRUST</b>       | <b>2,859.00</b>     |
| <b>ESCROW</b>          | <b>2,537.50</b>     |
| <b>ADDITIONS</b>       | <b>7,500.00</b>     |
| <b>TOTAL</b>           | <b>3,568,742.48</b> |

**ADJOURNMENT**

*Mr. Siebert offered a motion to adjourn, seconded by Mr. Pak*

**ROLL CALL**

AYES: All in Favor

NAYS: None

ABSENT: Ms. Fama

ABSTAIN: None

TIME: 8:30 PM

Respectfully Submitted,

Melissa A. Hesler, Borough Clerk

**APPROVED AT A MEETING HELD ON:**