

**REGULAR MEETING
JULY 13, 2021
BOROUGH COUNCIL**

Council President Buckley called the Regular Meeting to order at 7:30 PM.

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

ABSENT: None

ALSO PRESENT: Melissa A. Hesler, Borough Clerk

Kevin Starkey, Director of Law

Brian Nelson, Special Counsel

Vito Perillo, Mayor

Thomas Fallon, Acting Borough Administrator/Director of Finance

Thomas Neff, Borough Engineer

All present stood for Salute to Flag.

APPROVAL OF MINUTES-

Mrs. Clay offered a motion to approve the February 2, 2021, Regular and Workshop Meeting Minutes seconded by Mr. Nesci.

ROLL CALL

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

ABSTAIN: None

NAYS: None

ABSENT: None

Council President's Introduction

Council President Buckley stated that she wanted to welcome everyone back to in person meetings and advise that all future meetings will now be live streamed and shown on the Borough YouTube channel, a link is available on our website. She advised that you will be able to view all previous meetings there as well.

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Public Hearing – FY 2020 Community Development Block Grant (CDBG) Application

Council President Buckley stated that the Borough is required to hold a public hearing on the submission of the 2022 Community Development Block Grant Application. She then turned the floor over to Borough Engineer Mr. Neff to discuss the details of the Community Development Block Grant (CDBG) application process. Mr. Neff stated he would like to give a brief overview of the grant and then he would ask Council President to open it up to the public at the end of his discussion for any public comments. Mr. Neff explained that this is the Public Hearing for the Monmouth County Community Development block grant which is released every year, but municipalities are only eligible to apply every other year. The last grant was for the 2017 funding cycle for Tinton Falls and was for the southern portion of Hope Road. He explained that this is not a matching grant and the maximum fund request is \$200,000. Mr. Neff stated that eligible projects must meet HUD regulations and serve an eligible population. He explained that most projects, such as roadwork must be located in a designated target neighborhood (DTN) to be eligible, most of which is located in the southeastern portion of Tinton Falls and is determined and identified on Census maps. Mr. Neff stated a review has been completed of eligible areas and the recommendation is for curb, sidewalk and drainage improvements to Wardell Road from Maywood Run south to inside the new Wardell Park. The final construction estimate for the cost needs to be finalized but it should be in the area of \$200,000. Mr. Neff stated that the goal is to provide an ADA accessible sidewalk route from the various Fox Chase neighborhoods off of Maywood Run and Appaloosa Run to the new park. Sidewalk currently exists along a portion of Wardell Road south of Appaloosa Run but is on the opposite side of the road from the park. Mr. Neff stated that a flashing beacon with signs and a crosswalk would be installed as well as new sidewalk extending inside the park to the playground area. The sidewalk would be extended north on Wardell Road where none currently exists to the southern portion of Maywood Run and new concrete curb would also be provided. Mr. Neff explained that because new curb would be required, a new drainage system would also be constructed with new inlets and pipes to connect to the existing system at Maywood Run. This would also address chronic ponding issues along the edge of the road.

Mr. Neff stated that the application is due to the County by Friday July 2^{3rd}, presentation would be made to the CDBG Committee in September and hopefully by the end of the year we will be advised of the grant award.

Mr. Neff asked if there were any questions from Council.

Council President Buckley asked about the approximate amount of the grant. Mr. Neff stated that he estimates the grant could come in somewhere just under \$200,000 but he would have to work out the details for the final figure. Mr. Neff stated that this a very competitive grant and the other towns vote on the final grant application award.

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Mr. Manginelli inquired about the restroom building for Wardell Park. Mr. Neff stated that the restroom building for that park would probably be a submitted through another grant application later this year.

Council President Buckley stated that she thought this was a good project for this grant. There being no further comments from Council she asked for a motion to open the public hearing.

Mr. Siebert offered a motion to open the Public Hearing, seconded by Mr. Nesci.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

There being no comments, Mr. Siebert offered a motion to close the Public Hearing, seconded by Mrs. Clay.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

REPORT OF MAYOR/COUNCIL/ADMINISTRATION (CONT'D)

Borough Engineer – Thomas Neff

Mr. Neff reported that under consent agenda there is a resolution authorizing the submission of the CDBG application and authorizes the Mayor and Clerk to execute the agreement if we were to get funded. Mr. Neff stated there is a similar resolution on this evening for the NJDOT municipal aid grant application just submitted for Gilbert Street Roadway Improvements and add sidewalks on the northern section of Gilbert Street North which would connect Greenbriar Falls to the new sidewalk to be installed on Shrewsbury Avenue. That funding was received last year.

Director of Finance/ Acting Borough Administrator- Thomas Fallon

Mr. Fallon reported that the 2020 Audit Report has been received from our independent auditor, Suplee, Clooney and Company. He stated it was an exemplary report with no comments or recommendations noted by the auditors, and no adjustment to the Borough's financial statements. He extended his congratulations to the borough employees on this audit, here hard work and attention to detail is evident. Mr. Fallon stated that the audit will be posted to the borough website for anyone wishing to review it. On tonight's agenda there is a resolution on the agenda verifying the Council's review of the Audit along with a group affidavit for their signature attesting to same.

Mayor's Report – Mayor Vito Perillo

Mayor Perillo commended CFO Tom Fallon for his fine work on the audit.

Director of Law- Kevin Starkey

Mr. Starkey stated he had no formal report but wanted to say that it is great to be back to in person meetings again.

Borough Clerk – Melissa Hesler- No report

Council's Report

-Mrs. Clay echoed Mr. Starkey's comment that it is wonderful to actually be here in person and be able to see everyone. Mrs. Clay gave an update on Community Day which is scheduled for October 10th from 1 pm to 5 pm. There will be a 5K run beginning at 11 am. She stated it's exciting to be able to bring community day back. Mrs. Clay was excited to report there will be many activities for children and families.

-Mr. Manginelli reported that he attended a Historic Preservation Commission event, a very successful Juneteenth Celebration at the Crawford House. The Crawford house is a great place and suggest everyone stop by for a visit.

-Mr. Nesci reported the Planning Board recently had a meeting where they addressed one application for approval of a minor subdivision along Tinton Avenue. The upcoming Planning Board meeting has been cancelled. Mr. Nesci stated he was sorry that he could not attend the Soldier On tour of the Veteran's Housing complex but assured everyone he would take advantage when the next visit is available. Soldier On is a great organization, he stated he offered barber services to the facility when they open. Mr. Nesci discussed the recent workshop discussing backyard chickens, since then there has been collaboration to create a foundation draft ordinance mirroring surrounding towns and to build a stronger ordinance that is the best fit for Tinton Falls. He stated that he hopes the ordinance to be ready for introduction at the next meeting. Mr. Nesci extended his thanks to everyone involved in the creation of Wardell Park, especially Mr. Neff, it looks magazine quality. He stated he was unable to attend the ribbon cutting ceremony but recently visited the park with his family. Great job. Mr. Neff commended Dan Romanov and his IT department for successfully setting up the Borough's YouTube channel and allowing more residents the opportunity to attend Council meetings while being home.

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-Mr. Siebert reported that the Tinton Falls Library Association will be holding a music festival on August 14th from noon to 8 pm with many activities for everyone. He stated that he attended the ribbon cutting for Wardell Park grand opening, he stated that it was a great event and he even learned how to play pickleball. Mr. Siebert also echoed the comments of his colleagues about being able to attend in person meetings.

-Ms. Buckley commended Mr. Fallon and all the departments on the audit report and thanked Mr. Romanoff for setting up the YouTube Channel for live streaming the council meetings. This enables residents to view the meetings at any time, both audio and visual. Ms. Buckley stated that she was able to attend the Wardell Park grand opening on a very hot day, it was a fantastic turnout and concurred that the description of “magazine quality” is a perfect way to describe the park. Ms. Buckley stated that she was able to attend the Soldier On facility tour, they have thought of every possible detail. She stated that the units will be completely furnished and they are looking for help from the community by way of donation of items listed on their Amazon wish list. Ms. Buckley reported that the next Environmental Commission meeting will be held July 22 at 7:30 in the Crawford House.

ORDINANCES FOR INTRODUCTION- None

ORDINANCES FOR FINAL CONSIDERATION

Mrs. Hesler read Ordinance 2021-1473 entitled: **Ordinance Amending Section 7-4 of the Borough Code to Prohibit Parking on a Portion of Drift Road**

Mrs. Clay offered a motion to open the Public Hearing on Ordinance No. 2021-1473, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING OPEN

There being no comments, Mr. Siebert offered a motion to close the Public Hearing on Ordinance No. 2021-1473, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING CLOSED

Councilman Siebert commented that this ordinance is necessary and there is another issue that needs to be addressed and that relates to a major parking problem in that area when the Cappelli Fields are in use. Borough Engineer, Tom Neff stated that he has been in close communication with the Police Department about the parking problem, and this ordinance is a result of that parking issue. Cappelli has been notified about this issue to put them on notice that this ordinance will be in place and enforced. They were instructed to notify all the users of the fields to park only in designated parking areas. Mr. Neff stated that there is also an issue with pedestrian crossing in areas that are not intended for crossing.

Mr. Nesci offered a motion to adopt Ordinance No. 2021-1473, seconded by Mr. Siebert.

ROLL CALL

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

Mrs. Hesler read Ordinance 2021-1474 entitled: **An Ordinance Prohibiting the Operation of any Class of Cannabis Business within the Jurisdiction of the Borough of Tinton Falls until Adequate Regulatory Guidance is Provided by the State's Cannabis Regulatory Commission**

Council President Buckley stated that she would like the Director of Law to make a statement on behalf of the Council before opening the floor to public comment.

Director of Law, Kevin Starkey stated that his comments are on behalf of the Borough Council pertaining to this ordinance. He stated this ordinance is commonly known as a cannabis opt out ordinance and the purpose of it is driven by state law which says that if a town does not take action by August 21st then all types of cannabis businesses will be allowed in that town. The adoption here is not because the Council is opposed to cannabis, nor does it mean that the

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Council would not consider allowing cannabis establishments to locate in the borough as we move forward. Mr. Starkey stated there will be a Cannabis Regulatory Commission that will be established by the State and they will promulgate final regulations. It is uncertain when those regulations will be finalized but it is certain they will not be available by our deadline of August 21. Those regulations will give needed guidance to towns. Mr. Starkey stated that in the interim what this Council intends to do is take a detailed review and begin to draft an opt-in ordinance to allow some businesses in some parts of town. The review will take a detailed look at the types of businesses and licenses, and their suitability within the different districts in town. Mr. Starkey stated the review will include input from the Planning Board, Borough staff and professionals. There is a resolution on the agenda for a vote this evening which will establish a Cannabis Sub-committee which will include two council members and professionals from the town to undertake that review. The ordinance being considered this evening has been drafted using a model ordinance prepared by the NJ League of Municipalities for use by all municipalities of the State because of the short timeline the state has set for towns to either opt in or out.

Mr. Siebert offered a motion to open the Public Hearing on Ordinance No. 2021-1474, seconded by Mr. Manginelli.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING OPEN

Jay Goldberg, 90 Glenwood Drive – Mr. Goldberg asked for someone to confirm that this ordinance is just for opting out but doesn't preclude us from adopting ordinances later allowing businesses in the Borough. Mr. Starkey confirmed that his understanding is correct.

Craig Gately, 10 Polo Club Drive- Mr. Gately asked if we take no action are the licenses then allowed in all industrial and retail zoning locations. Special Counsel Brian Nelson stated that it also locks you in for 5 years and there is no tax benefit, and all license classes are then allowed in all commercial zones and the borough basically relinquishes all zoning rights in the municipality. Mr. Gateley stated that if the ordinance is adopted the borough is going against the wishes of the constituents who voted in support of legal marijuana, this is an anti-business approach, and the businesses will go elsewhere.

Jefferey King, 24 Elizabeth Parkway, Eatontown- Mr. King stated he is a property owner in Tinton Falls and felt the subcommittee is a great idea but implemented a bit late. He stated that universities are offering majors with scholarships and an opportunity for high paying jobs in this field for botanists and chemists making six figures. Mr. King stated there are many areas that cannabis businesses could be allowed. The Borough is missing out on a great opportunity. The people voted for this legislation and local people should be running a dispensary here, not big corporate establishments. The borough needs organic, locally grown, craft cannabis in our community. He stated that he does not see the Borough heading in that direction.

Council President Buckley stated that previously there were two public discussions on this matter, each one approximately an hour and a half long. There were various proposals set forth, and unfortunately at the end of those meetings there were more questions than we had answers. Ms. Buckley stated that a list of 26 questions was submitted to the Cannabis Regulatory Commission which was a compilation of questions from all Council members. She gave an overview of some of the concerns and stated that if anyone would like a copy of the questions she'd be happy to email them. It is the consensus of this council to allow cannabis in the Borough, but the devil is in the details on how this zoning ordinance is prepared and how it would impact the Borough.

Denise Catalano, 11 Alpine Trail- Ms. Catalano stated that she wanted to make two clarifications, the first being that when we as voters cast our vote we were voting on whether to legalize marijuana, not whether we wanted to allow marijuana facilities in our town. Secondly, this is a stop gap ordinance that is necessary because the state hasn't defined how they want all of this to work yet. Ms. Catalano stated her understanding is that rather than risk doing nothing and being held to something we don't want for 5 years, then the Borough could opt back in once guidelines have been established by the State and do what is best for the town.

Craig Gately, 10 Polo Club Drive- Mr. Gately stated that his understanding is that if the Borough does nothing, they could later do everything they want to do down the line. Council President Buckley stated if we opt in the Borough is subject to everything the State proposes and there is no tax benefit. That is why this matter has to be delayed so the Borough can make the right decisions.

Special Council Brian Nelson clarified that if the municipality decides to opt in after the initial opt out, then you can add the tax later. Without the appropriate regulations and processes it is extraordinarily difficult for the governing body to take action or adopt ordinances establishing either zoning or licensing standards without the regulatory guidance from the State of New Jersey. Those regulations are due out sometime later this year and when those regulations come out, any actions we take could be preempted by those as well. Mr. Nelson stated the vast majority of municipalities are taking the same course of action, with a few exceptions. The State is not yet issuing licenses therefore the concerns regarding missing out on being granted a license are somewhat mitigated by that fact.

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There being no further comments, Mr. Siebert offered a motion to close the Public Hearing on Ordinance No. 2021-1474, seconded by Mrs. Clay.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING CLOSED

Councilwoman Clay stated that she wanted to reinforce the statement Mr. Starkey made at the opening of this discussion, that this Council has spent significant time in discussion of this matter and ultimately we had many unanswered questions. These questions were compiled and submitted to the Cannabis Regulatory Commission. The timeline for action is fierce, and as elected officials it was very difficult to make a decision without answers to those questions. Mrs. Clay stated that she believes the sub-committee will be effective and our professionals will provide the assistance needed. Mrs. Clay stated she has volunteered to be on this sub-committee.

Mr. Siebert concurred that there were more questions than answers after two workshop meetings on this topic. He stated without knowing the direction the State is going with the licenses and the regulations, it is very difficult to know where the licenses should be allowed in the borough. There is a community impact that needs to be considered and the sub-committee is the perfect venue to allow us to move forward.

Mr. Siebert offered a motion to adopt Ordinance No. 2021-1474, seconded by Mr. Manginelli.

ROLL CALL

AYES: Mrs. Clay, Mr. Manginelli, Mr. Siebert, Ms. Buckley

NAYS: None

ABSENT: None

ABSTAIN: Mr. Nesci

Mrs. Hesler read Ordinance 2021-1475 entitled: **Ordinance Authorizing the Purchase of Property known as Block 145, Lot 29.01, 97 Shark River Road, as Part of the Open Space Program**

Director of Law Kevin Starkey advised that this is an ordinance authorizing the purchase of property at 97 Shark River Road and on first reading, there was a typographical error wherein the block was listed incorrectly as Block 45 instead of Block 145. That has been corrected. This is considered a non-material change in legal parlance which means Council can move forward with second reading and public hearing on this ordinance tonight with that change.

Mr. Siebert offered a motion to open the Public Hearing on Ordinance No. 2021-1475, seconded by Mr. Nesci.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING OPEN

There being no comments, Mrs. Clay offered a motion to close the Public Hearing on Ordinance No. 2021-1475, seconded by Mr. Manginelli.

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC HEARING CLOSED

Mr. Siebert offered a motion to adopt Ordinance No. 2021-1475, seconded by Mr. Nesci

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

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Mrs. Hesler read Ordinance 2021-1476 entitled: **Ordinance Amending Chapter 3, Article II of the Borough Code Entitled "Police Force" to Amend the Composition of the Police Force**

Mr. Siebert offered a motion to open the Public Hearing on Ordinance No. 2021-1476, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING OPEN

There being no comments, Mrs. Clay offered a motion to close the Public Hearing on Ordinance No. 2021-1476, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING CLOSED

Mr. Siebert offered a motion to adopt Ordinance No. 2021-1476, seconded by Mr. Manginelli.

ROLL CALL

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

Mrs. Hesler read Ordinance 2021-1477 entitled: **Bond Ordinance Providing for the Borough's 2021-2022 Road Improvement Program, Appropriating \$2,600,000 Therefor and Authorizing the Issuance of \$2,200,000 Bonds And Notes To Finance a Portion of the Costs Thereof, Authorized in and by the Borough of Tinton Falls, in the County of Monmouth, New Jersey**

Mr. Manginelli offered a motion to open the Public Hearing on Ordinance No. 2021-1477, seconded by Mrs. Clay.

ROLL CALL

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

PUBLIC HEARING OPEN

Jeff King, 24 Elizabeth Parkway, Eatontown- Mr. King stated that this is a lot of money and it will all have to be paid back by the taxpayers, with interest. He stated it's easy to spend money, and hard to bring money in. Mr. King stated he could think of one way to do so but unfortunately that's not happening for awhile, stating he wishes the reverse was happening that the borough be saving money and making money as well.

There being no further comments, Mr. Nesci offered a motion to close the Public Hearing on Ordinance No. 2021-1477, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING CLOSED

Councilman Siebert thanked the Borough Engineer and Administration for all the work on the upcoming road program.

Mr. Siebert offered a motion to adopt Ordinance No. 2021-1477, seconded by Mr. Manginelli.

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

PUBLIC DISCUSSION

Mrs. Clay offered a motion to open the Public Discussion, seconded by Mr. Nesci.

ROLL CALL

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

Craig Gately, 10 Polo Club Drive – Mr. Gately stated that last months meeting there was some discussion about an ordinance which would allow chickens to be kept in the town. He stated that he is in favor of this ordinance and asked that the ordinance be made as simple as possible without making requirements for minimum lot sizes, licensing, and permits.

Councilman Siebert stated that was the intention for ease of access and ease of implementation.

Ellen Goldberg, 90 Glenwood Drive- Mrs. Goldberg echoed the previous comments about Wardell Park. She stated that she was very impressed at how beautiful the park turned out, and she complimented Mr. Fallon for the ceremony at the grand opening. It was a beautiful event. Mrs. Goldberg extended her thanks to Jill, Kaitlyn and Mark from Public Works for their help at the recent Webex Virtual Environmental forum in helping obtain information for her presentation. There were also presentations by the NJ Composting Council and the NJ Sierra Club. Mrs. Goldberg congratulated Mayor Perillo on the great job he has been doing over the past four years as Mayor.

Jerry Spumberg, 11 Alpine Trail- Mr. Spumberg stated he has lived in town for almost 30 years, and during that time there was a plan devised to upgrade and maintain the streets and roads in the Borough. He asked if that plan for bonding for the improvements is still being used today. Acting Business Administrator and CFO Tom Fallon stated that currently the Capital Improvement Program for roads is funded every other year so that we can get more efficiencies in the bidding process. The program is for a larger program every other year rather than funding a smaller program every year. Mr. Fallon stated the 2021-2022 program is about 2.6 million dollars, there are also additional funds available from previous road programs that may have come to bid under the appropriation amount. Mr. Fallon explained that regarding debt, the Borough is actually retiring a million dollars more per year than is authorized. Over the last 6 to 7 years debt is down about 9 million dollars, and the Road Program is the only program that is bonded. All other capital costs are funded directly in the budget. Mr. Spumberg stated in reality this is not really taxes being placed on the residents. Mr. Fallon concurred.

Jeff King, 24 Elizabeth Parkway, Eatontown- Mr. King inquired about the cannabis ordinance adopted this evening and stated that there was no reference to medical cannabis and suggested that it was also banned. He felt there was a need for these facilities. Mr. King stated he his happy that the borough has set forth a plan to address the opt in at a later date and not just kicking the can down the road. Discussion followed about the sub-committee and appointment of the members. Mr. King stated he was disappointed by the League of Municipalities that they lead the towns down the wrong road.

Councilman Siebert stated that the entire Council has pledged to move forward with this, if anyone has failed it is the State of NJ and the Cannabis Regulatory Commission because they are coming out with the regulations after the municipalities deadline. They are asking us to make a decision based on regulations that have not been presented to us. This Council has made it publicly clear that we will move forward at opting in once we know what the rules are.

Keith Felder, 22 Gloria Court, Tinton Falls- Mr. Felder commended the Borough officials for the great job on Wardell Park. He also commended the Police Department for the recent one-day camp, this was a great idea. Mr. Felder stated it is great for the kids to interact with the Police Officers and they will remember that. Kudos to everyone involved. Mr. Felder also commended the Council for their hard work and dedication.

Council President Buckley asked if there were any written comments submitted to be read into the record this evening. Mrs. Hesler stated there were none.

Mr. Nesci 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

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MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER –

Councilman Siebert stated with the near opening of Sodier On, it would be appropriate to acknowledge Gary Baldwin's presence with us this evening and thank him for all the time and work dedicated to moving this project forward when he was on Council.

RESOLUTIONS - None

CONSENT AGENDA

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

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN:None

R-21-131 Resolution for Compensated Absence - John Sanchez

WHEREAS, John Sanchez has been employed by the Borough of Tinton Falls Department of Public Works as a Technician III since January 1, 1991, and;

WHEREAS, on August 1, 2021, John Sanchez will retire with 30 ½ years of dedicated service to the Borough and with the Division of Pensions and Benefits, and;

WHEREAS, John Sanchez will be entitled to compensated absence benefits in accordance with the Agreement between the Borough and Teamsters Local 177 (DPW). The benefits are estimated to be a total of \$9,648.03. The payment is for accrued vacation time and sick time, and;

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

WHEREAS, before any payment is made, the Chief Financial Officer must certify that sufficient documentation exists as to the amount of the accumulated absence, and that funds are available to pay the amount due.

NOW, THEREFORE BE IT RESOLVED by the Borough Council that subject to the certification of funds available by the Chief Financial Officer, that John Sanchez receives the compensated absence benefits.

Certification of Funds: Trust Fund – Accumulated Absences
/S/Thomas P. Fallon, Chief Financial Officer

R-21-132 Resolution - Certification to Local Finance Board of Review of the 2020 Annual Audit

WHEREAS, N.J.S.A. 40A: 5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the governing body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled "Comments and Recommendations; and

WHEREAS, the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations, as evidenced by the group affidavit form of the governing body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

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WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52, to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, That the Committee of the Borough of Tinton Falls, hereby states that it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

R-21-133 Resolution for Submission and Execution of Grant Application for CDBG - Sidewalk & Drainage Improvements - Wardell Road

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of Tinton Falls formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an application for the Wardell Road Sidewalk & Drainage Improvements project to the Monmouth County Division of Planning, Office of Community Development on behalf of the Borough of Tinton Falls.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Tinton Falls and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

R-21-134 Resolution Authorizing Submission and Execution of a Grant Application with NJDOT

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Tinton Falls formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2022-Gilbert Street Improvements-00007 to the New Jersey Department of Transportation on behalf of the Borough of Tinton Falls.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Tinton Falls and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

R-21-135 Resolution Reappointing Borough Registrar of Vital Statistics

WHEREAS, pursuant to N.J.S.A. 26:8-11 et seq., the governing body of a municipality with no local board of health shall appoint a Registrar of Vital Statistics; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that Melissa A. Hesler, Borough Clerk, be and is hereby reappointed to serve as the Registrar of Vital Statistics for the Borough of Tinton Falls pursuant to N.J.S.A. 26:8-11 and N.J.S.A. 26:8-13 for a term to run concurrent with the term as municipal clerk.

BE IT FURTHER RESOLVED that the office of the Borough Clerk is hereby authorized and directed to forward a certified copy of this Resolution to the State Registrar's office.

R-21-136 Resolution Creating a Sub-Committee to Study Cannabis Legislation and Regulations

WHEREAS, on February 22, 2021, the State of New Jersey adopted P.L. 2021, c. 16, known as the "New Jersey Cannabis Regulatory, Enforcement Assistance, Marketplace Modernization Act" ("Cannabis Act"), which requires municipalities to adopt regulations governing cannabis licensees by August 21, 2021 or to opt out of such licenses; and

WHEREAS, due to the present uncertainties regarding the licensing process for cannabis-related businesses at the state and local level, as well as the limited amount of time to establish appropriate zoning regulations for such businesses, the Borough Council has introduced Ordinance 2021-1474 to temporarily opt-out of cannabis licensees in the Borough; and

WHEREAS, the Council is committed to undertaking a thorough and detailed review as to whether and to what extent the Borough may opt to allow cannabis-related businesses to operate in Tinton Falls; and

WHEREAS, the Council desires to appoint a sub-committee to analyze the various classes of cannabis licenses permitted under the Cannabis Act and their suitability in the various zoning districts of the Borough; and

WHEREAS, the Council directs the sub-committee to complete its analysis and make a recommendation to the full Borough Council no later than November 15, 2021 so that the Council may then take appropriate action; and

**REGULAR MEETING
JULY 13, 2021
BOROUGH COUNCIL**

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

1. A Cannabis Sub-Committee is hereby established, with the purpose of analyzing the various classes of cannabis licenses available to the Borough and their suitability in the various zoning districts of the Borough and making a recommendation to the full Borough Council for an appropriate ordinance no later than November 15, 2021.
2. The following persons are hereby appointed to the Cannabis Sub-Committee:
 - a. Councilmember Risa Clay
 - b. Councilmember John Manginelli
 - c. Thomas Fallon, Acting Borough Administrator
 - d. Thomas Neff, Borough Engineer
 - e. Kevin Starkey, Director of Law
 - f. Dana Webb, Zoning Officer
 - g. Jenn Beahm, Borough Planner
 - h. Cary Costa, Construction Official
 - i. Sharon Brown, Planning Board member
3. Each of the members shall serve until November 15, 2021.

R-21-137 Resolution Approving Agreement with Tinton Falls Senior Housing for Purchase and Installation of Emergency Generators

WHEREAS, the Borough of Tinton Falls (“Borough”) filed a Mt. Laurel declaratory judgment action in the Superior Court of New Jersey, Law-Division bearing the caption In the Matter of the Borough of Application of the Borough of Tinton Falls, Docket No. MON-L-2475-15 following the New Jersey Supreme Court’s decision in Mt. Laurel IV; and

WHEREAS, the Borough entered into a Settlement Agreement with Fair Share Housing Center on or about April 20, 2018 establishing the Borough’s Third Round affordable housing obligation for the period 1999-2025 and the compliance mechanisms by which the Borough will meet its constitutional obligation to provide for its fair share of affordable housing; and

WHEREAS, the Borough took affordable housing credit for, and the court approved, a one-hundred twenty (120) unit development available to age-restricted low and moderate-income households described in the Settlement Agreement as the Tinton Falls Senior project located at 2500 Shafto Road, Tinton Falls (the “Senior Development”); and

WHEREAS, the Borough owns the property upon which the Senior Development is located and Tinton Falls Senior Housing, LP operates and manages the Senior Development; and

WHEREAS, the Senior Development needs emergency generators to ensure that the senior residents have power in the event of a power outage; and

WHEREAS, the Borough reached an Agreement with Tinton Falls Senior Housing, LP whereby the Borough will purchase the emergency generators and design their installation, and Tinton Falls Senior Housing, LP will install, maintain and replace the emergency generators in accordance with the Borough’s plans at the Senior Development; and

WHEREAS, the Borough Council believes it is in the best interest of its residents to protect the health and safety of the senior residents of the Senior Development by ensuring emergency generators are in place in the event of a power outage by approving the Agreement with Tinton Falls Senior Housing, LP.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Tinton Falls, County of Monmouth, that it hereby approves the Agreement by and between the Borough of Tinton Falls and Tinton Falls Senior Housing, LP and the Mayor is hereby authorized to sign the Agreement in a form approved by the Borough Attorney or the Borough’s Special Affordable Housing Counsel.

R-21-138 Resolution Refunding Street Opening Permit - 37 Okros Road - \$138.00

WHEREAS, on 5/25/21, Measuring & Monitoring Services, Inc. American Water Permit Account, 3 Sheila Dr, Tinton Falls, NJ 07724, posted a \$38.00 street opening permit and \$100 street opening inspection for a street opening at 37 Okros Road, Tinton Falls, NJ 07712.

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

WHEREAS, Street Opening Permit 2021-05-006 for 37 Okros Road, Tinton Falls, NJ 07712; has been rescinded by the Borough Engineer and recommends reimbursement.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls, that the street opening deposit in the amount of \$138.00 posted by Measuring & Monitoring Services, Inc. American Water Permit Account, 3 Sheila Dr, Tinton Falls, NJ 07724 be released.

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BOROUGH COUNCIL**

R-20-139 Resolution Cancelling and Refunding Sewer Over Payment - Various Properties -\$6,597.30

WHEREAS, adjustments made, due to water usage decrease for commercial properties, created an overbilling and an overpayment of 2021 sewers to properties known as:

<u>NAME</u>	<u>BLOCK</u>	<u>LOT</u>	<u>CANCELLED</u>	<u>REFUND</u>	<u>AMOUNT</u>
(HEREBY ATTACHED AND MADE PART OF THIS RESOLUTION)			\$0.55	\$6,596.75	\$6,597.30

WHEREAS, said adjustment resulted in an overbilling and an overpayment of the sewers in the amount of \$6,597.30 as certified by the Borough Tax Collector.

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the sewers amounting to \$0.55, be cancelled for the year 2021 and that refunds totaling \$6,596.75 are hereby approved for the attached properties.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify the amount of the overbilling to be \$0.55 and the total amount of overpayment to be \$6,596.75.

CANCELING AND REFUNDING 2021 SEWER CHARGES DUE TO COMMERCIAL OVERBILLING						R-21-139
BLOCK	LOT	NAME	PROPERTY LOCATION	AMOUNT TO BE CANCELED	AMOUNT TO BE REFUNDED	TOTAL
14.04	70.01	DENE REALTY ASSOCIATES, LLC 41 BOCA DEL MAR COURT HOLMDEL, NJ 07733	560 SHREWSBURY AVENUE	-	620.92	620.92
54	5	BD OF ED-MON REG HS ONE NORMAN J. FIELD WAY TINTON FALLS, NJ 07724	535 TINTON AVENUE	-	910.96	910.96
54	5.01	BD OF ED-MON COUNTY VOC SCHOOL DIST 4000 KOZLOSKI RD PO BOX 5033,FREEHOLD, NJ 07728	537 TINTON AVENUE	-	126.64	126.64
115	1.01	TINTON FALLS LODGING REALTY, LLC 700 HOPE ROAD TINTON FALLS, NJ 07724	700 HOPE ROAD	-	4,354.61	4,354.61
117	42.01	T02 THE ARC OF MONMOUTH, INC 1158 WAYSIDE ROAD TINTON FALLS, NJ 07712	1158 WAYSIDE ROAD	-	40.85	40.85
120.02	1.03	XPD (NJ) LLC ATTN: GERALD DAYLEY 10 FLORES FOOTHILL RANCH, CA 92610	100 TORMEE DRIVE	-	28.60	28.60
123	51.02	T12 JUNGHANDLE BREWING CO 4057 ASBURY AVE TINTON FALLS, NJ 07753	4057 ASBURY AVE	-	314.55	314.55
147	10.01	ENCLAVE AT SHARK RIVER P.O. BOX 650255 DALLAS, TX 75265-0255	1 ABBEY ROAD	0.55	199.62	200.17
				0.55	6,596.75	6,597.30

R-21-140 Resolution Authorizing Cancellation of Municipal Certificate of Sale Block 23.02 Lot 96

WHEREAS, Tax Sale Certificate #3045 was issued to the Borough of Tinton Falls for delinquent property taxes on Block 23.02 Lot 96 (Dawn Court), assessed to Heather L. Talerico, at a tax sale held on December 21, 2016; and

WHEREAS, Trident Abstract Title Agency, LLC, has redeemed Certificate #3045 by paying the full amount of the delinquency.

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 #3045 for cancellation.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify that Tax Sale Certificate #3045 was redeemed on June 24, 2021.

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JULY 13, 2021
BOROUGH COUNCIL**

R-21-141 Resolution Refunding Taxes due to Tax Court Judgement for 2020- Block 16 Lot 1.46

WHEREAS, an overpayment of 2020 Taxes has been made as a result of a Tax Court of New Jersey reduction in the assessed value for the year 2020 to property known as.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Peter J. & Carroll J. Noble 3 Rebecca Ann Court Tinton Falls, NJ 07724	16	1.46	\$777.94

WHEREAS, said reduction has resulted in an overpayment of the 2020 taxes by the property owner in the amount of \$777.94 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 \$777.94 is hereby approved for the aforementioned property.

I, Carol Hussey, Tax Collector of the Borough of Tinton Falls, hereby certify the amount of overpayment to be \$777.94.

R-21-142 Resolution Authorizing Approval of Bills \$7,664,467.96

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending July 13, 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.

SUMMARY

GENERAL	6,216,005.38
SEWER UTILITY	73,561.19
GENERAL CAPITAL	26,602.00
GRANT FUND	163.04
TRUST FUNDS	20,543.96
DOG TRUST FUND	3,175.00
ESCROW	39,346.83
ADDITIONS	<u>1,285,070.56</u>
TOTAL	<u>7,664,467.96</u>

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

ADJOURNMENT

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

ROLL CALL

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

TIME: 8:33 PM

Respectfully Submitted,

Melissa A. Hesler, Borough Clerk

APPROVED AT A MEETING HELD ON: October 5, 2021