

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

Council President Baldwin called the regular meeting to order at 7:30 PM.

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

ROLL CALL

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

ABSENT: None

ALSO PRESENT: Melissa A. Hesler, Borough Clerk
Kevin Starkey, Director of Law
Vito Perillo, Mayor
Michael Skudera, Borough Administrator
Thomas Fallon
Thomas Neff, Borough Engineer

All present stood for Salute to Flag.

APPROVAL OF MINUTES

Mr. Pak offered a motion to approve the Special and Executive Minutes of December 27, 2017, June 12, 2018, September 18, 2018, and October 16, 2018, seconded by Mr. Manginelli.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

Mr. Siebert offered a motion to approve the Executive Session minutes of November 19, 2018, seconded by Mr. Pak.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: Ms. Fama

REPORT OF MAYOR/COUNCIL/ADMINISTRATION

Council President Baldwin introduced Mr. Andy Bayer Esq, the Borough's Affordable Housing Counsel who will be presenting Council with a COAH update this evening.

Mr. Bayer briefly addressed the Ordinances that are on tonight's agenda for introduction which highlight the terms and conditions of the Borough's Fair Share Housing Plan. He provided some background information on the settlement agreement that the Borough approved last year with the Fair Share Housing Center that details the Borough's third round of affordable housing between the years 1999 and 2025. He discussed the fairness hearing that the Court held in September of last year in which the planner presented testimony and therefore the court approved the settlement agreement. Mr. Bayer explained that a Court Order was entered in November of last year that highlights certain actions the Borough must take to implement the settlement agreement. Two of the items are on the agenda tonight; Ordinance 2019-1443 implementing the Borough's third round housing plan and Ordinance 1444 updating the development fees. He explained how Ordinance 2019-1433 would impose what is already in State regulation and place it in the Borough's code in terms of affordable housing regulations. The Ordinance lays out the details of the settlement and highlights the obligations of Tinton Falls in terms of having monies available in the affordable housing trust fund to fund various improvements. The Ordinance also identifies the sites that are in the settlement agreement and the number of units that must be made available. Mr. Bayer discussed the provisions and procedures that are written in State regulation and will be written into the Borough's Code. Ordinance 2019-1443 designates CME Associates as the Municipal Housing Liaison for the Borough of Tinton Falls and they will be responsible for managing the affordable units within the Borough. He explained that Ordinance 2019-1444 updates the development fees for affordable unites. He announced that CME associates will be before the Tinton Falls Planning Board next week to present an updated Housing Element and Fair Share Plan. This will incorporate the terms and conditions of the settlement agreement into

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

the Borough's Master Plan, if approved by the Planning Board it will be before the Borough Council at their next meeting. Mr. Bayer explained that once the Borough completes the action items the final compliance hearing will take place March 27, 2019 before Judge Perry. The Court has also recognized the efforts of Tinton Falls and Mr. Bayer agreed that Tinton Falls is in good shape with their affordable housing obligations. Council President Baldwin thanked Mr. Bayer for attending tonight's meeting and providing an update.

Administrator's Presentation, Year in Review 2018- Michael Skudera

Mr. Skudera thanked the Borough Council for the opportunity to highlight the major accomplishments from 2018. He began by recapping the budget and the 2% decrease to the Municipal Tax Rate. He discussed the First Net Communication Upgrade which would provide priority communication access for police and first-responders in the event of an emergency; Tinton Falls is one of the first 10 municipalities in NJ to implement this. He also announced that Tinton Falls is the first municipality in the State to implement data management and backup through Commvault which would make Borough data quickly recoverable in the event of an emergency. He briefly discussed various upgrades in technology and software including Microsoft 365, Meeting and Agenda Management Software, updates to the IT server room, various computer upgrades, and a new emergency notification system. Also, in 2018 the Borough streamlined the payroll process by going from a paper system to an electronic data base. The Borough Council adopted an Ordinance to support the new payroll system by requiring each employee to register for Direct Deposit. Mr. Skudera discussed the Recreation Master Plan which is the Borough's first 5-year capital study to update and enhance the Borough's parks and open space properties. The Borough recently finalized the Waltz property acquisition which will preserve nearly 60 acres of farmland and wooded areas for open space. The Borough received a \$250,000 Monmouth County Open Space Grant for the acquisition of this property. He discussed an Ordinance that was adopted which will allow for outdoor restaurant seating in Tinton Falls. Mr. Skudera announced that Tinton Falls Day 2018 was a very successful event. He briefly discussed the Fort Monmouth Healthcare Campus that will create new jobs and tax revenue. The presentation highlighted the various repairs and upgrades around town and at Borough Hall. Councilwoman Fama thanked Mr. Skudera for the update and stated it is nice to look back at a well-accomplished year. Mayor Perillo also thanked Mr. Skudera for his presentation and introduced his grandson Michael, who has helped him during his campaign for Mayor and has continued to check in on his progress. Councilwoman Fama inquired about the security upgrades and Mr. Skudera explained that he must discuss with legal before he discloses any information, discussion ensued regarding the logistics and cost of the safety upgrades.

Mayor's Report – Vito Perillo

Mayor Perillo once again thanked Mr. Skudera for his presentation and thanked his grandson for coming in from Hoboken to attend tonight's meeting. He also discussed the cost effectiveness of the security plan and Councilman Siebert inquired on how many options they looked at, and Mayor Perillo confirmed they had 2 options.

Engineer's Report – Thomas Neff

Mr. Neff reported that the Borough recently issued an emergency contract to Earle for Hope Road drainage repairs and stated that is substantially complete. He explained that Earle will also begin work next week on the road improvement project.

Finance Director – Thomas Fallon

Mr. Fallon gave a brief report regarding the 2019 Budget and stated they are looking to introduce the budget at the next meeting on March 19, 2019; the public hearing on the budget will take place on April 16, 2019. Mr. Fallon stated that he plans to have the budget to council for review before the March 19th meeting.

Borough Administrator – Michael Skudera

Mr. Skudera echoed the comments of Mr. Fallon and stated there will be a budget presentation that will provide more detail into the 2019 budget. He reported that he attended the Regional Health Commission Meeting last week, however he does not have any updates on the status of the Health Commission contract with the County. He stated that he addressed the commission during the public portion and encouraged them to keep open communication with the county to ensure that there will be a plan in place to yield odor complaints from residents. Councilwoman Fama questioned what the process will be after the contract ends on April 29th. Mr. Skudera stated the Regional Health Commission and Monmouth County are working on a plan however he has not been given any updated information. Councilman Pak expressed his concern and stated he wants to make sure the Borough is taking an active role in ensuring residents have an outlet to report issues with the landfill. Mr. Pak inquired about updates on the Host Community Agreement; Mr. Skudera currently has no updates at this time however the contract is currently under negotiation with the County. Discussion ensued regarding Tinton Falls as a Host Community and Borough Attorney Mr. Starkey explained that Tinton Falls receives several benefits for hosting the landfill that are not made available to other towns. Mr. Skudera explained that theoretically, if the landfill closes the Borough Council and Administration would have to find a way to offset the funds and benefits the Borough receives for being the Host Community. Council President Baldwin clarified several misunderstandings regarding the purpose of the Host Community Agreement; he stated the money is used to offset the tax dollars the Borough would receive for the acres of property the landfill consumes.

Director of Law – Kevin Starkey

Mr. Starkey briefly discussed the 5 Ordinances on the Agenda tonight for introduction and explained the purpose of each of them.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

Borough Clerk's Report – Melissa Hesler

Ms. Hesler reported that the Clerk's office will be sending out letters to all voting households in Voting District #1 advising that the location of the polling place will be moved from Tinton Falls Fire Company on Tinton Ave, to the Municipal Complex Court Room beginning with the 2019 Election cycle. She explained that the County Board of Elections is required by law to certify polling locations that meet the standards set forth by the Americans with Disabilities Act, and they cannot certify the fire house as a polling location.

Council's Report

Ms. Fama complimented her fellow Council Members and Administration for a job well done preparing the Ordinances on tonight's agenda.

Mr. Pak also commended Council and Administration for working on Ordinances 2019-1443 and 2019-1444.

Mr. Siebert thanked Administration for reaching out to the Environmental Commission to help with the issues at the landfill.

Mr. Manginelli echoed the words of Ms. Fama and thanked administration and legal for preparing these Ordinances.

Mr. Baldwin introduced Nino and Margaret Russo who purchased the Portofino Restaurant and welcomed them to the community of Tinton Falls. He announced that the Planning Board will be meeting next Wednesday, March 13th at 7:30 PM.

ORDINANCES FOR INTRODUCTION

Ms. Hesler read Ordinance 2019-1440 entitled: **ORDINANCE AMENDING CHAPTER 5-6 OF THE BOROUGH CODE, ENTITLED "PEDDLING, CANVASSING AND SOLICITING" TO CREATE A NO-KNOCK REGISTRY AND TO MAKE VARIOUS OTHER CHANGES**

Mr. Pak offered a motion to introduce Ordinance No. 2019-1440, seconded by Mr. Siebert.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

Public Hearing/Adoption will be held on March 19, 2019.

**ORDINANCE AMENDING CHAPTER 5-6 OF THE BOROUGH CODE,
ENTITLED "PEDDLING, CANVASSING AND SOLICITING" TO CREATE A NO-KNOCK REGISTRY
AND TO MAKE VARIOUS OTHER CHANGES**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

SECTION 1. Chapter 5-6 of the Borough Code of Tinton Falls, entitled "Peddling, Canvassing and Soliciting," shall be amended to add a new Section 5-6.5, to be entitled, "No Knock Registry," with the following Sections to be re-numbered accordingly, and which shall read as follows:

5-6.5 No Knock Registry

- A. The Police Department shall maintain a list of addresses of those premises where the owner and/or occupant has notified the Police Department that peddling, canvassing or soliciting are not permitted on the premises (hereinafter referred to as the "no-knock registry"). A request by owners or occupants to be included on the no-knock registry shall be by completion and submission of a form made available by the Police Department. The list shall be updated on January 15 and July 15 of each year.
- B. Any owner and/or occupant who has requested enlistment on the no-knock registry, pursuant to Subsection A herein, shall be able to purchase, for a nominal fee, a sticker for display at his/her/its premises indicating enlistment on the no-knock registry.
- C. The Police Department shall distribute the current no-knock registry to a licensee at the time of issuance of a license to peddle, canvass or solicit pursuant to the provisions of this chapter. The licensee shall not peddle, canvass or solicit at any premises identified on the current no-knock registry.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

SECTION 2. Chapter 5-6 of the Borough Code of Tinton Falls, entitled "Peddling, Canvassing and Soliciting," shall be amended in existing Section 5-6.3 to make the following changes (crossed-out language to be deleted, underlined language to be added):

5-6.3 Hours and Restrictions.

a. No solicitor, canvasser, hawker or peddler shall conduct door to door business or canvassing outside of the hours of ~~9:00 a.m. and 8:30 p.m.~~ 10:00 a.m. and 6:00 p.m. or sundown (whichever is earlier).

b. No solicitor, canvasser, hawker or peddler shall enter private property where a sign is posted stating: "no solicitation" "no trespassing" or a similar message clearly evidencing a resident's intent that their property not be entered for such purposes.

c. Any person subject to the provisions of this chapter shall be responsible for any minors, aged 16 and under, participating in any peddling or soliciting under the terms of this chapter, and shall ensure that such minors shall be accompanied by an adult at all times.

d. All persons licensed under this Section shall use only the front door of any residence and shall be prohibited from using or knocking on any side door or back door and also shall be prohibited from entering the sideyard or backyard of any property.

SECTION 2. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 3. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

Ms. Hesler read Ordinance 2019-1441 entitled: **ORDINANCE AMENDING CHAPTER VIII OF THE BOROUGH CODE, ENTITLED "ANIMAL CONTROL" TO PROHIBIT THE FEEDING OF WILDLIFE INCLUDING FERAL CATS.**

Mr. Siebert offered a motion to introduce Ordinance 2019-1441, seconded by Mr. Manginelli.

ROLL CALL

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

Public Hearing/Adoption will be held on March 19, 2019

**ORDINANCE AMENDING CHAPTER VIII OF THE BOROUGH CODE,
ENTITLED "ANIMAL CONTROL" TO PROHIBIT THE FEEDING OF
WILDLIFE INCLUDING FERAL CATS**

WHEREAS, the feeding of certain wildlife, including feral cats, within the Borough of Tinton Falls poses a significant nuisance and health risk to the public; and

WHEREAS, the Borough's existing ordinances do not adequately address the growing health and nuisance concerns associated with the uncontrolled feeding of wildlife; and

WHEREAS, the Borough desires to ban the feeding of wildlife including feral cats unless done within the confines of an approved Trap, Neuter, Release ("TNR") program managed by the Monmouth County Society for the Prevention of Cruelty to Animals ("MCSPCA") or similar non-profit organization as approved by duly adopted Resolution of the Governing Body;

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

SECTION 1. Chapter VIII of the Borough Code of Tinton Falls, entitled “Animal Control,” shall be amended to add a new Section 8-5, to be entitled, “Feral Cats,” and which shall read as follows:

8-5. Feral Cats and Related Restrictions.

8-5.1 Definitions.

Community Cat shall mean a cat that is un-owned or loosely owned; community cats are comprised of both strays and feral cats.

Feral Cat shall mean any homeless, wild or untamed cat that is unsocialized to humans and has a temperament of extreme fear of, and resistance to, contact with humans.

Feral Cat Colony shall mean an individual or group of community cats that congregate. Although not every cat in a colony may be feral, any non-feral cats that routinely congregate with a colony shall be deemed to be a part of it.

Nuisance shall mean disturbing the peace by:

- (A) Habitually or continually howling, crying or screaming; or
- (B) The habitual and significant destruction, desecration or soiling of property against the wishes of the owner of the property.

Stray Cat shall mean a lost or abandoned former pet which may be suitable for home environments.

8-5.2 Feeding of Feral Cats Prohibited.

It shall be unlawful for any person, other than caregivers approved by and operating under a TNR Program established by the MCSPCA, to feed any feral cats in any manner in the Borough, whether on private or public property. This section shall apply to the feeding of feral cats individually or in a feral cat colony, and also to the feeding of stray cats and community cats.

8-5.3. Nuisance Complaints.

Notwithstanding the other requirements of this Article, the reporting and investigation of nuisance complaints under this Chapter shall be handled by and through the MCSPCA.

8-5.4. General Restrictions.

The restrictions within this Section shall apply to all persons within the Borough, other than caregivers approved by and operating under a TNR Program established by the MCSPCA.

- A. The establishment of a feral cat colony in any area of the Borough is prohibited.
- B. No person may feed any community/feral/stray cat in any area of the Borough.
- C. No person may bring a feral or community cat from another municipality to create a feral cat colony within the Borough.
- D. No person shall purposely or knowingly leave or store any refuse, garbage, food product, pet food, fruit or grain in a manner that would constitute an attractant to any feral or community cat.
- E. A property owner shall be liable under this Section for any feeding of community/feral/stray cats on the owner’s property by any other person, including but not limited to any tenant(s) in the property.

8-5.5. Enforcement.

In the event of a violation occurring on private property, a complaint can only be filed by the owner of said property. In the event of such a violation occurring on public property, thoroughfares, walkways, or parks, a complaint can only be filed by any witness of such act. All such complaints shall be handled by and through the MCSPCA.

8-5.6. Violations and Penalties.

Any person, firm or corporation who violates or neglects to comply with any provision of this section or any rule, regulation or directive promulgated pursuant thereto shall be subject to the appropriate penalties established by and through the MCSPCA.

SECTION 2. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

SECTION 3. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

Ms. Hesler read Ordinance No. 2019-1442 entitled: **ORDINANCE AMENDING CHAPTER XL OF THE BOROUGH CODE, ENTITLED “LAND USE REGULATIONS” TO PROHIBIT THE RETAIL SALE OF DOGS AND CATS EXCEPT FOR RESCUE OR DONATED ANIMALS**

Mr. Pak offered a motion to introduce Ordinance 2019-1442, seconded by Mr. Siebert.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

Public Hearing/Adoption will be held on March 19, 2019

**ORDINANCE AMENDING CHAPTER XL OF THE BOROUGH CODE,
ENTITLED “LAND USE REGULATIONS” TO PROHIBIT THE RETAIL SALE OF DOGS AND CATS
EXCEPT FOR RESCUE OR DONATED ANIMALS**

WHEREAS, a significant number of dogs and cats sold at pet shops come from large-scale, commercial breeding facilities where the health and welfare of the animals are not adequately provided for (referred to as “puppy and kitten mills”). According, to The Humane Society of the United States, it is estimated that 10,000 puppy mills produce more than 2,400,000 puppies a year in the United States and that most pet shop dogs and cats come from puppy/kitten mills; and

WHEREAS, the documented abuses endemic to puppy/kitten mills include overbreeding; inbreeding; minimal to non-existent veterinary care; lack of adequate and nutritious food, water and shelter; lack of sanitation; lack of socialization; lack of adequate space; and lack of adequate exercise, lack of human contact; and

WHEREAS, the inhumane conditions in puppy/kitten mill facilities lead to a variety of serious health and behavioral issues in the animals bred in those facilities, which many consumers are unaware of when purchasing from pet shops due to both a lack of education on the issue and misleading and deceptive tactics of pet shops in most cases. These health and behavioral issues, which may not present themselves until sometime after the purchase of the animals, can impose exorbitant financial and emotional costs on consumers; and

WHEREAS, current Federal and State regulations do not adequately address the documented cruelty of puppy/kitten mills which is fueled through the sale of puppy/kitten mill produced dogs/cats in pet shops; and

WHEREAS, restricting the retail sale of dogs/cats to only those that are sourced and available for adoption from shelters or rescue organizations is likely to decrease the demand for dogs/cats bred in puppy/kitten mills, and is likely to increase demand for animals from animal shelters and rescue organizations; and

WHEREAS, across the country, thousands of independent pet shops as well as large chains operate profitably with a business model focused on the sale of pet services and supplies and not on the sale of dogs and cats. Many of these shops collaborate with local animal shelters and rescue organizations to offer space and support for showcasing adoptable homeless pets on their premises; and

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

WHEREAS, this Ordinance will not affect a consumer’s ability to obtain a dog of his or her choice directly from a rescue organization or a shelter, or from a legitimate licensed breeder where the consumer can see directly the conditions in which the dogs are bred, or can confer directly with the breeder concerning those conditions; and

WHEREAS, the Borough Council believes it is in the best interests of the Borough to adopt reasonable regulations to reduce costs to the Borough and its residents, protect the citizens who may purchase dogs from a pet shop, promote animal welfare awareness and foster a more humane environment in the Borough.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Tinton Falls in the County of Monmouth, State of New Jersey that:

SECTION 1. Chapter XL of the Borough Code of Tinton Falls, entitled “Land Use Regulations,” shall be amended in Appendix A (“District Use Regulations – Non-Residential Uses”), as follows (underlined terms to be added):

NC Neighborhood Commercial

Permitted Principal Uses

1. Retail sales (excluding drive-thru service) such as, consumables, apparel, hardware, lawn & patio equipment, appliances, household goods, and confections, except for the sale of cats and dogs as further described in Chapter 8-5.

* * *

HCC Highway/Community Commercial

Permitted Principal Uses

1. Retail sales such as, consumables, apparel, hardware, lawn and patio equipment, appliances, household goods, and confections, except for the sale of cats and dogs as further described in Chapter 8-5.

* * *

SECTION 2. Chapter VIII of the Borough Code of Tinton Falls, entitled “Animal Control,” shall be amended to add a new Section 8-5, to be entitled, “Retail Sale of Dogs and Cats,” and which shall read as follows:

8-5. Retail Sale of Dogs and Cats.

8-5.1 Definitions.

Animal care facility means an animal control center or an animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

Animal rescue organization means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes.

Cat means a member of the species of domestic cat, *Felis catus*.

Dog means a member of the species of domestic dog, *Canis familiaris*.

Pet shop means a retail establishment where dogs and cats are sold, exchanged, bartered or offered for sale as pet animals to the general public at retail. Such definition shall not include an animal care facility or animal rescue organization, as defined.

Pet shop operator means a person who owns and/or operates a pet store.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

8-5.2 Restrictions on the Sale of Animals

As set forth in Chapter XL, "Land Use Regulations," Appendix A ("District Use Regulations – Non-Residential Uses"), no pet shop shall sell, offer for sale, barter, auction, breed or otherwise improperly dispose of cats or dogs, or both, in the Borough. Nothing contained herein shall prohibit an animal care facility, animal rescue organization, shelter, pound or other establishment from keeping, displaying, selling or otherwise transferring any cat or dog, or both, that has been seized, rescued or donated.

8-5.3. Violations and Penalties.

Any person, firm or corporation who violates or neglects to comply with any provision of this section shall be subject to a fine of not more than \$2,000 for each separate offense, or incarceration for a period of not more than 90 days, or community service for a period of not more than 90 days, or any combination of fine, imprisonment and/or community service, as determined at the discretion of the Municipal Court Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be subject to penalties as provided herein for each separate offense. The violation of any one or more provisions of this article shall be subject to abatement summarily by a restraining order or by an injunction issued by a court of competent jurisdiction.

SECTION 3. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 4. Should any section, clause, sentence, phrase or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall take effect upon final passage, adoption and publication in the manner prescribed by law.

Ms. Hesler read Ordinance No. 2019-1443 entitled: **AN ORDINANCE OF THE BOROUGH OF TINTON FALLS TO IMPLEMENT THE BOROUGH'S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE BOROUGH OF TINTON FALLS AND THE FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH IN RE: N.J.A.C. 5:96 AND 5:97, 221 N.J. 1 (2015), THE NEW JERSEY FAIR HOUSING ACT, AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING.**

Mr. Pak offered a motion to introduce Ordinance No. 2019-1443, seconded by Mr. Manginelli.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

AN ORDINANCE OF THE BOROUGH OF TINTON FALLS TO IMPLEMENT THE BOROUGH'S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE BOROUGH OF TINTON FALLS AND THE FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH IN

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

RE: N.J.A.C. 5:96 AND 5:97, 221 N.J. 1 (2015), THE NEW JERSEY FAIR HOUSING ACT, AND RELEVANT REGULATIONS AND POLICIES ADOPTED BY THE NEW JERSEY COUNCIL ON AFFORDABLE HOUSING.

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 Court entered an order on November 7, 2018 approving the Settlement Agreement by and between the Borough and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreement requires the Borough to adopt an affordable housing ordinance incorporating the requirements of the Fair Housing Act and its implementing regulations including the Uniform Housing Affordability Controls into the Borough code;

WHEREAS, the Borough Council find it is in the best interest of the Borough to implement the terms and conditions of the Settlement Agreement and the requirements of the Court’s order approving the Settlement Agreement.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls, County of Monmouth, and State of New Jersey that Chapter XLIII entitled “Affordable Housing” of the General Ordinances of the Borough of Tinton Falls is hereby deleted and replaced in its entirety with the following:

43-1. Title

This Chapter shall Be known and may be cited as the “Affordable Housing Ordinance of the Borough of Tinton Falls”.

43-2. Affordable Housing Obligation

- (a) This Ordinance is intended to assure that low- and moderate-income units (“affordable units”) are created with controls on affordability and that low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- (b) The Borough of Tinton Falls Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at N.J.S.A. 40:55D-1, et seq. The Fair Share Plan has been adopted by the Planning Board and endorsed by the Governing Body. The Fair Share Plan describes how Tinton Falls Borough shall address its fair share for low- and moderate-income housing as documented in the Housing Element and outlined in the terms of the settlement agreement between the Borough and Fair Share Housing Center (FSHC).
- (c) This Ordinance implements the Borough’s Fair Share Plan, addresses the requirements of the Court and the terms of the settlement agreement.
- (d) The Borough of Tinton Falls shall track the status of the implementation of the Housing Element and Fair Share Plan. Any plan evaluation report of the Housing Element and Fair Share Plan shall be available to the public at Borough Hall located on 556 Tinton Avenue, Tinton Falls, NJ 07724.

43-3. Definitions

The following terms when used in this Ordinance shall have the meanings given in this Section:

“Accessory apartment” means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

“Act” means the Fair Housing Act of 1985, P.L. 1985, c. 222 (N.J.S.A. 52:27D-301 et seq.)

“Adaptable” means constructed in compliance with the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.

“Administrative agent” means the entity responsible for the administration of affordable units in accordance with this ordinance, N.J.A.C. 5:96, N.J.A.C. 5:97 and N.J.A.C. 5:80-26.1 et seq.

“Affirmative marketing” means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to N.J.A.C. 5:80-26.15.

“Affordability average” means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL

“Affordable” means, a sales price or rent within the means of a low- or moderate-income household as defined in N.J.A.C. 5:97-9; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.6, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in N.J.A.C. 5:80-26.12, as may be amended and supplemented.

“Affordable development” means a housing development all or a portion of which consists of restricted units.

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

“Affordable housing program(s)” means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality’s fair share obligation.

“Affordable unit” means a housing unit proposed or created pursuant to the Act, credited pursuant to N.J.A.C. 5:97-4, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (N.J.S.A. 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80 percent of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“The Department” means the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (N.J.S.A. 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to N.J.S.A. 40:55D-1 et seq.

“Inclusionary development” means a development containing both affordable units and market rate units. Inclusionary developments must have a twenty percent set aside of affordable units if the development has five or more units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

“Low-income household” means a household with a total gross annual household income equal to 50 percent or less of the median household income.

“Low-income unit” means a restricted unit that is affordable to a low-income household.

“Major system” means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

“Market-rate units” means housing not restricted to low- and moderate-income households that may sell or rent at any price.

“Median income” means the median income by household size for the applicable county, as adopted annually by the Department.

“Moderate-income household” means a household with a total gross annual household income in excess of 50 percent but less than 80 percent of the median household income.

“Moderate-income unit” means a restricted unit that is affordable to a moderate-income household.

“Non-exempt sale” means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80 percent of the regional median as defined by the Department's adopted Regional Income Limits published annually by the Department.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of N.J.A.C. 5:80-26.1, as may be amended and supplemented, but does not include a market-rate unit financed under UHARP or MONI.

"UHAC" means the Uniform Housing Affordability Controls set forth in N.J.A.C. 5:80-26.1 et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30 percent or less of the median household income.

"Very low-income unit" means a restricted unit that is affordable to a very low-income household.

"Weatherization" means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation.

Chapter 43-4. Affordable Housing Programs

The Borough of Tinton Falls will use the following mechanisms to satisfy its affordable housing obligations:

- (a) A Rehabilitation program.
1. The Borough of Tinton Falls and Fair Share Housing Center have agreed upon a rehabilitation program of eighty-nine (89) units. The Borough will continue to participate in the Monmouth County rehabilitation program to update and renovate deficient housing units occupied by low- and moderate-income households such that, after rehabilitation, these units will comply with the New Jersey State Housing Code pursuant to N.J.A.C. 5:28. The Borough will rehabilitate housing units to improve the housing stock and continue to provide affordable units through rehabilitation.
 2. All rehabilitated rental and owner-occupied units shall remain affordable to low- and moderate-income households for a period of 10 years (the control period). For owner-occupied units, the control period will be enforced with a lien and for renter occupied units the control period will be enforced with a deed restriction.
 3. The Borough of Tinton Falls shall dedicate an average of \$10,000 for each unit to be rehabilitated through this program, reflecting the minimum hard cost of rehabilitation for each unit.
 4. The Borough of Tinton Falls shall designate, subject to the approval of the Court, one Administrative Agent to administer the rehabilitation program in accordance with N.J.A.C. 5:91 and N.J.A.C. 5:93. The Administrative Agent shall provide a rehabilitation manual for the owner occupancy rehabilitation program and a rehabilitation manual for the rental occupancy rehabilitation program to be adopted by resolution of the governing body and subject to approval of the Court. Both rehabilitation manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office of the Administrative Agent.
 5. Units in a rehabilitation program shall be exempt from N.J.A.C. 5:93-9 and Uniform Housing Affordability Controls (UHAC), but shall be administered in accordance with the following:
 - i. If a unit is vacant, upon initial rental subsequent to rehabilitation, or if a renter-occupied unit is re-rented prior to the end of controls on affordability, the deed restriction shall require the unit to be rented to a low- or moderate-income household at an affordable rent and affirmatively marketed pursuant to N.J.A.C. 5:93-9 and UHAC.
 - ii. If a unit is renter-occupied, upon completion of the rehabilitation, the maximum rate of rent shall be the lesser of the current rent or the maximum permitted rent pursuant to N.J.A.C. 5:93-9 and UHAC.
 - iii. Rents in rehabilitated units may increase annually based on the standards in N.J.A.C. 5:93-9.
 - iv. Applicant and/or tenant households shall be certified as income-eligible in accordance with N.J.A.C. 5:93-9 and UHAC, except that households in owner occupied units shall be exempt from the regional asset limit.
- (b) In accordance with the requirements of N.J.S.A. 52:27D-329.9, any residential development located within the boundaries of Fort Monmouth in Tinton Falls shall have a twenty percent to be reserved for occupancy by low and moderate income households. Tinton Falls endorses and encourages FMERA's s

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

planning efforts to provide affordable housing on Fort Monmouth in conformance with the Fort Monmouth Reuse and Redevelopment Plan and applicable law.

- (c) In accordance to the Settlement Agreement - The following two sites identified in the Housing Element and Fair Share Plan for the Borough of Tinton Falls, known as

Carney Site: Block 91 lot 1

Hovtown: Block 150.03 lot 1- 108

When developed are required to be provide the following minimum number of low and moderate income units:

Carney Site a total of 32 affordable units

Hovtown a total of 18 affordable units

- (d) Phasing. Inclusionary developments shall be subject to the following schedule, except where an alternate phasing schedule has been incorporated into a development or redevelopment agreement:

Minimum Percentage of Low- and Moderate- Income Units Completed	Maximum Percentage of Market-Rate Units Completed
0	25
10	25 + 1 Unit
75	75
100	90

- (e) Fractional Units. If 20 percent of the total number of units in a development results in a fraction or decimal, the developer shall be required to provide an additional affordable unit on site.

Example: an 8-unit development requiring an affordable housing set-aside of 1.6 units is proposed. The developer is required to provide two on-site affordable units.

- (f) Design. In inclusionary developments, to the extent possible, low- and moderate-income units shall be integrated with the market units.

- (g) Payments-in-lieu and off-site construction. The standards for the collection of Payments-in-Lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with N.J.A.C. 5:93-8 and the Borough's Affordable Housing Development Fee ordinance.

- (h) Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

43-5. New Construction

The following general guidelines apply to all newly constructed developments that contain low-and moderate-income housing units, including any currently unanticipated future developments that will provide low- and moderate-income housing units.

- a. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units:

1. The fair share obligation shall be divided equally between low- and moderate-income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.
2. In each affordable development, at least 50 percent of the restricted units within each bedroom distribution shall be low-income units. If there is only one affordable unit it must be a low income unit.
3. Thirteen percent (13%) of all affordable units in the Borough shall be designated as very-low income households at 30% of the median income, with at least fifty percent (50%) of all very-low income units being available to families. If an inclusionary development proposes less than 10 total units, a payment in lieu of a very low income unit shall be deposited into the Borough's Affordable Housing Trust Fund based on the difference in cost between providing a very low income unit and the region's affordability average. Inclusionary developments of 10 or more total units shall be required to provide a minimum of one very low income unit (10%). Very-low income units shall be considered low-income units for the purposes of evaluating compliance with the required low/moderate income unit splits, bedroom distribution, and phasing requirements of this ordinance.
4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
 - i. The combined number of efficiency and one-bedroom units shall be no greater than 20 percent of the total low- and moderate-income units;
 - ii. At least 30 percent of all low- and moderate-income units shall be two bedroom units;
 - iii. At least 20 percent of all low- and moderate-income units shall be three bedroom units; and

REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL

- iv. The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
1. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.
- b. Accessibility Requirements:
 1. The first floor of all restricted townhouse dwelling units and all restricted units in all other multistory buildings shall be subject to the technical design standards of the Barrier Free Subcode, N.J.A.C. 5:23-7.
 2. All restricted townhouse dwelling units and all restricted units in other multistory buildings in which a restricted dwelling unit is attached to at least one other dwelling unit shall have the following features:
 - i. An adaptable toilet and bathing facility on the first floor;
 - ii. An adaptable kitchen on the first floor;
 - iii. An interior accessible route of travel on the first floor;
 - iv. An interior accessible route of travel shall not be required between stories within an individual unit;
 - v. An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
 - vi. An accessible entranceway as set forth at P.L. 2005, c. 350 (N.J.S.A. 52:27D-311a et seq.) and the Barrier Free Subcode, N.J.A.C. 5:23-7, or evidence that the Borough of Tinton Falls has collected funds from the developer sufficient to make ten percent (10%) of the adaptable entrances in the development accessible:
 - a. Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
 - b. To this end, the builder of restricted units shall deposit funds within the Borough's Affordable Housing Trust Fund sufficient to install accessible entrances in ten percent (10%) of the affordable units that have been constructed with adaptable entrances.
 - c. The funds deposited under paragraph B. above shall be used by the Borough of Tinton Falls for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies or intends to occupy the unit and requires an accessible entrance.
 - d. The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough.
 - e. Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, N.J.A.C. 5:23-7, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough's affordable housing trust fund where the funds shall be deposited into the affordable housing trust fund and appropriately earmarked.
 - f. Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, N.J.A.C. 5:23-7.
- c. Maximum Rents and Sales Prices
 1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC utilizing the regional income limits established by the New Jersey Department of Community Affairs (DCA) or other agency as required by the Court.
 2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60 percent of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52 percent of median income.
 3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
 - a. At least thirteen percent (13%) of all low- and moderate-income dwelling units shall be affordable to households earning no more than 30 percent of median income.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70 percent of median income, and each affordable development must achieve an affordability average of 55 percent for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household;
 - c. A two-bedroom unit shall be affordable to a three-person household;
 - d. A three-bedroom unit shall be affordable to a four and one-half person household; and
 - e. A four-bedroom unit shall be affordable to a six-person household.
 - f. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be used:
 - a. A studio shall be affordable to a one-person household;
 - b. A one-bedroom unit shall be affordable to a one and one-half person household; and
 - c. A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95 percent of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28 percent of the eligible monthly income of the appropriate size household as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30 percent of the eligible monthly income of the appropriate household size as determined under N.J.A.C. 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of N.J.A.C. 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. The rent of low- and moderate-income units may be increased annually based on the percentage increase in the Housing Consumer Price Index for the United States. This increase shall not exceed nine percent in any one year. Rents for units constructed pursuant to low- income housing tax credit regulations shall be indexed pursuant to the regulations governing low- income housing tax credits.
11. Utilities. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

43-6. Affirmative Marketing Requirements

- (a) The Borough of Tinton Falls shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Court, compliant with N.J.A.C. 5:80-26.15, as may be amended and supplemented.
- (b) The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward Housing Region 4 and covers the period of deed restriction.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

- (c) The affirmative marketing plan shall provide a regional preference for all households that live and/or work in Housing Region 4.
- (d) The Administrative Agent designated by the Borough of Tinton Falls shall assure the affirmative marketing of all affordable units consistent with the Affirmative Marketing Plan for the municipality.
- (e) In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- (f) The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- (g) The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough.

43-7. Occupancy Standards

- (a) In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
 - 1. Provide an occupant for each bedroom;
 - 2. Provide children of different sex with separate bedrooms; and
 - 3. Prevent more than two persons from occupying a single bedroom.
- (b) Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

43-8. Control Periods for Restricted Ownership Units and Enforcement Mechanisms

- (a) Control periods for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.5, as may be amended and supplemented, and each restricted ownership unit shall remain subject to the requirements of this Ordinance until the Borough of Tinton Falls elects to release the unit from such requirements however, and prior to such an election, a restricted ownership unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- (c) Prior to the issuance of the initial certificate of occupancy for a restricted ownership unit and upon each successive sale during the period of restricted ownership, the administrative agent shall determine the restricted price for the unit and shall also determine the non-restricted, fair market value of the unit based on either an appraisal or the unit's equalized assessed value.
- (d) At the time of the first sale of the unit, the purchaser shall execute and deliver to the Administrative Agent a recapture note obligating the purchaser (as well as the purchaser's heirs, successors and assigns) to repay, upon the first non-exempt sale after the unit's release from the requirements of this Ordinance, an amount equal to the difference between the unit's non-restricted fair market value and its restricted price, and the recapture note shall be secured by a recapture lien evidenced by a duly recorded mortgage on the unit.
- (e) The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- (f) A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under N.J.A.C. 5:80-26.5(a), as may be amended and supplemented.

43-9. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices

Price restrictions for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, including:

- (a) The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- (b) The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- (c) The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- (d) The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

43-10. Buyer Income Eligibility

- (a) Buyer income eligibility for restricted ownership units shall be in accordance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50 percent of median income and

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

moderate-income ownership units shall be reserved for households with a gross household income less than 80 percent of median income.

- (b) The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33 percent of the household's certified monthly income.

43-11. Limitations on indebtedness secured by ownership unit; subordination

- (a) Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- (b) With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95 percent of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with N.J.A.C.5:80-26.6(b).

43-12. Control Periods for Restricted Rental Units

- (a) Control periods for restricted rental units shall be in accordance with N.J.A.C. 5:80-26.11, as may be amended and supplemented, and each restricted rental unit shall remain subject to the requirements of this Ordinance until the Borough of Tinton Falls elects to release the unit from such requirements pursuant to action taken in compliance with N.J.A.C. 5:80-26.1, as may be amended and supplemented, and prior to such an election, a restricted rental unit must remain subject to the requirements of N.J.A.C. 5:80-26.1, as may be amended and supplemented, for at least 30 years.
- (b) Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Monmouth. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- (c) A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
 - 1. Sublease or assignment of the lease of the unit;
 - 2. Sale or other voluntary transfer of the ownership of the unit; or
 - 3. The entry and enforcement of any judgment of foreclosure.

43-13. Price Restrictions for Rental Units; Leases

- (a) A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- (b) No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- (c) Application fees (including the charge for any credit check) shall not exceed five percent of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

43-14. Tenant Income Eligibility

- (a) Tenant income eligibility shall be in accordance with N.J.A.C. 5:80-26.13, as may be amended and supplemented, and shall be determined as follows:
 - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30 percent of median income.
 - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50 percent of median income.
 - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80 percent of median income.
- (b) The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35 percent (40 percent for age-restricted units) of the household's eligible monthly income as determined pursuant to N.J.A.C. 5:80-26.16, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

1. The household currently pays more than 35 percent (40 percent for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
 2. The household has consistently paid more than 35 percent (40 percent for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to pay;
 3. The household is currently in substandard or overcrowded living conditions;
 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- (c) The applicant shall file documentation sufficient to establish the existence of the circumstances in (b) 1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

43-15. Administration

- (a) The position of Municipal Housing Liaison (MHL) for the Borough of Tinton Falls is established by this ordinance. The Borough shall make the actual appointment of the MHL by means of a resolution.
1. The MHL must be either a full-time or part-time employee of Tinton Falls.
 2. The person appointed as the MHL must be reported to the Court and thereafter posted on the Borough's website.
 3. The MHL must meet all the requirements for qualifications, including initial and periodic training.
 4. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Tinton Falls, including the following responsibilities which may not be contracted out to the Administrative Agent:
 - i. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
 - ii. The implementation of the Affirmative Marketing Plan and affordability controls.
 - iii. When applicable, supervising any contracting Administrative Agent.
 - iv. Monitoring the status of all restricted units in the Borough's Fair Share Plan;
 - v. Compiling, verifying and submitting annual reports as required;
 - vi. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
 - vii. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).
- (b) The Borough of Tinton Falls shall designate by resolution of the Borough Council, subject to the approval of the Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with N.J.A.C. 5:91, N.J.A.C. 5:93 and UHAC.
- (c) An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body. The Operating Manuals shall be available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).
- (d) The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC, including those set forth in N.J.A.C. 5:80-26.14, 16 and 18 thereof, which includes:
1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Affordable Housing Professionals of New Jersey (AHPNJ).;
 2. Affirmative Marketing;
 2. Household Certification;
 3. Affordability Controls;
 4. Records retention;
 5. Resale and re-rental;
 6. Processing requests from unit owners; and
 7. Enforcement, though the ultimate responsibility for retaining controls on the units rests with the municipality.
 8. The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.
- (e) The Administrative Agent shall restrict existing affordable units to very low income occupants as they turn over until such time that the 23 very low income unit obligation is satisfied.

REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL

43-16. Enforcement of Affordable Housing Regulations

- (a) Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.
- (b) After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:
1. The municipality may file a court action pursuant to N.J.S.A. 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court:
 - i. A fine of not more than \$10,000.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;
 - ii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Tinton Falls Affordable Housing Trust Fund of the gross amount of rent illegally collected;
 - iii. In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.
 2. The municipality may file a court action in the Superior Court seeking a judgment, which would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.
- (c) Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- (d) The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- (e) Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- (f) If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- (g) Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

maximum resale price of the low- and moderate-income unit as permitted by the regulations governing affordable housing units.

- (h) The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

43-17. Appeals

Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed with the Superior Court of New Jersey, Monmouth County.

BE IT FURTHER ORDAINED that the remainder of all other sections and subsections of the Borough Code not specifically amended by this Ordinance shall remain in full force and effect and that all other Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistency. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

This Ordinance shall take effect upon its passage and publication according to law.

Ms. Hesler read Ordinance No. 2019-1444 entitled: **AN ORDINANCE AMENDING CHAPTER XXIII (DEVELOPMENT FEES) AND DELETING CHAPTER 39 OF THE GENERAL ORDINANCES OF THE BOROUGH OF TINTON FALLS AMENDING THE MANDATORY DEVELOPMENT FEES AND OTHERWISE UPDATING THE BOROUGH CODE TO ENSURE CONSISTENCY WITH THE BOROUGH'S SETTLEMENT IN ITS MT. LAUREL LITIGATION, THE FAIR HOUSING ACT AND COAH'S REGULATIONS**

Mr. Pak offered a motion to introduce Ordinance 2019-1444, seconded by Mr. Manginelli.

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

Public Hearing/Adoption will be held March 19, 2019.

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 Court entered an order on November 7, 2018 approving the Settlement Agreement by and between the Borough and Fair Share Housing Center finding on a preliminary basis that the Settlement Agreement is fair to low and moderate-income households; and

WHEREAS, the Court Order approving the Settlement Agreement requires the Borough to adopt an affordable housing ordinance incorporating the requirements of the Fair Housing Act and its implementing regulations including the Uniform Housing Affordability Controls into the Borough code;

WHEREAS, the Borough Council find it is in the best interest of the Borough to implement the terms and conditions of the Settlement Agreement and the requirements of the Court's order approving the Settlement Agreement which includes updating the Borough's Development Fee ordinance and otherwise updating the Borough Code to ensure consistency with the Fair Housing Act and COAH's regulations.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Tinton Falls, County of Monmouth, and State of New Jersey that Chapter XXIII entitled "Development Fees" of the General Ordinances of the Borough of Tinton Falls is hereby amended as follows: with the following:

Chapter XXIII (Development Fees) of the General Ordinances of the Borough of Tinton Falls is hereby amended or supplemented as follows (new text is double underlined, text to be deleted is ~~struck through~~ and notations to the reader and changes in subparagraph designations either with or without changes to content are italicized):

CHAPTER XXIII DEVELOPMENT FEES

Chapter XXIII (Development Fees) 5 is amended as follows:

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

§23-1 **Definitions** is amended to include the following “Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

§23-2 ~~The purpose of this chapter is to establish standards for the collection, maintenance and expenditure of development fees pursuant to COAH’s rules. Fees collected pursuant to this chapter shall be used for the sole purpose of assisting in meeting the Borough’s Fair Share Housing obligation for low and moderate income households. This chapter shall be interpreted within the framework of COAH’s rules governing development fees.~~

Purpose

- a) In Holmdel Builder’s Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing’s (COAH’s) adoption of rules.

- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to the Department’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of the Department’s rules on development fees, codified at N.J.A.C. 5:97-8.

§23-4. RESIDENTIAL DEVELOPMENT FEES.

23-4.1. Requirements.

- a. ~~Except as set forth in subsections 39-4.2 and 23-4.2,~~ Developers of new housing in all residential districts shall pay a development fee of ~~one percent (1%)~~ one and half percent 1.5% of the equalized/assessed value of each new residential dwelling unit. Where a structure is converted so as to provide one (1) or more additional dwelling units, the fee to be paid shall be based on ~~one percent (1%)~~ one and half percent 1.5% of the increase in the equalized assessed value. As used herein, "developer" includes an individual or entity constructing one (1) dwelling unit as well as an individual or entity constructing more than one (1) dwelling unit.

- b. Where an increase in density is granted pursuant to a "d" variance, residential developers shall pay a development fee of ~~one percent (1%)~~ one and half percent (1.5%) for the number of units permitted by right and shall pay an additional development fee of six percent (6%) of the equalized assessed value for each additional dwelling unit permitted as a result of the "d" variance. Pursuant to COAH regulations, municipalities must consider the zoning of property during the two (2) years prior to filing a "d" variance application for purposes of determining that an increase in density has been provided. Thus, if the zoning on the property has changed during the two (2) year period, the base density, for the purposes of calculating the additional development fee, shall be the highest density permitted by right during the two (2) years preceding the filing of the "d" variance application.

- e. ~~Residential developers in which a required percentage of the dwelling units are to be set aside for low and moderate income households may make a payment in lieu of constructing low and moderate income housing if the Borough has the ability, pursuant to COAH's rules to enter into a Regional Contribution Agreement; and such payment is granted by the approving authority. The per unit payment shall equal thirty five thousand (\$35,000.00) dollars or COAH's standard for the minimum cost of a Regional Contribution Agreement (whichever is greater). No developer that pays a fee in lieu of constructing low and moderate income housing shall replace low and moderate income units with market units unless the~~

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

replacement is approved by the approving authority and the developer pays a fee of six percent (6%) of equalized assessed value on each market unit that replaces a low and moderate income unit. Example: A site may be developed for eighty (80) market units and twenty (20) low and moderate income units. The developer receives approval to make a payment of thirty five thousand (\$35,000.00) dollars per unit in lieu of building twenty (20) low and moderate income units. The developer also proposed to construct twenty (20) additional market units to replace the twenty (20) low and moderate income units. If the developer requests the ability to replace low and moderate income units with market units, and the approving authority grants the developer's request, the developer shall be required to pay a six percent (6%) fee on the additional twenty (20) market units.

§23-4.2 Residential Exemptions is amended to create a new subsection (d):

(d) Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

§23-5. NONRESIDENTIAL DEVELOPMENT FEES.

23-5.1. Requirements.

~~a. Except as set forth in subsections 39-5.2 and 23-5.2, all nonresidential developers who include in their development the construction of a new building or the expansion of the gross floor area of an existing building, except public uses and quasi public uses such as churches and hospitals, shall pay a fee of two percent (2%) of equalized/assessed value of the nonresidential development with the fee calculated on the value of all new building(s) and site improvements.~~

a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. ~~In addition to the fees set forth in subsections 39-5.1a and 23-5.1a, nonresidential developers that receive an increase in floor area, pursuant to a "d" variance, shall pay a development fee of two percent (2%) two and half percent (2.5%) of equalized/assessed value for the floor area permitted pursuant to the Ordinance and a fee of six percent (6%) for the equalized assessed value of the additional floor area permitted by the "d" variance. Pursuant to COAH regulations, municipalities shall consider the zoning of property during the two (2) years prior to filing the "d" variance application for purposes of determining that an increase in floor area has been provided. Thus, if the zoning on the property has changed during the two (2) year period, the base floor area for the purposes of calculating the increase in floor area shall be the highest floor area permitted by right during the two (2) years preceding the filing of the "d" variance application.~~

§23-5.2 Nonresidential Exemptions

a. ~~Developers who have preliminary and/or final approvals of a subdivision or site plan still in effect prior to the effective date of this chapter, which approval shall have been granted without the requirement to pay the fees set forth in subsection 23-5.1a and b, shall be exempt from paying a development fee unless the developer seeks a substantial change in the prior approval.~~

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

- ~~b. Where an existing site is proposed to be improved by new site work alone, such as landscaping, stormwater improvements, new parking lot, or similar work, and none of those improvements involve any new building, or an expanded building, or a structurally modified building, there shall be no fee for those site improvements. Where any site involves a new building, expanded building, structural modifications, or a major rehabilitation effort involving fundamental components of an existing building such as, but not limited to, the electrical service and/or interior service network, communication systems, water service and distribution systems, sewage collection and discharge systems, air conditioning equipment and ductwork, heating equipment and distribution systems, improved insulation, window replacements, roofing, foundation repair, and siding repair or replacement, the fee shall be as required in subsection 23-5.~~

Eligible exactions, ineligible exactions and exemptions from non-residential development fees

- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
- ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
- iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
- iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
- v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by Tinton Falls as a lien against the real property of the owner.

§23-7 Affordable Housing Trust Fund

All development fees collected pursuant to this Chapter and all interest generated by the deposits shall be required to be spent in accordance with the Spending Plan approved by the Court or COAH. If the Court or COAH determines that Tinton Falls Borough is not in conformance with COAH's rules on development fees, the Court or COAH is authorized to direct the manner in which all development fees collected pursuant to ordinance shall be expended. Such authorization is pursuant to this Chapter; COAH's rules on development fees; and the written authorization from the Borough Council ~~governing body~~ to the bank in which the Housing Trust Fund is located.

§23-8 Use of Funds

- a. Money deposited in the Affordable Housing Trust Fund may be used for any activity approved by COAH or the Court for addressing the Borough's low and moderate income housing obligation such as, but not limited to, housing rehabilitation and Regional Contribution Agreements.
- d. ~~Development fee revenues shall not be expended to reimburse the Borough for housing activities that preceded substantive certification.~~

§23-9 Expiration of Chapter

This chapter shall expire as a result of any of the following:

- a. ~~COAH's dismissal or denial of a petition for substantive certification.~~
- b. ~~COAH's revocation of either substantive certification or its certification of this chapter.~~
- e. ~~The expiration of the time defined by certification or the Final Judgment of Compliance and Repose unless the Borough has filed an adopted housing element with COAH; petitioned for substantive certification; and received COAH's approval of this Development Fee Chapter.~~

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

23-12 Penalties

~~In the event any of the conditions set forth in Section 23-12b occur, COAH shall be authorized, on behalf of the Borough, and after a hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., to direct the manner in which all development fees collected pursuant to this chapter shall be expended. Should any such condition occur, such revenues shall immediately become available for expenditure at the direction of COAH upon the Borough Clerk's receipt of written notification from COAH that such a condition has occurred. In furtherance of the foregoing, the bank account established pursuant to this chapter shall provide whatever express written authorization which may be required by the bank to permit COAH to direct disbursement of such revenues from the account following the delivery to the bank of the aforementioned written notification from COAH to the Borough Clerk.~~

~~b. Occurrence of the following may result in COAH taking action pursuant to Section 23-12a.~~

- ~~1. Failure to submit a Spending Plan within the time limits imposed by COAH.~~
- ~~2. Failure to meet deadlines for information required by COAH in COAH's review of this chapter, the Borough's Housing Element, or the Spending Plan.~~
- ~~3. Failure to address COAH's conditions for approval of the Spending Plan within the deadlines imposed by COAH.~~
- ~~4. Failure to submit accurate monitoring reports within the time limits imposed by COAH.~~
- ~~5. Failure to implement the Spending Plan within the time limits imposed by COAH, or within reasonable extensions granted by COAH.~~
- ~~6. Expenditure of development fees on activities not permitted by COAH.~~
- ~~7. Other good cause demonstrating that the revenues are not being used for the intended purpose(s).~~

BE IT FURTHER ORDAINED that Chapter XXXIX entitled "Development Fees" from the Borough Code is eliminated in its entirety because it is duplicative of Chapter 23.

BE IT FURTHER ORDAINED if any section, subsection, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

ORDINANCES FOR FINAL CONSIDERATION

Ms. Hesler read Ordinance No. 2019-1438 entitled: **ORDINANCE VACATING A PORTION OF THE RIGHT-OF-WAY KNOWN AS PINE STREET IN THE BOROUGH OF TINTON FALLS**

Mr. Pak offered a motion to open the Public Hearing on Ordinance 2019-1438, seconded by Mr. Siebert.

ROLL CALL

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

PUBLIC HEARING OPEN

There being no comments from the public Mr. Siebert offered a motion to close the Public Hearing on Ordinance 2019-1438, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING CLOSED

Mr. Siebert offered a motion to adopt Ordinance 2019-1438 seconded by Ms. Fama.

ROLL CALL

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

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

Ms. Hesler Read Ordinance No. 2019-1439 entitled: **ORDINANCE SETTING SALARIES FOR DEPARTMENT HEADS, STATUTORY EMPLOYEES, MAYOR AND COUNCIL**

Ms. Fama offered a motion to open the Public Hearing on Ordinance 2019-1439 seconded by Mr. Pak.

ROLL CALL

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

PUBLIC HEARING OPEN

There being no comments from the public Ms. Fama offered a motion to close the Public Hearing on Ordinance 2019-1439, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC HEARING CLOSED

Ms. Fama offered a motion to adopt Ordinance 2019-1439, seconded by Mr. Manginelli.

ROLL CALL

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

PUBLIC DISCUSSION

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

ROLL CALL

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

PUBLIC DISCUSSION OPEN

Paul Abrams, 23 Taylors Run- Mr. Abrams discussed the theoretical privatization of the landfill and inquired about different options available to the Borough in the event a private company purchases the landfill. He suggested putting something in writing in the new negotiation that would protect the Borough. Borough Attorney Mr. Starkey stated that this concern has been brought to his attention and they are working to address it. In response to Ms. Fama's comments regarding the security upgrade, Mr. Abrams sought information about the realignment of office spaces in the Borough and asked Council for some clarification of the plan. Because security is the Borough's paramount concern, Mr. Starkey advised that there is some information that can be made public and some cannot, once the plan is finalized through Administration he will determine what parts of the plan can be made available to the public. Mr. Abrams also asked for clarification as to what parts of the borough and departments will be made accessible/inaccessible to Borough residents and tax payers. Mr. Starkey acknowledged that while the safety of the Borough employees and residents remain their number one priority, they are working on a plan that will ensure security for all while still remaining transparent and accessible. Mr. Abrams voiced concerns of a resident's ability to access various places throughout Borough Hall, while he understands security is a vital concern, he wants to make sure that residents will continue to have access to the building they fund through their tax dollars. He briefly commented on Mr. Skudera's year in review presentation and is hoping for a great 2019 where the various departments work together for the betterment of the Borough. Mayor Perillo reassured Mr. Abrams that business will continue as usual and he is always welcome to stop by and see him.

Dr. Sharon Wisdom, 17 William Street- Ms. Wisdom is here tonight to voice her concern about the home next door to her that caught fire nearly 10 years ago and suffered damage as well as a florist behind her home that is unkempt.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

She has been to the code enforcement office and is seeking the help of the Borough Council to help fix this problem, so her property values do not continue to depreciate. Mr. Starkey stated that he is not familiar with this property, however he would be happy to investigate it and contact Ms. Wisdom. Mr. Baldwin apologized to Ms. Wisdom and her family and assured them that Mr. Starkey will investigate this issue and get back to them as soon as possible.

Gerry Turning, 32 Periwinkle Circle- Mr. Turning stated that he can confirm that Ms. Wisdom is correct, and the property at 15 Williams Street has been an issue for many years, stemming from a family that cannot agree to sell the property. Mr. Turning commended Mr. Bayer for his work and presentation regarding the Borough's Affordable Housing. He discussed the success the Borough has had in terms of the affordable housing obligations they have fulfilled, including the Fort Monmouth property and the Solider On project.

Tracy Buckley 17 Helene Court- Ms. Buckley inquired about the status of the TNR program and asked if the MOU has been signed yet with the MSPCA. Mr. Starkey advised that the MOU has not yet been signed however he believes it will be on for approval at the next Borough Council Meeting on March 19, 2019.

Kerry Morgenthaler 25 Thistledown Street- Ms. Morgenthaler thanked Council and Administration for introducing the two animal welfare Ordinances, stating it is a great step for the Borough and is very important to her and other residents. She briefly discussed the MOU with the MSPCA and stated that it is a standard agreement that other neighboring towns have already signed; Council President Baldwin explained that the Borough is making routine adjustments to the agreement and it should be ready soon.

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

PUBLIC DISCUSSION CLOSED

MISCELLANEOUS BUSINESS FOR THE GOOD OF THE ORDER- None

CONSENT AGENDA

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

ROLL CALL

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

NAYS: None

ABSENT: None

ABSTAIN: None

R-19-045 RESOLUTION APPROVING THE 2018 LOSAP CERTIFICATION LIST FOR QUALIFICATION OF TINTON FALLS EMS SQUADS NORTH AND SOUTH

WHEREAS, pursuant to N.J.S.A. 40A:14-191 and N.J.A.C. 5:30-14.10(b), emergency service organizations participating in a Length of Service Awards Program (LOSAP) shall annually certify to the sponsoring agency a list of all volunteer members who have qualified for credit for the previous year; and

WHEREAS, the certification shall be based on records maintained by the emergency service organization in accordance with the sponsoring agency's adopted point system; and

WHEREAS, the required certification has been presented by the Tinton Falls EMS Squads North and South to the sponsoring agency, the Borough of Tinton Falls; and

WHEREAS, the Local Plan Administrator has reviewed the annual list, requested supporting documentation from Tinton Falls EMS Squads North and South as necessary to substantiate the information provided, and is satisfied that the list is complete and accurate;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that the certified list of volunteer members of the Tinton Falls EMS Squads North and South who have qualified for credit under the LOSAP for year 2018 is hereby approved; and

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

BE IT FURTHER RESOLVED that the approved certification list shall be posted at the office of the Borough Clerk, and at the facility of the Tinton Falls EMS Squads North and South, for a period of 30 days to allow sufficient time for membership review.

**R-18-046 RESOLUTION - DENYING RELEASE OF PERFORMANCE GUARANTEES
ENCLAVE AT SHARK RIVER BLOCK 147 LOT 10**

WHEREAS, the developer has requested the release of Performance Guarantees for Enclave at Shark River, Block 147, Lot 10; and

WHEREAS, by letter dated February 22, 2019, (said letter hereby attached and made part of this Resolution) the Engineer, T&M Associates, has outlined the items which need to be addressed prior to the release of performance guarantees.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that based on the facts as set forth in the Engineer's letter of February 22, 2019, that the developer's request for a release of the Performance Guarantees be and hereby is denied.

**R-19-047 RESOLUTION - PERSON-TO-PERSON TRANSFER PLENARY RETAIL CONSUMPTION
LICENSE LIQUOR LICENSE 1336-33-008-005**

WHEREAS, Adova LLC has made application to the Borough Council for a person-to-person transfer of plenary retail consumption License No. 1336-33-008-005 heretofore issued to Portofino Inc., for premises located at 720 Tinton Avenue, Tinton Falls, and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term, and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated there under, as well as pertinent local ordinances and conditions consistent with Title 33, and

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business.

WHEREAS, no written objection to the transfer has been received by the Borough Clerk.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls does hereby approve the transfer of the aforesaid Plenary Retail Consumption License #1336-33-008-005 to Adova, LLC as an inactive license.

BE IT FURTHER RESOLVED, that the Borough Clerk be and is hereby authorized to endorse the transfer to the new ownership on the face of the license certificate showing the State assigned license number to be 1336-33-008-005 effective March 15, 2019 and a certified copy of this resolution be provided to the Division of Alcoholic Beverage Control, the Tinton Falls Police Department and Adova, LLC.

**R-19-048 RESOLUTION AUTHORIZING THE AWARD OF A "NON-FAIR AND OPEN" CONTRACT
FOR PROFESSIONAL SPECIAL LABOR COUNSEL SERVICES CONTRACT PS #3-19**

WHEREAS, the Borough of Tinton Falls has a need for professional Special Labor Counsel as a non-fair and open contract pursuant to the provisions of NJSA 19:44A-20.5; and

WHEREAS, such professional legal services can only be provided by licensed professionals in accordance with the Local Public Contracts Law, NJSA 40A:11-5(1)(a), and the firm of Gluck Walrath, LLP, 428 River View Plaza, Trenton, NJ 08611 is so recognized; and

WHEREAS, this contract is to be awarded for an hourly rate of \$200.00 per hour for an amount not to exceed \$19,000.00 for professional Special Labor Counsel Services; and

WHEREAS, Local Public Contracts Law, NJSA 40A:11-1 et seq. requires that notice with respect to contracts for professional services awarded without competitive bids must be publicly advertised;

NOW, THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Tinton Falls that the firm of Gluck Walrath, LLP, 428 River View Plaza, Trenton, NJ 08611 is hereby retained to provide professional Special Labor Counsel Services for an hourly rate of \$200.00 per hour for an amount not to exceed \$19,000.00 for a term expiring December 31, 2019;

**R-19-049 RESOLUTION AUTHORIZING CONTINUATION OF CONTRACT FOR WIRELESS
TELECOMMUNICATIONS CONSULTANT**

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

WHEREAS, since 2014, the Borough has engaged the services of FSD Enterprises, LLC as a Wireless Telecommunications Consultant to assist with the development of the Borough's wireless communications tower; and

WHEREAS, through the services of FSD Enterprises, LLC, the Borough continues to secure co-locations of tenants on the tower that have generated significant revenue for the Borough; and

WHEREAS, FSD Enterprises, LLC last contract expired December 31, 2018, therefore, requiring continuation to complete work in 2019.

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 it hereby authorizes the Mayor to execute a Service Agreement Extension with FSD Enterprises, LLC for a term not to exceed December 31, 2019 pursuant to the terms and conditions contained therein based on FSD Enterprise's proposal dated December 20, 2017.

R-19-050 RESOLUTION – REFUNDING SIGN PERMIT APPLICATION 3050 SHAFTO – BLUE CREEK CONSTRUCTION - \$50.00

WHEREAS, a sign permit fees in the amount of \$50.00 was paid by Blue Creek Construction; and

WHEREAS, said monies were deposited by the Borough of Tinton Falls during the month of February 2019; and

WHEREAS, the applicant applied for a Zoning Permit for a sign, which was a duplicate.

WHEREAS, the Zoning Department was made aware and a full refund in the amount of \$50.00 shall be issued.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Tinton Falls that refund in the amount of \$50.00 be issued to Blue Creek Construction.

R-19-051 RESOLUTION - REFUNDING TAX OVERPAYMENT

WHEREAS, an overpayment of 2019 1st quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and the Title Company.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
Robert P. Lamb Esq. - Trust Account 10 Allen Street, Suite 2A Toms River, NJ 08753	14.01	13	\$1,084.67

Re: Gold Eagle Plumbing, LLC from Estate of Donna Ligon
105 Apple Street

and,

WHEREAS, said error has resulted in an overpayment of 2019 1st quarter taxes in the amount of \$1,084.67, 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 \$1,084.67 is hereby approved for the aforementioned property.

R-19-052 RESOLUTION - REFUNDING TAX OVERPAYMENT

WHEREAS, an overpayment of 2019 1st quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and the Title Company.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
A Absolute Escrow Settlement Co., Inc. 834 Broad Street Shrewsbury, NJ 07702	26.01	87	\$1,122.24

Re: Patricia Brown from Barbara Keenan
75 Players Circle

and,

WHEREAS, said error has resulted in an overpayment of 2019 1st quarter taxes in the amount of \$1,122.24, 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 \$1,122.24 is hereby approved for the aforementioned property.

**REGULAR/WORKSHOP MEETING
MARCH 5, 2019
BOROUGH COUNCIL**

R-19-053 RESOLUTION - REFUNDING TAX OVERPAYMENT

WHEREAS, an overpayment of 2019 1st quarter taxes on the following property has been paid in error creating an overpayment by the Mortgage Company and the Title Company.

<u>Name</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
John & Joanne Taylor 82 Glenwood Drive Tinton Falls, NJ 07724	32.07	72	\$1,898.79

and,

WHEREAS, said error has resulted in an overpayment of 2019 1st quarter taxes in the amount of \$1,898.79, 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 \$1,898.79 is hereby approved for the aforementioned property.

R-19-054 RESOLUTION – APPROVAL OF BILLS – MARCH 5, 2019

WHEREAS, the Borough of Tinton Falls received certain claims against it by way of vouchers received during the period ending March 5, 2019; 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	3,026,988.05
SEWER UTILITY	26,175.81
TRUST FUNDS	11,527.97
GRANT FUND	7,344.00
GENERAL CAPITAL	52,797.94
DOG TRUST	861.60
TOTAL	3,125,695.37

ADJOURNMENT

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

ROLL CALL

AYES: All in Favor

NAYS: None

ABSENT: None

ABSTAIN: None

TIME: 8:55 PM.

Respectfully Submitted,

Melissa A. Hesler, Borough Clerk

APPROVED AT A MEETING HELD ON: APRIL 16, 2019