

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, JANUARY 27, 2009**

The meeting was called to order by Mayor Hipp at 8:15 p.m. with the following Councilmembers present:

Councilwoman Keyes
Councilman Genovesi
Councilwoman Inguanti
Councilman Sasso
Councilwoman Birdsall
Councilman DeSalvo

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Mayor Hipp asked those present to join him in a salute to the flag.

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The Borough Clerk read the provisions of the Open Public Meetings Law.

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Mayor Hipp and Council President Genovesi made the following presentations:

- Lion's Club Holiday Decoration Awards
- Resolution in Memory of Firefighter James Gardner
- Resolution in Memory of Ms. Anderson
- Mayor's Commendation to Firefighter Scott Koen
- Proclamation supporting Rutherford First Aid Ambulance Corps fund drive

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Mayor Hipp announced that all the agenda items are available for inspection in the Borough Clerk's Office during normal business hours prior to the meeting and they will endeavor to do that every meeting as they have been.

Mayor Hipp opened the hearing of citizens and asked that they limit their comments to five minutes and he asked the Council to refrain from commenting until the hearing is over.

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Terry Scott, 48 East Pierrepont Ave wanted to thank the Mayor and Council and the firemen as he knows they are both very difficult jobs. Mr. Scott wanted to compliment them on finally resolving the issue with the patrolman that was being reinstated and hope that will be accomplished that evening because it was about time. He said he heard there was going to be some possible resolutions to make appointments that evening and he wanted to say a few nice things about the current Town Attorney Biviano and he was hoping he would be reappointed for all the good reasons. Mr. Scott said he knows that the year before Mr. Biviano was on board, the Attorney they had cost the Borough in the neighborhood of the \$185,000 and he understands that Mr. Biviano only cost the Borough \$90,000 and now that there is a new contracted thing that he put into effect so to speak where the new person, whoever it was going to be Mr. Biviano or whoever, will again be the new \$90,000 fixed rate which he thinks is wonderful. He knows the Mr. Biviano lives in town, he pays taxes there and he has been an attorney for different towns in the State of New Jersey and has been a Borough Administrator in a few different towns and he has been the attorney for different school's in the State of New Jersey and he thinks that he is extremely well qualified and he is doing it for 50% of the price of the previous attorney. Mr. Scott said he hopes Mr. Biviano is reappointed for those meritorious reasons.

Susan Muller, 29 Feronia Way said at the last Council Meeting, Pat Kinzler presented an insurance presentation to all the Councilmembers and she knows shortly thereafter there was a meeting held to discuss that so her question was what was the outcome of that meeting and has there been thought to putting something in plan from what Mr. Kinzler presented?

Adam Szura, 94 Vreeland Avenue read a letter that he addressed to the Mayor and Council and "it begins with the Minutes of the March 25, 2008 Council Meeting; on the Borough website it shows Councilwoman Maura Keyes aiding and abetting criminal conduct of Borough Officials. In an age when one lie will under mind individual credibility, more than a dozen false allegations, deceptions and misleading statements which were introduced by the Councilwoman on the record. They also appear in the Rutherford Health Dept. memorandum of March 3, 2008 also by Brian O'Keefe. Among them O'Keefe lied about the details of the subject event, O'Keefe lied in reporting he had filed criminal complaints against other Borough Officials in this regard; O'Keefe lied in describing the second Borough Official key McPherson fundraiser and coconspirator in his fraud as a concerned citizen; O'Keefe concealed the conclusion of all evidence of fraud, relevant scientific information and the sworn testimony of O'Keefe's expert witness debunking his claims by the court and most importantly O'Keefe failed to explain the presences of recycling centered debris offered as the positive proof in his prosecution photos. Since concealing this known fraud would itself constitute fraud he was asking the entire text of the letter be it memorialized without exception in every public record of the Council Meeting. Had Councilwoman Keyes taken the time to peel away O'Keefe's histrionics before misrepresenting his felonious fact, she would have found the memorandum neither refutes nor corrects any of the ungarnished facts, suspiciously edited out of the website account of my February 26, 2008 presentation. In other words O'Keefe's memorandum not only fails in truth and in purpose, it documents his continued falsification and fabrication of government records. In retrospect earlier decisions to ignore my complaints of O'Keefe's bizarre behavior foreshadow these violations entitled 2C of the New Jersey

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Criminal Code initially underwritten by the McPherson administration. By making O'Keefe's latest fraud a matter of public record for all to see the Councilwoman has handed this administration the keys to refer this matter to the Attorney General for investigation and prosecution. As we all knew, Attorney General Milligram Has given high priority to the prosecution of corrupt officials in fact one such public official convinced of falsifying government records was recently sentenced to a five year prison term. In keeping with the principles of Open and Honest Government I need to know what steps this administration will be taking to add the names of O'Keefe and his partners in crime for that list." Mayor Hipp asked he hand the document to the Clerk.

Bonnie Corcoran, 390 Montross Avenue wanted to know where they were in the negotiation of contracts, the cops and the white collars have not had a contract since 2007; she knows they still get paid and everything but she has heard white collar were negotiating but then meetings were canceled and it never got back up and she would like to know if they were still getting negotiated. Ms. Corcoran said they don't have an arbitrator to arbitrate for them, like the police so she didn't know what the hold up was for with the white collar contracts? She said as for the police, she knows one sticky point is the health benefits and she thinks it would help a lot if they ask the police to give back that anyone who has health benefits from the Mayor and Council also give back a percentage of their health benefits. Ms. Corcoran said she knows not all of them have used the health benefits but some of them do, if they want the police and employees to give back she suggest it start with the Mayor and Council to give back on percentage of those; it will show good faith effort for the police maybe think about giving theirs back.

Fran McCarthy, 364 Orient Way wanted to know if the COAH presentation or whatever they had to give in for that date was given in on time and what is the next step in the process? Ms. McCarthy asked whether or not they are in communications with any of the other communities that are trying to fight the COAH requirements and how can the citizens get involved in that? She said it has been brought up before about the opportunity when citizens are heard to get feedback immediately, she thinks it is a great idea and she likes the way it goes and she hopes they consider that change and she actually disagrees with Bonnie about the benefits situation and the Police Dept. Ms. McCarthy said because none of them get a salary that is in comparison with Police Dept., she thinks that as a group they had a lot of benefits from the town and it is time for them to step up a little bit and move the negotiations forward; they are also in a difficult situation when they go directly to arbitration that puts them in a distinct advantage and puts them at a distinct disadvantage.

As no further citizens wished to speak Mayor Hipp closed the hearing to the citizens and asked the Council if they had any comments regarding the public hearing.

Councilman Genovesi said in response to Ms. Corcoran he conferred with the Borough Attorney and now he still can not comment on the impending situation with the Police Dept., however he can say that he sat through the hearing and his personal reflection on it, not revealing anything is that he saw a very productive day. He said he wanted to continue to give her an open and honest answer as he thinks she deserves it and he tries to do that at every meeting.

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Councilwoman Birdsall said briefly she wanted to address Ms. Corcoran as she agrees with her as far as health benefits and she is sure she wasn't going to make many friends, but she does think in the state of economy they are in and she knows there were proposals at State levels where it is about 1%, but she does agree with her for the record as far as health benefit contributions. Councilwoman Birdsall said she can't speak completely about COAH but yes they did get it in on time and she thinks there will be some issues that other Councilmembers could address for her.

Councilwoman Inguanti said in response to Ms. McCarthy they did get it in on time and there are some issues one of which the Council will address that evening, which is the appointment of a Municipal Housing Liaison. She said the fight is still very much on and her understanding was that Sen. Lezniack was looking to perhaps change some of the legislation so she thinks by contacting their legislature, Sen. Sarlo or Assemblymen Schaer and Scalera and register their frustration with the current COAH regulations. The Borough Mayor and Council did join the League of Municipalities case and there were some 30 cases of various municipalities and consortium of interested individuals. Councilwoman Inguanti said there is a fight but it starts by letting their local representatives and also at the State level, know their displeasure.

She said to Ms. Muller they did schedule a meeting where Mr. Kinzler's recommendations were addressed by the Risk Manager for the JIF and she believes there were some points of agreement and some areas where maybe there was further need for discussion. Councilwoman Inguanti said one of the issues they wanted to look at and it could be part of the budgeting process as they look at the municipal budget was to meet with Mr. Brown at the Board of Ed and look at some of the solutions he garnered for the schools. She said it is one of the adherent difficulties. When they have people who come from the private sector and then people who must operate within the constricts of the public sector, that is one of the limitations of government but it's the system they have to work within. Councilwoman Inguanti said she hopes that there was some better understanding about that for people to go away with.

Council President Keyes said adding to Councilwoman Inguanti's comments about the insurance meeting that took place; Mr. Kinzler's report had looked just at the medical insurance and the cost that the Borough takes on is property, casualty, liability it is all encompassing and it encompasses the various buildings and properties of the Borough. She didn't want to say it was like apples and oranges but there was a lot more involved in the Borough's insurance costs than Mr. Kinzler had on the medical side that he had looked at.

Mayor Hipp said briefly to Ms. McCarthy the answer specifically to her question what could citizens do to get involved; in addition to echoing what Councilwoman Inguanti said about getting the legislatures involved, there will be as he understands it, efforts probably in the Spring to effect legislation to make changes but he didn't have specific times and dates as of then. The Mayor said they are attempting to coordinate with other towns to see what could be done but as he indicated before a lot of it has to come from the residents themselves of the various communities as they could provide assistance but the

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League is not going to officially organize a protest rally. Mayor Hipp said officially the communities and the League are to handle it legally and by also pressuring the legislatures, there is competing legislation in the works now in Trenton to change things. The Mayor said some of it in their view is for the better, some of it is not and they are focusing their efforts and resources on attempting to influence that legislation as much as possible. Mayor Hipp said with respect to the COAH or the fair housing document plan that was adopted and submitted in time they will be dealing with the Council on Affordable Housing throughout the next several months discussing the initial submission; they will probably make some changes. The Mayor said as he said previously they don't anticipate a lot of the changes until the dust settles in Trenton in the legislature but also in the courts and that could be months so they don't expect a lot of things to happen at the present time. Mayor Hipp said the good thing he could say is that they are now in a position that they are not going to be threatened in a lawsuit by a builder under the builder's remedy because they did comply with that requirement so a lot is going on.

Mayor Hipp said to Ms. Corcoran they will not discuss in detail the status other than to say they have been discussing and meeting with the white collar as well as the police; there are issue that continue to arise in connection with those obviously salary increases and medical benefits will continue to be the major areas of negotiations with all of the unions.

Mayor Hipp said with respect to Mr. Szura, to the extent that he was requesting the administrator and he assumes that means himself, to refer the matter to the Attorney General's Office, he is going to decline to do that. The Mayor said every citizen has a right if they believe that a crime has been committed to contact the Attorney General's Office on their own and he doesn't believe it is appropriate for a governing body to do so and he would also say that allegations are one thing but facts are stubborn things and without characterizing the letter or what happened in March, 2008 what he could say was that anyone who has a complaint criminal or otherwise, has resources available but the Council really is not in the position to act. Mayor Hipp requested that if he does feel as strongly as he appears to that his only remedy is to forward and to take his case to the Attorney General's Office.

Mayor Hipp said to Susan Muller's comments just to add to what has been said, in addition to the discussion of the health care benefits that Mr. Kinzler raised, there were some questions about comparability. The Mayor said there was a lot of healthy discussion but so that everyone understands it was basically a special meeting of the Citizens Finance Committee to discuss the very issue and they will be making appointments to that Committee again that evening and it was his understanding that those discussions will continue. Mayor Hipp said it is an ongoing process to explore a variety of different ways to achieve cost savings in the town and the Advisory Committee on Finance he hopes will play a very significant role in that going forward. The Mayor said some discussion was had and more discussion will proceed from there.

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Council President Keyes made a motion to move that all the items on the Consent Agenda be passed, seconded by Councilman Genovesi and unanimously approved on roll call.

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Council President Keyes moved approval of the Minutes of the Regular Meetings of November 25 and December 16, 2008, seconded by Councilwoman Inguanti with Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti and Councilman Sasso voting aye; Councilwoman Birdsall and Councilman DeSalvo abstained.

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Council President Keyes moved approval of the Minutes of the Adjourned Meeting of January 1, 2009 seconded by Councilman Genovesi with Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti and Councilman Sasso voting aye; Councilwoman Birdsall and Councilman DeSalvo abstained.

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Council President Keyes moved approval of the Minutes of the Organization Meeting of January 1, 2009, seconded by Councilman Genovesi.

Mayor Hipp said in the work-session there was some discussion on the meeting. Councilman Genovesi said in the Minutes from the Organizational Meeting on January 1, 2009 there was a reference to Councilman Genovesi swore in Councilman DeSalvo, he did not so they need to correct that. Mayor Hipp said that is an amendment proposed by Councilman Genovesi to change the Organizational Minutes and they took that as a friendly amendment and asked for a vote on the Minutes as amended.

The Clerk read the roll call and the Minutes were unanimously approved.

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Council President Keyes moved approval of the Minutes of the Closed Meeting of November 25, 2008, December 9, 2008 and December 16, 2008, seconded by Councilman Genovesi with Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti and Councilman Sasso voting aye; Councilwoman Birdsall and Councilman DeSalvo abstaining.

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1/20 Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

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RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

1. In the amount of \$325.00 payable to Wayne PAL – payment for travel basketball tournament.
2. In the amount of \$343.00 payable to The Newark Museum – payment for preschool trip 2/18/09.
3. In the amount of \$65.00 payable to Maureen Bigley – payment for refund of Radio City Ticket.
4. In the amount of \$130.00 payable to Maria Codero – payment for refund two Radio City Ticket.
5. In the amount of \$130.00 payable to Lisa George – payment for refund two Radio City Ticket.
6. In the amount of \$2,350.00 payable to The Sports Factory – payment for indoor soccer league.
7. In the amount of \$875.00 payable to Superdome Sports – payment for U12 travel registration.
8. In the amount of \$3,150.00 payable to North/West Bergen Passaic – payment for 3 teams registration.
9. In the amount of \$100.00 payable to Nuria Lazo – refund for travel basketball.
10. In the amount of \$20.00 payable to Bergen County Office for Children – preschool staff training.

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1/20 Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

RESOLVED: That bills in the amount of \$4,976,540.60 and \$1,391,515.36 from the Current Account, all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

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1/20 Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS a payment of 2008 4TH quarter taxes intended for Block 163, Lot 13 was erroneously applied to 2009 1ST quarter on Block 30, Lot 9.01, and;

WHEREAS this payment must now be applied to the correct parcel;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant in the amount of \$1840.00 made payable to the

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Borough of Rutherford for payment of 2008 taxes and charge same to 2009 taxes pre-paid.

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1/20 Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS there was a duplicate payment made for Police Overtime in 2008; and

WHEREAS it has been determined that the party listed is entitled to a refund of this overpayment;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue a warrant in the amount of \$7050.00 made payable to DiClemente Construction and charge same to Police Salary and Wages

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Under the Consent Agenda, Council President Keyes made a motion to approve the following Resolution, seconded by Councilman Genovesi and unanimously approved on roll call:

RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

1. In the amount of \$195.00 payable to The Paperbag Players – payment for a Preschool Trip.
2. In the amount of \$1,125.00 payable to Zee Medical Inc. – payment for ice packs for various teams.
3. In the amount of \$6.24 payable to Charisse Rizzo – payment for refund of one session of volleyball.
4. In the amount of \$120.00 payable to Elaine Volpe – payment for refund of Up In the Air Class.
5. In the amount of \$120.00 payable to Noela Maes – payment for refund of Up In the Air Class.
6. In the amount of \$120.00 payable to Angela Waller – payment for refund of Up In the Air Class.
7. In the amount of \$375.00 payable to North Eastern Basketball Association – payment for 7th grade boys travel basketball.

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Under the Consent Agenda, Council President Keyes made a motion to approve the following Resolution, seconded by Councilman Genovesi and unanimously approved on roll call:

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RESOLVED: That bills in the amount of \$4,932,889.72 from the Current Account, all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

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BOROUGH ADMINISTRATOR-REPORT

BY-LAWS

Mayor Hipp said in the packets they had by-laws with proposes that were discussed at the Special Meeting and there are one or two other corrections but he wanted to open the by-laws up for discussion because they still had to discuss the purchases. The Mayor said they discussed at the work-session the idea of the committees and he didn't think they needed to discuss that much more but that was up to the Council but there are the purchases so he would like to have them discuss that so that they could ask the Administrator questions in regards to that section.

The Administrator said the last time the threshold for purchasing materials, goods and services for the Borough was modified was in 1995 and what they did was update the threshold for various purchases in the Borough. He said the purchase limit for the Borough Administrator will be 15% of the number that the Borough is allowed to spend without going out to publicly advertise bids and he didn't mean they were circumventing the system but they could purchase services and goods through a purchase order that is a request for quotation or a written quotation depending on the cost for that particular type of service. The Administrator said 15% of \$17,500 came out to \$3,150 which would be regulated to the authority for the Borough Administrator; between \$3,150 and that also means that if purchasing materials below the Borough's threshold. Mayor Hipp asked to direct them to what page he was on in the by-laws. The Administrator replied page 13, under Article 10. Councilwoman Inguanti stated that she didn't have the changes, the ones they looked at in the by-law meeting, they weren't reflected in the copy she had. Councilwoman Birdsall confirmed that the packet they received did not reflect all of the discussions they had at the by-laws meeting. The Administrator stated that he was recalling what they did at the last Council Meeting and asked if the Borough Attorney had a copy of that Item 10. The Borough Attorney responded that he did not.

Councilman Genovesi made a motion to table the discussion for the next meeting, seconded by Councilman DeSalvo and unanimously approved on roll call.

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For, **FINANCE**, Councilwoman Inguanti made the following statement: "They start 2009 in Rutherford with some good and some bad. Most of you are aware that the financial situation with the Borough, State, country and the world is not in great shape. Some of the successes of the last year are going to benefit us this year and we really got a lot of expenditures and spending under control. The issue that we faced last year and the

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issue that we continue to face in 2009, is revenue. Obviously one of the biggest difficulties we face is Encap, there has been a very slight extension given to Encap and their bankruptcy proceedings, to February 3. For purposes so that everyone here understands, we are able still to sell the tax lien for 2007 going forward but to be able to sell the tax at the current time they have a lien against them for 2008. Is that correct Mayor, I believe there is no lien against them for 2008?"

Mayor Hipp responded yes but that one is tied up in bankruptcy for 2007. Councilwoman Inguanti continued, "So the issue moving forward, we could go back to the court and ask for the 2008 taxes, the lien to be included, however we can move forward and continue in 2009 with the 2007 tax lien sales. As of Friday, the 2007, 2008 total delinquency for Encap is \$1,245,123.94; interest is accruing at approximately \$566 per diem; the total for the first quarter due February 1 is \$124,625; that is a big hit in our budget, obviously. We are beginning the budget process for 2009 and our Borough Dept. Heads and our CFO have been working on it since the end of last year. The Council has scheduled a special budget an exploratory meeting for next Thursday at 7:00 and that will largely be to bring the new members of the Council up to speed on the budget process, the dates, the language, the meaning of certain words and phrases and ideas as we cobble together the budget. To aid in that there are worksheets that have gone out to our Dept. Heads so that they can work on their operating budgets for 2009 and their capital requests and those worksheets went out with an instruction to try to achieve a 5% reduction in operating expenses and they were given a fair amount of latitude in how they achieve that. I don't want to speak for the governing body but I can assure you that we will work together and hopefully with your help and that of our Borough Employees, we will weather through this. It is going to be tough and it is going to require some very difficult choices and I assure you I will do my best to represent the finances as clearly as possible in the situations that we encounter.

"One point of interest that may be of help to residents, we are with the help of our Borough Administrator and at the request of many residents, we are endeavoring to put in place an on-line credit card program for the payment of taxes. Again this would be online, on the computer, you wouldn't be able to pay them at the tax office with a credit card. We have been looking for a solution that would accrue no cost for the Borough and JP Morgan Chase offers an on-line only solution that cost the municipality nothing and assess a convenience fee to the user. The taxpayer would have access through the Borough website to a secure site, they would only have access to their own tax information and would be informed of the fee and the amount before finalizing payment. A survey was done by the IRS as to why taxpayer like it or if taxpayers like it, the survey results actually seem pretty fair to me, there's convenience, the confirmation that taxpayer's know the money has been received, they avoid late charges and penalties and also with some credit cards you do get the rewards program. It also provides some measure of ease when people are perhaps juggling economic situations to be able to put certain payments on a credit card. We are looking to have this up for the second quarter tax payment which would be due May 1. That concludes my report."

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Councilwoman Inguanti made a motion to accept the following Resolution settlement of tax appeal with Korkmaz & Sons, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS, the Mayor and Council of the Borough of Rutherford have been advised of the proposed amended settlement of a Tax Appeal filed on behalf of Korkmaz Sons, Ltd., LLC under Docket Nos.: 004701-2006, 005034-2007, and 003736-2008 for the years 2006, 2007, 2008; and

WHEREAS, the said Governing Body has been advised as to the merits of the subject Tax Appeal by legal counsel, expert appraisal personnel hired by the Borough as well as the Borough Tax Assessor; and

WHEREAS, the proposed Tax Appeal settlement components are as set forth in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, it is in the best interest of the Borough of Rutherford to settle the subject Tax Appeal in accordance with the settlement proposal set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that settlement of the said Tax Appeal be finalized in accordance with Schedule "A" attached and with respect to same, the Mayor, Borough Administrator and/or any other appropriate official is hereby authorized to perform any act in order to effectuate the purposes set forth in this Resolution.

BE IT FURTHER RESOLVED, that the Certificate of Availability for Funds pursuant to N.J.S.A. 40A:4-57 has been certified to by the Chief Finance Officer and is attached hereto and made a part hereof.

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Councilwoman Inguanti made a motion to accept the following Resolution, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS the following taxpayer has applied for and been granted a State Tax Court Judgment, reducing their assessment for 2007 and the assessment is reduced for 2008 by virtue of the Freeze Act and;

WHEREAS this State Tax Court Judgment has resulted in an overpayment of taxes and the taxpayer is entitled to a refund;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue a refund check in the amount of \$18,252.57 and charge the same to the Reserve for Tax Appeals.

Block	Lot	Name & Address	Amount	Year
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219.02	66.08 HM	Garippa, Lotz & Giannuario Attys. for Volvo No. America Re: 300 Howmedica Way	\$8941.52 \$9311.05	2007 2008
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Councilwoman Inguanti made a motion to accept the following Resolution, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS the following taxpayers have applied for and been granted State Tax Court Judgments, reducing their assessment for 2006, 2007 and 2008 and;

WHEREAS these State Tax Court Judgments have resulted in an overpayment of taxes and the taxpayers are entitled to a refund;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue refund checks totaling \$78,931.06 and charge same to the Reserve for Tax Appeals.

Block	Lot	Name & Address	Amount	Year
40	2	Schepisi & McLaughlin, Esqs. and Parnes Realty Co, LP	9,069.48 11,023.04 11,478.58	2006 2007 2008
TOTAL			31,571.10	
40	40	Schepisi & McLaughlin, Esqs. and Willow Gardens Co., LP	8,637.60 10,544.80 11,490.83	2006 2007 2008
TOTAL			30,673.23	
51	11	Schepisi & McLaughlin, Esqs. and Glenwood Development, LLC	4,191.36 5,621.28 6,874.09	2006 2007 2008
TOTAL			16,686.73	

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Councilwoman Inguanti made a motion to accept the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

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WHEREAS the following taxpayers has applied for and been granted a State Tax Court Judgment, reducing their assessment for 2007 and by virtue of the Freeze Act for 2008, and;

WHEREAS this State Tax Court Judgment has resulted in an overpayment of 2008 taxes and the taxpayer is entitled to a refund;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue a warrant in the amount of \$5293.53 and charge same to Reserve for Tax Appeals.

Block	Lot	Name & Address
185	1	Michael I. Schneck, Atty Trustee for JAPATO Realty Re: 54 Jackson Avenue

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Councilwoman Inguanti introduced CFO Ed Cortright to discuss the benefit to the public and the Council the Annual Financial Statement and the Annual Debt Statement. The CFO said the Borough's Financial Statements are over 50 pages long and he was just going to hit highlights. He said in 2009 the assessed evaluation upon which the Borough's tax rate is going to be based was \$2,856,000,000; what is a little ominous about that number is that it is \$25 million less than what it was in 2007; he wished he could report that the number was higher. The CFO said on the balance sheet of the Current Fund, they report the Borough's deficit as of December 31 \$652,000; the balance sheet is just a snap shot of the Borough's assets and liabilities as of December 31 that does not mean that they have to raise \$652,000 in taxes what was going to happen is that the \$652,000 would be offset by \$400,000 which they are going to receive by the NJMC and the very real possibility of there being another \$200,000 or \$300,000 in capital improvement balances which could be canceled and brought over as revenue in 2009. The CFO said together those two items will offset that deficit; grants receivable as of December 31 totaled \$1,288,000 including grants receivable as far back as 2004 through 2007. He will present reports to Councilwoman Inguanti and Councilwoman Keyes every two months so as to show the exact status of the grants receivable. The CFO said unanticipated revenues for 2008 came through high of \$97,000 on page 20 of the annual financial statements. in going over the Current Fund Balance Sheet what is sometimes nice is to see things that aren't on the balance sheet and one of the things that wasn't on the balance sheet are bond anticipation notes.

Mr. Cortright said going back to page 1 on the balance sheet they will notice that there is no tax anticipation notes, if they look at the annual financial statement on December 31, 2007 there was \$8 million in tax anticipation notes and that \$8 million costs almost \$300,000 of interest and bond counsel costs and had to be raised in the 2008 budget; in the 2009 budget no interest on tax anticipation notes will have to be raised in taxes. The CFO said the total 2008 tax levy came to about \$58.5 million; tax collector

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achieved a tax collection rate of 97.63% which is over a full one percent less than what it usually is and that could be laid at the doorstep of Encap; the total delinquency of taxes in December 31, 2008 was \$3,299,000 versus \$1,293,000 at December 31, 2007 that was an increase in delinquent taxes of over \$1 million mainly due to Encap delinquency and when they have their meeting on February 5, they will be going over many of those numbers as well as many of the revenues from which they had numbers for and so far as expenditures were concerned they had many of the expenditures in, most of which the Mayor and Council have no control over.

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Councilwoman Inguanti said number five on her agenda was the meeting that she mentioned and that Mr. Cortright reiterated that there will be a Special Meeting on February 5, at 7:00 p.m. the public is welcomed to attend, it is largely for the Council to get into the numbers and start to understand how the process works.

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As Liaison to the WILLIAMS CENTER, Councilwoman Inguanti reported on the review of the Community Development Block Grant for making improvements to the Williams Center Plaza and they had asked the Borough Engineer to look at the scope of the project as it was originally envisioned and perhaps make some revisions to that so that they could stay fairly tight within the Community Development Block Grant amount that had been given to the Borough and obviously they will have to coordinate it with the County as the William Center is a County owned facility. Councilwoman Inguanti said the County has scheduled some significant improvements to the HVAC system and the half moon staircase on the side of the building and they want to make sure any improvements they engage in at the Plaza are coordinated with the County in that regard.

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Mayor Hipp wanted to reiterate that there will be a Special Meeting of the Mayor and Council for Thursday, February 5, 2009 at 7:00 p.m.; as with all Regular Meetings and Special Meetings of the Mayor and Council there will be a portion set aside for public comment; if they were interested in questions about the budget process which is what the Meeting was going to be about as opposed to specifically the 2009 budget, he invited the public to attend and there will be a resident comment period.

Councilwoman Birdsall asked the CFO, given the financial atmosphere they are in, if he had any idea about when they might hear about State aid. The CFO responded not yet.

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For **POLICE**, Councilman Genovesi said he didn't get a chance to thank the Police Department at the end of the year and he wanted to extend on record a public thank you

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to Captain Egbert and Director Thompson. He said they facilitated his ability to work with the Police Dept. and learned about the Department's needs, the requirements, their day to day operations and he was grateful for their guidance.

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Councilman Genovesi said he respected Ms. McCarthy's comments and he personally does not take the health insurance from the Borough, he doesn't want to have that sound as a criticism towards the Police Dept. He has gotten to see them on a day to day basis and learn how they operate, it is a difficult job and he understands the public opinion over the pay but their day to day job does entail a lot and he gives them a lot of credit for doing it and they really are the first responders. Councilman Genovesi said there are countless examples of how many lives it helps to save and how many times they were there for people in the community and he really does appreciate them and appreciate the relationship he has been able to build with some of those members.

Councilman Genovesi said in his monthly report there was a lot of positive feedback from the community and the residents in regards to an old tradition that Rutherford used to have which was an officer walking up and down Park Avenue and he wanted to commend Officer Julie Zeigler for the amount of work that she put in. He said he saw her out there on some very cold days walking up and down Park Avenue, she ticketed people that should be ticketed and obviously also providing a great amount of service by being there and having the public know there is an officer within ear shot should something happen. The Councilman continued to report total arrests for December was 9 adult, 6 total burglaries, 4 motor vehicle stolen, 1 DUI, 75 burglar alarms, 15 counts of criminal mischief, 128 dispatch of the ambulance, unfortunately they had 2 deaths in the Borough, 1 missing person but luckily that person was located, 165 - 911 calls in the Borough, 96 reportable auto accidents, 25 non-reportable, 607 parking summons, 132 moving violations issued.

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1/20 Under the Consent Agenda, Council President Keyes made a motion to approve the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS, certain organizations have applied for a Raffle/Bingo License and have been approved by the Police Director and paid the required fees;

NOW, THEREFORE, BE IT RESOLVED that License be issued to:

**Rutherford Education Foundation
St. Mary High School
St. Mary High School**

**On Premise 50/50
Tricky Tray
On Premise 50/50**

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Under the Consent Agenda, Council President Keyes made a motion to authorize to bid for Animal Control Services, seconded by Councilman Genovesi and unanimously approved on roll call.

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Councilman Genovesi made a motion to approve the following Resolution, seconded by Councilwoman Inguanti and unanimously approved on roll call:

WHEREAS, certain organizations have applied for a Raffle/Bingo License and have been approved by the Police Director and paid the required fees;

NOW, THEREFORE, BE IT RESOLVED that License be issued to:

**Pierrepont School PTA
55 Kip Center – RSCC**

**Off Premise 50/50
Off Premise 50/50**

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Councilman Genovesi made a motion to approve the following Resolution regarding settlement and release of Nicholas Loizzi, seconded by Councilwoman Inguanti:

WHEREAS, Borough of Rutherford and Police Officer Nicholas Loizzi (“Officer Loizzi”) have been involved in litigation with regard to an Administrative Disciplinary matter, a Federal Court law suit and a Federal Indictment; and

WHEREAS, the Borough of Rutherford and Officer Loizzi have reached a settlement on any and all matters; and

WHEREAS, the Chief Financial Officer has certified or will certify the availability of funds for that purpose.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that:

1. Officer Loizzi has executed a General Release and Memorandum of Settlement with the Borough of Rutherford with regard to any and all matters involving the Borough of Rutherford and Police Officer Nicholas Loizzi (“the Settlement”);

2. The terms of the Settlement have been read into the court record before the Hon. Jesse Strauss, ALJ;

3. Officer Loizzi testified before said court with this attorney present that he understood and agreed to the terms of the Settlement:

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4. The Administrative disciplinary matter, OAL Docket No. CSV 5593-07; the Federal Court law suit, Docket No. 07-CV-3109 (SRC) and a Federal Indictment 05-11-2060-I have all been dismissed with prejudice;

5. Officer Loizzi will return to duty with the Borough of Rutherford Police Department at a time, date and manner promulgated by the Police Director;

6. The Mayor and Borough Clerk are hereby authorized to execute the attached Memorandum of Settlement with Police Officer Nicholas Loizzi.

Councilman Genovesi said the Borough and Police Officer Nicholas Loizzi have been involved in litigation with regard to administrative disciplinary matter, Federal Court Lawsuit and a Federal Indictment. He said the matter of settlement with regards to Mr. Nicholas Loizzi is one that marks an end of a period of difficult litigation; the Governing Body spent much time discussing the matter and after much thought has seen fit to reach an agreement with Mr. Loizzi and likewise Mr. Loizzi with the Borough. The Councilman said while they move ahead and leave the issue behind them, they are thoughtful of the experience that they have garnered from it, it was his sincere hope that Mr. Loizzi returns to his employment within the Rutherford Police Dept. and is able to be brought up to standards in regards to up to date policing with the greatest of ease, as there is a transition period when someone returns and they went through it with three other officers and there was a period of adjustment. He said he hopes that and he trusts that the adjustment is beneficial to both Mr. Loizzi and the Department it can not be easy for Mr. Loizzi but he trust that is something that will take place. Councilman Genovesi said Officer Loizzi has executed a general release and memorandum of settlement with the Borough of Rutherford with regard to any and all matters involving the Borough of Rutherford and Police Officer Nicholas Loizzi the terms of settlement were read into court record before the Honorable Jessie Strauss; Officer Loizzi testified before the court said with his attorney present that he understood and agreed with the terms of the settlement. Councilman Genovesi said therefore he moved to accept the agreement in regard to set settlement and hereby ask the Council and the Governing Body to authorize the Mayor to execute the settlement. Mayor Hipp said Members had a copy of the resolution with the attached settlement agreement in their package.

Councilwoman Keyes asked the General Release be read into the record. Councilman Genovesi asked the Mayor and Borough Attorney if it was okay to read. The Borough Attorney said yes. Councilman Genovesi read the following Release:

This General Release is made by Nicholas Loizzi ("You") his heirs, administrators, executors and/or assigns as their interests may appear, and is given to and for the benefits of the Borough of Rutherford, ("The Borough") a municipal corporation of the State of Rutherford, New Jersey 07070.

1. For and in consideration of the agreements, payments and promises, including the reinstatement of You as an officer of the Rutherford Police Department, as is more specifically set forth in that certain Memorandum of Agreement between

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You and the Borough which is being executed contemporaneously with this Release which is more particularly the subject matter of a certain lawsuit entitled *Nicholas Loizzi v .Borough of Rutherford*, pending in the Office of Administrative Law and bearing docket number CSV-5593-07, and for such other good and valuable consideration you release and give up any and all claims, rights, demands, claims for damages, cause of actions, or suits including those of which you are not aware and those not mentioned in this release or which have been or could have been brought by you, resulting from anything which has occurred up to the date of this Release for any type of action with regard to your employment with the Borough. This Release includes, but not limited to, all claims, rights demand and causes of action for breach of the covenant of good faith and fair dealing, inducement of breach: wrongful or unlawful discharge; intentional or negligent infliction of emotional distress; intentional or negligent fraud of misrepresentation; conspiracy; failure to pay wages, benefits, severance or other compensation of any sort; violation of Title VII of the Civil Rights Act, and new jersey Law Against Discrimination Act (N.J.S.A. 10;5-1 at seq.). The Americans With Disabilities Act, the Family and Medical Leave Act, the New Jersey Family Leave Act, the Equal pay Act, the Conscientious Employee Protection Act (CEPA), the Age Discrimination in Employment Act, the Fair Labor Standards Act, the New Jersey Wage and Hour law, the Employee Retirement Income security Act (ERISA), the Occupational Safety and Health Act (OSHA), Sections 1981 through 1988 of Title 42United States Code, the Except Firemen's Tenure Act, discrimination on the basis of race, color, sex, national origin, religion, age, disability marital status, sexual orientation, or sexual harassment, retaliation for protesting discrimination on the basis of race, color, sex, national orientation, or sexual harassment; and/or violation of any and all laws, statues, rules or regulations whether State, Federal or local, vacation pay, holiday pay, sick leave and sick leave pay, confidentiality agreement, non-compete agreement, group medical insurance, life insurance, or disability claims, the United States Constitution, the New Jersey Constitution, tort law or contract law with regard to your employment with the Borough and termination thereof.

2. You specifically release all claims under the Age Discrimination and Employment Act ("ADEA")
3. You specifically release all claims under the Conscientious Employee Protection Act ("CEPA"). N.J.S.A. 34:9-1 et seq.
4. You acknowledge you have read this Agreement in its entirety and you are executing this Agreement voluntarily and of your own free will with the knowledge of its significance. You acknowledge and warrant that you have had the opportunity to consider for twenty-one (21) days the terms and provisions of this Agreement and that you have been advised by the Borough to consult an attorney prior to executing this Agreement. You shall have the right to revoke this Agreement for a period of seven (7) days following your execution of this Agreement, by giving written notice of such revocation to the Borough of Rutherford, 176 Park Avenue, Rutherford, NJ 07070.This Agreement shall not become effective until the eighth day following your execution of this Agreement.
5. You waive your right to file any charge or complaint or to have same filed on your behalf and/or to participate in any charge or complaint, which may be

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made, by any other person or organization on your behalf before federal, state or local court or administrative agency against the Borough. Should any charge or complaint be filed, you agree that you will not accept any relief or recovery there from including but not limited to monetary damages or compensation, You confirm that no charge, complaint or action by you against the Borough exists in any forum except for the matter of *Nicholas Loizzi v. Borough of Rutherford*, pending in the Office of Administrative Law and bearing docket number CSV 5593-07 and a complaint in Federal District Court, docket number 07-CV-3109 (SRC).

6. You specifically dismiss, settle, waive and withdraw with prejudice any right to appeal the law suit known as *Nicholas Loizzi v. Borough of Rutherford*, pending in the Office of Administrative Law and bearing docket number CSV 5593-07 to the Merit System Board or to any Court of competent jurisdiction as well as the Federal Court suit, Docket number 07-CV-3109 (SRC). A copy of the Memorandum of Agreement executed by You and the Borough is attached hereto and made a part hereof Exhibit A.
7. Your release of the Borough includes all claims for attorneys' fees and costs with against the Borough in connection with any claim you may have had against the Borough, known or unknown to you, including but not limited to, the above Docket numbers as well as Indictment number 05-11-2060-I
8. You acknowledge you have read this Release in its entirety and you are executing this Release voluntarily and of your own free will and full knowledge of its significance. You acknowledge and warrant that you have been represented by counsel of your choosing in the execution of this Release.
9. The terms of this Release and all rights and obligations of the parties thereto shall be interpreted and governed by the laws of the State of New Jersey.

Signed: Nicholas Loizzi
13th day of January, 2009

The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall, voted aye. Councilman DeSalvo abstained.

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For **PUBLIC WORKS**, Councilman DeSalvo reported for between January 1 through January 23 the DPW collected and dumped 432 tons of trash totally \$35,347.38 in costs; the DPW implemented their snow removal and de-icing plan seven times through January; 690 tons of rock salt and using 573 man-hours.

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Under the Consent Agenda, Councilwoman Keyes moved to approve the Borough Attorney to draft ordinance for amendments to the Bergen County Solid Waste

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Management Plan, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to approve the request from the Golden Age Club to use the mini bus for a trip in April 16, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to approve the request from 55 Kip Center to use the mini bus for a trips on January 22, February 10 and March 12, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to authorize committee review and report back regarding Atlantic Coast Fibers, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilman Genovesi and unanimously approved on roll call:

BE IT RESOLVED, by the Mayor and Council of the Borough of Rutherford that the following change order be approved:

GENERAL CONSTRUCTION:	Improvements to Mortimer Avenue, Section 1 Change Order No. 3 (NJDOT Local Aid Project)
ENGINEER:	Boswell McClave Engineering 330 Phillips Avenue South Hackensack, New Jersey 07606
CONTRACTOR:	Cifelli & Son, Inc. 4 Coppola Street Nutley, NJ 07110
ORIGINAL CONTRACT COST:	\$224,662.00
COST OF CHANGE ORDER: Minus	\$ 16,245.34 (7.23%)
NEW CONTRACT SUM:	\$208,416.66

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NATURE OF CHANGE:

Reconcile project quantities to match as-built measurements. Includes scope change approved previously and drainage improvement at Engine Co. 2

NET EXTRA COST OF

THIS CHANGE ORDER: Minus \$ 16,245.34

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Councilman DeSalvo asked the Borough Attorney to describe the DPW Contract Amendment. The Borough Attorney said there were a few issues with the Public Works employees, among them was the switch of the holiday so they could be like everyone else in the Borough and they could have continuity. He wanted to give a plug to the Borough Clerk who thought of switching the holidays which was a great idea, so they negotiated that but also the employees based on their current contract had several union members were in danger of losing their vacation time so with the proviso that they have a one year extension this is additional vacation time, they either use it or forfeit it in one year otherwise they would have forfeited it the coming March. The Borough Attorney said finally just like other contracts in the Borough, they've allowed the Public Works employees to extend their vacation up to a year consistent with civil service regulations after a year if they don't utilize it they lose it and so that was put into a form of memorandum of understanding which was agreed to by both parties. He said the next step is for the union to have a meeting and advise them that they had a meeting and that they ratified it, which they did. The Borough Attorney said it is now their recommendation that the Governing Body also ratify it and it will go as an amendment or addendum to the present contract. Councilman DeSalvo said he was pretty sure it was signed before the changes were made. The Borough Attorney said he didn't make any of the changes if that is what Councilman DeSalvo was implying. Councilman DeSalvo said he didn't imply that, what he was saying was in the work-session they discussed it, it was signed and then there were a couple of changes made. The Borough Attorney said there were changes made to a copy, not the document that was signed and the purpose of the changes were for clarification by the Clerk who checked the numbers as far as the number of days that the employees had; be assured and he stated at the work-session that the document that was signed did not have any changes on it otherwise there would have been initials so that was an added document for clarification for the Governing Body's information and for informational purposes only. The Borough Attorney said as far as the original documents and those copies can certainly be retrieved, that there was not cross-outs on it and as he said before if there were they would have been initialed that is how they do it. Mayor Hipp said if he may, Borough Attorney he thinks the concern and he didn't want to speak for Councilman DeSalvo is if changes were made to a document after it was signed by the parties, were they made aware of the changes? The Borough Attorney said they were because they brought it to their attention that there weren't as many days as were listed so the Borough Clerk dutifully wanted to make the record accurate, there was no intent otherwise. Mayor Hipp said as he recalled in their session, what would happen if the Council approves it a conformed copy with the appropriate corrections will be resigned so that they have a permanent record, does everyone understand that? Councilwoman Keyes said she

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believes that was what was said at the work-session that they wanted to have a new document. The Mayor said so is the Council is prepared to move on it that night subject to the corrections? Councilman DeSalvo made a motion to accept the amendments to the DPW contract as submitted with the corrections, seconded by Councilman Genovesi.

Councilwoman Birdsall said she had no problem with the content but she would like to see the finalized document that is signed prior to approval. Councilman Genovesi said he would have to object because there was a motion on the floor. Mayor Hipp said there was a motion on the floor, but they were in discussion so that is a question that is entitled to be raised or a suggestion but he needed clarification, was the Councilwoman moving to table it. The Mayor said was it that she didn't want the Council to take action that night? Councilwoman Birdsall said no on the document that has been amended, she had no problem with the content, she understands what the numbers are, she understands the content of it but she comes from an auditing background and she has a problem signing a document as a Council or as an individual, that has changes made to it that are not initialed. The Borough Attorney said let him explain, the document he submitted did not have the changes on it, it was not necessary to have the changes on it because the purpose of a memorandum of understanding is to have the highlights; what happens afterwards is that they draft an agreement which will be subsequently ratified by the Mayor and Council; draft an agreement with the changes. He said those individuals are listed, as an example, and anyone else that is not listed, so they will utilize their time so that the intent is to adopt in principle and then they draft a contract because it is a memorandum of understanding. The Borough Attorney said a memorandum of understanding is not a contract, it is an agreement to principle perhaps that was not made clear; so it's like engaged to be engaged to borrow a phrase from Animal House; not a legal term but a colloquial term. He said the bottom line is that it was for them to ratify the agreement in principle, the final agreement will be drafted, the key is they work the holidays and so there is an extension and the pressure is off as far those who need to take their time.

Mayor Hipp said the next opportunity for the Council to visit the issue will be after the holiday in question, so he suggested if the Council will see the final document to make sure that it conformed to what they voted on that night, would that address Councilwoman Birdsall's concerns? Councilwoman Birdsall asked if the Mayor meant within the next several days to see the document. Mayor Hipp said yes, a copy could go to members of the Council but if any action was going to be taken it would have to be basically in February. Councilwoman Birdsall said she didn't want to impact the vacation, if the day is coming up then that is the understanding and she had no problem with the content she will vote to approve the content but she will not vote to have a signature on that actual document. She said she doesn't know how they could work that out, she understood it was a memorandum of agreement but it was still a legal document. The Borough Attorney said it was a memorandum of understanding, they are agreeing in principle, actually the Mayor would have ordinarily signed it, it should have it was sent out quickly but the bottom line is that they make an agreement in principle, it is not a contract, it was so they could have an addendum to the contract but they need that for the holidays that is the immediate concern and then the vacation. Mayor Hipp said to the Councilwoman that he would not sign a document like that himself, notwithstanding authority, he would either

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get initials from the original parties or they would just retype it. The Mayor said it is a form issue as opposed to a substance. The Mayor apologized to Councilman Genovesi because he knew it was going back and forth, and asked if he wanted to comment.

Councilman Genovesi said he heard enough.

Councilwoman Keyes asked what was the date of the holiday that they were talking about. February 12. She then said aren't they meeting next week. Mayor Hipp said they were having a Special Meeting on another matter. Councilwoman Keyes said they could add it to the agenda and she would be in favor of tabling it.

Councilwoman Keyes made a motion to table the motion, seconded by Councilman DeSalvo with Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall, and Councilman DeSalvo voting aye and Councilman Genovesi voted nay. Motion carried it was tabled.

Mayor Hipp asked the Borough Clerk to add it to the agenda for the Special Meeting and that the parties get together to have a fully typed corrected copy, signed by the original parties.

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For **FIRE**, Councilwoman Keyes reported for the year of 2008 she wanted to provide the public with some statistics for the Fire Department; 655 incidents, 17 structural fires, 13 vehicle fires, 25 fires with brush or trash, 325 false alarms and 233 smoke alarms, water leaks and other miscellaneous type alarms, \$160,800 estimated dollar loss, 42 mutual aid events, no civilian casualties, one firefighter injury, the total manpower hours 5,137 which does not include the training that they have, the total number of alarm responses year to date 655.

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Under the consent agenda, the following resolutions were moved by Councilwoman Keyes, seconded by Councilman Genovesi and unanimously approved on roll call:

She noted that these are a request from United Water for a water main extension and additional fire hydrants to be placed at the Spring Hill Suites Hotel on Veteran's Boulevard.

WHEREAS, Bohler Engineering has presented to United Water New Jersey with an application of extension to its distributing system running as above described and consisting of "Install 450' Pipe in Private R.O.W. from Veterans Boulevard"

The mater mains, NOW, on duly made, seconded and carried, it is:

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RESOLVED, That the said extension is made and the same hereby is approved.

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RESOLVED, that United Water New Jersey, Inc. is hereby requested to erect two (2) fire hydrants at the following designated place, to be used for fire purposes only, in accordance with the Rules and Regulations of the Company, and its rates as set forth in its Schedule of Rates filed with the New Jersey Board of Public Utilities in Newark, NJ.

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Councilwoman Keyes made a motion to accept the resignation of John Fowler from Rescue Co. 5, seconded by Councilman Sasso and unanimously approved on roll call.

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Councilwoman Keyes said in their packets they received information from Vishnu Murthy who is an Eagle Scout who went to the Council asking to proceed with his project of marking fire hydrants of which there are 275, more visual to people for example night visual markers that he was looking to have put on the hydrants. She said he met with the Fire Marshal, Fire Department as well as the Borough Clerk and he received approval from the Fire Marshal and the Fire Dept. to implement the program so he is now asking for approval from the Council.

Councilwoman Keyes made a motion requesting permission for Vishnu Murthy to proceed with his Eagle Scout project, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Councilwoman Keyes said that reports for the HEALTH DEPARTMENT and HISTORIC PRESERVATION COMMITTEE will be on file in the Borough Clerk's Office.

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For **BUILDINGS & PUBLIC UTILITIES**, Councilwoman Birdsall stated the statistics for the Building Dept. in 2008 reflected a slow but steady growth with fewer existing homes being demolished and existing structures being renovated and/or restored and the result shows that homeowners continue to improve and upgrade their property. She said for the month of December, 2008 there was a total of 95 permits issued, 418 construction inspections, with a grand total of approximately \$17,500 in revenue; for 2008 year-end report there was a slight decrease from 2007 year end of approximately \$25,900 but they did take in approximately \$524,900 for 2008. She apologized because it was actually an increase from 2007 of approximately \$10,000. Councilwoman Birdsall said for the year through Dec., 2008 there was a total of 1,802 permits issued and 6,888 construction department inspections so they were very busy. She said further detail for the report is on file for anyone who was interested.

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Under the Consent Agenda, Councilwoman Keyes made a motion to approve an air rights agreement with the property owner of 40 Park Avenue for an air ventilating system, subject to approval by the Borough Attorney, seconded by Councilman Genovesi and unanimously approved on roll call.

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For **HUMAN RESOURCES**, Councilman Sasso stated that their have been a number of activities with the Recreation Dept. that he would like to highlight. During the winter season the basketball program is in full swing, there were nine travel teams, 44 recreation teams. A new program was instituted last week on Friday evenings for High School boys for recreation basketball and there are approximately 12 boys signed up. Indoor soccer began for both boys and girls approximately 30 teams within two leagues and he didn't have the numbers for the travel indoor soccer team but they are actually held outside of Rutherford but they practice in Rutherford; the wrestling season is also underway and there are approximately 53 wrestlers that are participating in the program via the Recreation Department. Councilman Sasso said the reason he mentioned the basketball and indoor soccer was because as they know recently the Board of Ed announced potential cuts to the School Board Budget and one that was on the list that was reported both by the South Bergenite and Leader is the closure of facilities on Sundays. He said a lot of activities during the winter programs are done on Sundays, it is one that will not affect them this January, February but one that will affect them in the upcoming school year and it is one that conversations have already started with Denise Brennan and Leslie O'Keefe Superintendent of Board of Ed; it is just one of the things that everyone should be aware of because there are parents in town, coaches in town that complain about the gym time in the winter months and obviously they could see by the number of teams that use the facilities that the demand is extremely high and it is not that there are facilities that are not being used, they are used to the max.

Councilman Sasso said the four gentlemen who previously reported to the DPW now report under the Recreation Dept. They have started cleaning the Memorial Field House that includes the bathroom facilities which has gone through cleaning with painting, repair of light fixtures and ceiling tiles as well as a clean up of their own area. He said in addition to that the DPW and the Recreation Dept. request to make the necessary pre-arrangements, pre-cleaned under the sewer lines for the bathroom to be installed potentially in the gray cinder block building which is behind Kid Spot. Councilman Sasso said some may recall on or around August 1 the bathroom facility at the Kid Spot the location had, unbeknownst to anyone at Borough Hall, had become locked and coincidentally it tied into the same weekend that the locks were changed at the other facilities so some plans are being made to make an ADA compliant single person bathroom working for some time in May.

Councilman Sasso said a parent meeting was held on January 7 through the Recreation Dept. chaired by Denise Brennan inviting all the parents whose children participated in the summer recreation camp, approximately 20 parents attended and there

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was a lively discussion with several great ideas that were generated from the parents and it also stirred a conversation with the Board of Ed specifically Leslie O'Keefe to look into the use of a school during the summer months for summer camp, specifically Union School for summer camp to alleviate some pressures on rainy days that there is no place to go. He said the logistics of that are being worked out between Denise Brennan and the Board of Ed. Councilman Sasso said application for summer day camp counselors and campers will be going out very soon, interviews are schedule to begin shortly.

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Under the Consent Agenda, Councilwoman Keyes made a motion to hold the annual carnival in Memorial Field on April 21-25 approved pending compliance with applicable regulations, seconded by Councilman Genovesi and unanimously approved on roll call.

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Councilman Sasso held the resolution for Musco Lighting for the February 5 meeting because they needed clarification of the pricing.

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Councilman Sasso announced that the Borough was notified because of its proximity to 10-12 Franklin Place of a use and bulk variance permit that was brought to the Zoning Board of Adjustment.

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MAYOR'S COMMITTEE REPORT

Mayor Hipp said as a result of a need by the DOT to purchase property from Rutherford under the Route 3 bridge crossing Passaic River, and because that land is encumbered under Green Acres regulations, on March 3, 2009 there will be what is known as a scoping hearing. The Mayor said that hearing they will discuss before the public the plots of land and how DOT needs them for the project and what type of compensation is available to the Borough. Mayor Hipp said it will be an open public meeting, it will be transcribed by a certified shorthand reporter and a transcript will be made available; they will be inviting public comment and just to give some background about a year and half ago the Borough entered into an agreement to sell the land to the DOT for \$3,000 but unfortunately that violated Green Acres rights. The Mayor said so in order for the Route 3 bridge project to move forward, they are required to have the scoping hearing because it constitutes what is known as a major diversion of park land and/or land use for conservation of Borough property. Mayor Hipp said that on March 3 from 6:00-8:00 pm, he invited all to attend and to obviously have their questions and any comments.

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Mayor Hipp asked for the Council to approve the Resolution on the Borough Administrator regarding health benefits.

Councilwoman Keyes made a motion to approve the following Resolution, seconded by Councilman Sasso with Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso voting aye and Councilwoman Birdsall and Councilman DeSalvo voting nay.

Councilman Genovesi asked if they were afforded the opportunity to ask why there were nays taken. Mayor Hipp said he didn't believe that would be appropriate if they wanted to discuss it they could have done it.

WHEREAS, Borough Administrator Leslie Shenkler had entered into an agreement with the Borough of Allendale to provide medical insurance coverage through December 31, 2009, and

WHEREAS, the Borough of Allendale has determined it can no longer provide medical insurance coverage effective January 1, 2009 for Mr. Shenkler; and

WHEREAS, the Borough of Rutherford and the Borough of Allendale have engaged in negotiations to resolve this issue; and

WHEREAS, the Borough of Rutherford and the Borough of Allendale have agreed to share the cost of medical insurance coverage for Mr. Shenkler for the period of January 1, 2009 through December 31, 2009; and

WHEREAS, the Chief Financial Officer has certified or will certify the availability of funds for that purpose.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that :

1. the Borough of Rutherford will arrange for medical insurance coverage under the Borough's medical insurance plan for husband and wife for Borough Administrator Leslie Shenkler effective January 1, 2009; and

2. Borough of Allendale will provide fifty (50%) percent of the cost of medical insurance coverage for husband and wife for the period of January 1, 2009 through December 31, 2009 to the Borough of Rutherford; and

3. The Mayor and Borough Clerk are hereby authorized to enter into an agreement with the Borough of Allendale, subject to approval of counsel as to form.

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MAYOR'S APPOINTMENTS

MINUTES OF REGULAR MEETING HELD JANUARY 27, 2009

Mayor Hipp said the appointments will be broken down into two sets; the first set is going to be appointments which will not require confirmation by the Governing Body and in keeping with their discussion at the work-session, he made the following appointments to complete the Liaison assignments:

- | | | |
|----------------------------------|---|---|
| FINANCE | - | Councilwoman Inguanti
Councilwoman Keyes will continue to serve as 2 nd |
| POLICE | - | Councilman Genovesi
Councilwoman Birdsall will serve as 2 nd |
| FIRE | - | Councilwoman Keyes
Councilman Sasso will continue to serve at 2 nd |
| PUBLIC WORKS | - | Councilman DeSalvo
Councilman Genovesi will serve as 2 nd |
| BUILDING & UTILITIES- | | Councilwoman Birdsall
Councilman DeSalvo will serve as 2 nd |
| RECREATION | - | Councilman Sasso
Councilwoman Inguanti will serve as 2 nd |

Mayor Hipp said if anyone had any concerns to please see him after the meeting and he would be happy to make any changes.

Mayor Hipp said the following committees do not require confirmation by the Council and they are basically reappointments for people who have already served.

Board of Aesthetic Review

- ◇ **Police Officer William Gumbman**
- ◇ **Wilkie DeHaas**
- ◇ **Sharon DelVecchio**
- ◇ **Frank DelVecchio**
- ◇ **Geraldine Brooks**
- ◇ **Rosemary Loar**
- ◇ **Theresa Gilburn**
- ◇ **Christine Eustice**
- ◇ **Marie Fletcher**
- ◇ **Danielle Letsche**
- ◇ **Bridget Merli**
- ◇ **Mike Matthews**
- ◇ **Barbara Bennett**
- ◇ **Regina DeLuca**
- ◇ **Maureen Bigley**

- ◇ **Angelo Biviano**
- ◇ **Tom Lancaster**
- ◇ **Councilwoman Kimberly Birdsall, Liaison**

Citizens Finance Advisory Committee

- ◇ **Chris McCarthy**
- ◇ **Frank Marsico**
- ◇ **Fred Duduk**
- ◇ **Michael Scharfman**
- ◇ **Vernon Amerman**
- ◇ **Pat Kinzler**
- ◇ **James Hadrava**
- ◇ **Arie Moller**
- ◇ **Frank Wilson**
- ◇ **Mayor John Hipp**
- ◇ **Councilwoman Rose Inguanti, Liaison**

Economic Development Committee

- ◇ **Peter VanWinkle**
- ◇ **Dr. Thomas Bryant**
- ◇ **Jack Inglese**
- ◇ **Joe McAllister**
- ◇ **Dennis Holman**
- ◇ **James Hadrava**
- ◇ **Councilman Joseph DeSalvo, Liaison**

Environmental Impact & Recycling Committee

- ◇ **Sharon DelVecchio**
- ◇ **Brian O'Keefe**
- ◇ **Dr. Thomas Bryant**
- ◇ **Fred Duduk**
- ◇ **Mary Nakulak**
- ◇ **Frances McCarthy**
- ◇ **Ann Nakulak**
- ◇ **Chris Seidler**
- ◇ **Councilman Joseph DeSalvo, Liaison**

Hackensack Meadowlands Municipal Committee

- ◇ **Mayor John Hipp**

- ◇ **Margaret Schak, Alt. 1**
- ◇ **Councilwoman Rose Inguanti, Alt. 2**

Historic Preservation Committee

- ◇ **Rod Leith**
- ◇ **Robert VanWinkle**
- ◇ **Dr. Oksana Baczynskyj-Heimur**
- ◇ **Jackie Bunker-Lorenz**
- ◇ **Anne McCormick**
- ◇ **Bill Galloway**
- ◇ **Kathleen Lovatt**
- ◇ **Arie Moller**
- ◇ **Edna Huesmann**
- ◇ **Theresa Gilburn**
- ◇ **John Moe**
- ◇ **Josephine Clark**
- ◇ **Charles Ryan**
- ◇ **Councilwoman Kimberly Birdsall**

Local Emergency Planning Committee

- ◇ **Peter Parisi**
- ◇ **Mayor John Hipp**
- ◇ **Superintendent Leslie O'Keefe**
- ◇ **Fire Chief Sean Walker**
- ◇ **Construction Official John Uhl**
- ◇ **Administrator Brian O'Keefe**
- ◇ **Police Captain George Egbert**
- ◇ **Joanne Merklingshaus-Press**
- ◇ **Police Director John Thompson**
- ◇ **Kathy Hildebrand**
- ◇ **Paul Dansbach**
- ◇ **Chris Seidler**
- ◇ **Matthew Ziemkiewicz**
- ◇ **P.O. William Gumbman**
- ◇ **Councilman John Genovesi, Liaison**

Municipal Alliance

- ◇ **Leslie O'Keefe, Superintendent of Schools**
- ◇ **Jeff Doorn**
- ◇ **P.O. Al Anderson**
- ◇ **Peggy Letsche**

- ◇ **Detective Thomas Lewis**
- ◇ **Brian O’Keefe**
- ◇ **Maureen LaFaso**
- ◇ **Charlene Mariano**
- ◇ **Shelly Ahmed**
- ◇ **Ken Meister**
- ◇ **Joseph Domal**
- ◇ **Brenda Fargo**
- ◇ **Councilman John Genovesi, Liaison**

Office of Emergency Management

- ◇ **Mayor John Hipp**
- ◇ **Leslie O’Keefe, Superintendent of Schools**
- ◇ **Brian O’Keefe, Administrative Health Officer**
- ◇ **Captain Joseph Merli**
- ◇ **Captain George Egbert**
- ◇ **Construction Official John Uhl**
- ◇ **William Gumbman- Ambulance Corp.**
- ◇ **Kathy Hildebrand – Social Services Dir.**
- ◇ **Paul Dansbach – Fire Marshal**
- ◇ **Fire Chief Sean Walker**
- ◇ **Councilman John Genovesi, Liaison**
- ◇ **Carl Hassett**
- ◇ **Neil O’Hara**
- ◇ **John Gibney**
- ◇ **Jack Manzo**
- ◇ **Police Director John Thompson**

Passaic River Coalition

- ◇ **Mayor John Hipp**

Pathways to Health Committee

- ◇ **Sue Willis**
- ◇ **David Frazier**
- ◇ **Peggy Letsche**
- ◇ **Brian O’Keefe**
- ◇ **Captain George Egbert**
- ◇ **Councilwoman Maura Keyes, Liaison**

Pedestrian Safety Task Force

- ◇ P.O. William Gumbman
- ◇ Lane Biviano
- ◇ Tim Way
- ◇ Olivio Ippolito
- ◇ Councilwoman Maura Keyes, Liaison

Shade Tree Committee

- ◇ David Phillips
- ◇ Michael Schmeding
- ◇ John Tagliabue
- ◇ Steve Savitsky
- ◇ Tim Stanton
- ◇ John Hughes
- ◇ Chris Seidler
- ◇ Sharon DelVecchio
- ◇ Richard Roberts
- ◇ Mayor John Hipp
- ◇ Councilman Joseph DeSalvo, Liaison

Teterboro Airport Committee

- ◇ Mayor John Hipp
- ◇ Paul Griffo

Youth Advisory Council

- ◇ Mayor John Hipp
- ◇ Susan Muller
- ◇ Michael McGarry
- ◇ Susan Rappaport
- ◇ P.O. Al Anderson
- ◇ Michael Sheridan
- ◇ **High School Students:**
- ◇ Patrick Ross
- ◇ Ramy Youseff
- ◇ Avani Singh
- ◇ Leland Gill
- ◇ Patrick Kinzler
- ◇ Shannon Thomas
- ◇ Tom Zaorski
- ◇ Christina Jang
- ◇ Katherine Sauter

- ◇ **Anne Decker**
- ◇ **Patrick Manning**

Mayor Hipp stated that the following require confirmation:

Auxiliary Police and Church Traffic Guards

Mayor Hipp asked the reappointment of:

- ◇ **Maria Calabria**
- ◇ **Kathleen McNeill**
- ◇ **John Gibney**
- ◇ **Anthony Cunningham**
- ◇ **John Bewighouse**
- ◇ **Bert Cortes**
- ◇ **Captain George Egbert**
- ◇ **Councilman John Genovesi, Liaison**

Councilman Genovesi moved confirmation for the above individuals to be appointed to the Auxiliary Police and Church Traffic Guards, seconded by Councilwoman Keyes and unanimously approved on roll call.

Board of Adjustment

Mayor Hipp asked the appointment of:

- ◇ **Hajka Kucevic**
- ◇ **Rick Gooding**
- ◇ **Cathy Botti, Alt.**
- ◇ **Councilwoman Kimberly Birdsall, Liaison**

Councilwoman Keyes moved confirmation for the above individuals to be appointed to the Board of Adjustment, seconded by Councilwoman Inguanti with Councilwoman Keyes, Councilwoman Inguanti, Councilman DeSalvo voting aye and Councilman Genovesi, Councilman Sasso and Councilwoman Birdsall voting nay. Mayor Hipp voted yes breaking the tie.

Board of Health

Mayor Hipp asked the appointment of:

- ◇ **Theresa Gilburn**
- ◇ **Matthew Ziemkiewicz**
- ◇ **Joseph DeFazio** (to fill unexpired term)
- ◇ **Councilwoman Maura Keyes, Liaison**

Councilman Genovesi moved confirmation for the above individuals to be appointed to the Board of Health, seconded by Councilwoman Keyes and unanimously approved on roll call.

Civil Rights Commission

Mayor Hipp asked the appointment of:

- ◇ **Joseph Gilhawley**
- ◇ **Max Gaul**
- ◇ **Bill Bartels**

Councilman Genovesi moved confirmation for the above individuals to be appointed to the Civil Rights Commission, seconded by Councilwoman Birdsall with Councilman Genovesi voting aye and Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voting nay. Confirmation failed.

Library, Board of Trustees

Mayor Hipp asked the appointment of:

- ◇ **Nan Giblin**
- ◇ **Tom Bryant**

Councilman Genovesi moved confirmation for the above individuals to be appointed to the Library, Board of Trustees, seconded by Councilwoman Inguanti with Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso, and Councilman DeSalvo voting aye and Councilwoman Birdsall voting nay.

Local Assistance Board

Mayor Hipp asked the appointment of:

- ◇ **Alice McGovern**
- ◇ **Councilwoman Rose Inguanti**

Councilwoman Keyes moved confirmation for the above individuals to be appointed to the Local Assistance Board, seconded by Councilwoman Inguanti and unanimously approved on roll call.

Office of Emergency Management

Mayor Hipp asked for reappointment of Matthew Ziemkiewicz as Deputy Coordinator.

Councilman Genovesi moved confirmation for Matthew Ziemkiewicz be re-appointed as Deputy Coordinator, seconded by Councilwoman Birdsall and unanimously approved on roll call.

Planning Board

Mayor Hipp asked the appointment of:

- ◇ **Thomas Kuruc**
- ◇ **James Rizzo**
- ◇ **Rick Doren**
- ◇ **Margaret Watson, Alt. 2**

Councilwoman Keyes moved confirmation for the above appointments, seconded by Councilman DeSalvo with Councilwoman Keyes, Councilwoman Inguanti, Councilwoman Birdsall and Councilman DeSalvo voting aye and Councilman Genovesi, and Councilman Sasso voting nay.

Police Chaplain

Mayor Hipp asked the appointment of:

- ◇ **Councilman John Genovesi**

Councilman Genovesi said Police Captain Egbert and Police Director Thompson asked if he could do that should there be need when there is an unfortunate incident which the Police have to approach someone's house, that they have a representative of the Borough, specifically in the case of death to notify families.

APPOINTMENT OF PROFESSIONALS

Mayor Hipp said when he took office last year it was his judgment and continues to be his judgment that the Borough's finances were in severe financial distress having suffered through two major municipal tax increases which were double digit in total of 33%. The Mayor said one of the things he felt he could do when he took office was to appoint professionals who would do as good a job or better for less money; with respect to the auditor they didn't save that much money in fact it was about same but they actually

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came in and even though they weren't appointed to do the 2008 audit they agreed to do so in order for the Borough to get the audit in slightly out of time but certainly within the timeframe that the Local Finance Board would tolerate so the Garbarini firm worked out well for them. Mayor Hipp said with respect to the Borough Engineer, he asked for confirmation the appointment of Boswell/McClave Engineering and not only were they cheaper than the predecessors they actually came in about \$5,000 less in 2008 than their own budget.

Mayor Hipp said finally he appointed the Borough Attorney as Lane Biviano and he did it on a flat fee arrangement and he did it because not only is Lane a resident of the town and pays taxes, but he has a vast amount of experience with respect to municipal matters, he served as a Borough Administrator for many years before he became a lawyer and he was a lawyer serving public entities and boards for most of his legal career. The Mayor said he served them well, he did many things in the year which the public is not terribly aware of but in addition to doing the regular Borough Attorney services, Lane also took on a lot of the labor negotiations that were in the past given to another attorney who billed at an hourly rate. Mayor Hipp said Lane alone has saved them a lot of money, they have their legal fees in 2008 were high due to the COAH obligations that they had to undertake, the Encap matter that they had to deal with and of course the litigation involving the four police officers which finally has been resolved that evening. The Mayor said even with all of those extra requirements for legal services, their actual legal fees were well below that at the end of 2007 - in fact it was over \$50,000 so they actually did a very good job of keeping a lid on fees and costs which very often in towns are uncontrollable, the engineers wind up charging a lot of money and lawyers tend to charge a lot of money but in the case of Mr. Biviano the fees were set at \$95,000 period. The Mayor said he raised that because it came to his attention that there was an effort, he believes there is an effort to replace him and he is troubled by that, he was troubled by it because not only had he done a very good job but he did it at a very good rate and he was making the appointment of those three professionals again but if Council has concerns and problems he really wished they would have come before them and talked about it during the course of the year in a way that would have ameliorated some of the issues. Mayor Hipp said he was troubled because not only had that happened but he believes that there had been discussions amongst some members of the Council which led him to conclude that there were violations of the Open Public Meetings Act. The Mayor said what they can not do, they cannot count votes and his understanding was that there were votes against Lane and it was done pretty much last year, there may have been votes taken against one of the other professionals that he does not know. Mayor Hipp said it is important that they understand that those types of discussions cannot take place and that it is improper and inappropriate in fact it is illegal to sit there and to have those closed meetings, those discussions concerning professionals and who those appointments are under the law those matters have to be done either if it was going to be a closed session matter, it should have been done in closed session or more appropriately it should be done in the public. The Mayor said it may not be comfortable to talk about their professionals, but that is their job, they were elected there to hire people who will do a good job and while there may be other more qualified people out there who could do a good job as well, it's the people they have there and there is only one position, only one group and so what they need to do in his opinion is keep a lid on costs and keep a lid on uncontrollable run-away fees and by

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having a flat fee arrangement that guarantees against lawyers charging more. Mayor Hipp said the prior administration and the prior Council had an hourly rate attorney for the Borough Attorney and while the contract calls for \$95,000 a year with it, that was exceeded routinely by thousands in fact tens of thousands of dollars so they have saved money by taking that action. Mayor Hipp said with respect to Mr. Biviano's professional service he helped a lot and what troubles him is that he was hearing those things and he has been told that there are the votes to get rid of him, there are actually votes to get rid of Mr. Biviano, that tells him that someone was counting votes. Mayor Hipp said it was someone up there, and in fact last Friday he had an occasion to run into by chance one of the attorneys who submitted an RFQ and he basically suggested to him that he was going to be appointed by the Council. The Mayor said he was very disturbed by what he considers to be backdoor dealing on a very, very important matter and he was going to bring it to the public and he was going to bring it to the attention of the world if he had to because it is absolutely essential that they do it above board and that they do not make backdoor deals. Mayor Hipp said what ever happens that night is going to have ramifications throughout the rest of the year so with that he asked for confirmation of the Borough Engineer, Boswell Engineering.

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Councilman Genovesi moved confirmation of **Boswell Engineering** as the Borough Engineer, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Mayor Hipp asked for the reappointment of Garbarini and Company as the Auditor.

Councilman Genovesi moved confirmation of **Garbarini and Company** as the Borough Auditor, seconded by Councilman Sasso, with Councilwoman Keyes voting nay; Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso, and Councilman DeSalvo voting aye; Councilwoman Birdsall abstained.

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Mayor Hipp moved confirmation of Lane Biviano as Borough Attorney.

Councilman Genovesi moved confirmation of **Lane Biviano** as Borough Attorney, seconded by Councilman Sasso with Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voting nay; Councilman Genovesi voting aye.

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Mayor Hipp moved confirmation of the Producer and the Risk Manager re-appoint Victor Gardella, PIA.

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Councilwoman Keyes moved confirmation of **Victor Gardella, PIA** as Producer and Risk Manager, seconded by Councilwoman Inguanti with Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso and Councilman DeSalvo voting aye; Councilman Genovesi voting nay; Councilwoman Birdsall abstained.

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Mayor Hipp moved confirmation of Peter VanWinkle as Commissioner of Insurance.

Councilman Genovesi moved confirmation of **Peter VanWinkle** as Commissioner of Insurance, seconded by Councilman DeSalvo with Councilwoman Keyes, Councilwoman Inguanti and Councilman Sasso voting nay; Councilman Genovesi, Councilwoman Birdsall, Councilman DeSalvo voting aye; Mayor Hipp voting aye breaking the tie.

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ORDINANCES ON 1st READING

Councilwoman Inguanti introduced the Ordinance to create the position of Municipal Housing Liaison to comply with the segment of the Affordable Housing Plan that was submitted to the Counsel on Affordable Housing which provides for a Borough Employee to be a liaison to the Counsel on Affordable Housing. The Councilwoman said there was course work involved and a certain number of meetings they must attend, it is mandated and is required by the State. Councilwoman Inguanti asked the Clerk to read the Ordinance by title only.

The Borough Clerk read the title: **AN ORDINANCE TO CREATE THE POSITION OF MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF ADMINISTERING THE BOROUGH OF RUTHERFORD'S AFFORDABLE HOUSING PROGRAM PURSUANT TO THE FAIR HOUSING ACT.**

Councilwoman Inguanti asked for discussion among the Council.

Councilman Genovesi said that he remains against the COAH initiative being set forth by the Trenton bureaucracy led by Jon Corzine; he and his bureaucrats are continuing to put pressure on Southern Bergen County forcing the hands of residents to accept what is in his opinion a clear example of low income housing generating votes for him. He said he suggests and he understands it is being mandated upon them to create a Municipal Housing Liaison, he suggests the Council does not go further to show that they will not cave into them by assigning a Municipal Housing Liaison they are continuing to open the doors to what Trenton is forcing them to do and not only do they continue to open it they are assigning someone that is responsible to answer to bureaucratic henchmen and in this case the people who Jon Corzine had appointed to various positions over the years.

Councilwoman Birdsall said she wondered what the repercussions on submitting the COAH Plan, does it require that they have to have that position by taking that action, since

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they submitted the plan are they required to have a liaison, do they have a choice? Mayor Hipp asked to whom she was asking that question? Councilwoman Birdsall responded to the Council, to the Borough Attorney, to anyone that could answer it. Mayor Hipp said he would take a stab at it; yes the answer is basically if they were going to have a housing plan they are going to have to have a liaison.

Councilman Genovesi stated that he was going to use his second opportunity under Article 6, he would like to say he clearly stated that it was mandated that they have the position, however he said to stand up to the State and tell them no, they should have done that on the COAH plan, they could do it now. He said the threat of litigation, their going to do it to you anyway, they might as well fight them unless they don't have the will to fight them, he differs and he would not appoint anybody and he would have Jon Corzine walk into the Borough Hall up at the microphone and tell them they had to no matter what. Councilman Genovesi said that is how far he would go with it.

Mayor Hipp asked for further discussion or comment; seeing none the discussion was closed.

Councilwoman Inguanti made a motion for the Ordinance on 1st reading on the creation of the Municipal Housing Liaison, seconded by Councilwoman Keyes with Councilwoman Keyes and Councilwoman Birdsall voting aye; Councilman Genovesi, Councilwoman Inguanti and Councilman DeSalvo voting nay; Councilman Sasso abstained.

Mayor Hipp said under the by-laws as they currently exist, abstentions can only be on a conflict so he asked Councilman Sasso if there is a problem or conflict to explain that and if not he asked that Councilman Sasso take a vote.

Councilman Sasso responded nay to the vote.

Vote was then four nays, two ayes; Ordinance does not carry.

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Mayor Hipp once again opened the hearing of the citizens.

Peggy Letsche, 228 Prospect Place said she was there for the Kip Center and stated she was sorry if she missed it, but she didn't hear a liaison name for the Kip Center. Mayor Hipp said they will take care of that by the next meeting.

As no further citizens wished to speak, Mayor Hipp closed the hearing to the citizens.

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UNFINISHED BUSINESS

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Councilwoman Keyes said she had a question under unfinished business; where do they stand with the capital ordinances and the question that was supposed to be brought up to Bond Counsel? Mayor Hipp said the Bond Counsel was going to get back to Mr. Cortright he believed later that week, that was all they had.

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Councilwoman Birdsall said for the record she wanted to state her position and she thinks the position of other members of the Council, that they as well as himself, try to operate in the best interest of the citizens. She said she is new to the Council but she does consider herself part of a team and does take offense to discussions of secret meetings and those types of things. Councilwoman Birdsall said she had not had that experience at all and she thinks that they do need to forge a strong working relationship, she believes they are a strong governing body, she thinks they could do a lot of positive things for the community and she thinks it is important that they work together and not to sound "polly anna", but she does think that they need to put their focus and attention on to the large challenges that they face as a small community but also on a grander scale. She just wanted to state that for the record.

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Mayor Hipp asked for a motion to adjourn.

Councilman Genovesi moved to adjourn at 10:05 p.m., seconded by Councilman Sasso and unanimously approved on roll call.

Borough Clerk