

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, MARCH 24, 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 made the following presentations:

- RJF Competition Cheerleaders – Grand National Champions
- Woman’s Club of Rutherford in honor of their 120th Anniversary
- Woman’s History Month-March
- CROP Walk Proclamation

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Mayor Hipp opened the hearing of citizens and asked that they limit their comments to five minutes.

Al Frank, 124 Eastern Way said he was there to talk about Wall Field, he has lived there for ten years, some of them know his past comments and his problem is that Wall Field is a town park and it is not treated as a town park. Mr. Frank said no one wants to go clean the park yet baseball teams want to use it for practices, St. Mary’s Softball wants to use it for practices, soccer teams get permits to use it for practices and sometimes scrimmages. He said in the fall time leaves were not cleaned up around the field and he notices in other parks it gets done and he doesn’t know why it doesn’t get down at Wall Field. Mr. Frank said the second thing was snow removal, the sidewalks remain filled with snow for days, turns to ice and it is something he is concerned about as a taxpayer he doesn’t want to see anyone get hurt and sue the town but it seems that it got cleaned up three times during nine snowfalls and it isn’t a problem that he sees as a minor problem,

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

he sees it as a major problem with all the strap among them fiscally and they don't need someone suing them. Mr. Frank said the sidewalks are very decrepit, three sections have been lifted by trees on Eastern Way; recently they had new fences put in which was a good thing, the other problem is they need to be locked at night because there was a lot of vandalism going on, they had a situation where the man set himself on fire and if the gate was locked would he have done that, maybe or maybe not. Mr. Frank said they need to look into it a lot more to lock the gates at night, he would volunteer to lock them at night and open them in the morning but he needs to see something to start happening at Wall Field. He said a basketball hoop was ripped out two years ago and it hasn't been replaced, the kids play with one basketball hoop, he asked if that was fair. Mr. Frank said the rest of the town has full courts and they have one hoop, he doesn't think it is fair when baseball practice is needed the field is clean, they drag the dirt, get rid of the weeds, but as soon as baseball practice is over it is a forgotten thing. He said he would probably had not been up there if his daughter didn't receive a certificate because his time was very valuable but he needed to bring the situation again to light because he did it year after year and now that they had to bag leaves, he didn't mind bagging his leaves but he had no trees in front of his house. Mr. Frank said there were five trees across the street in Wall Field and he has been bagging leaves all winter long and was that fair to him or his neighbors, he didn't think so, when they were able to rake the leaves to the curb he was more than happy to volunteer his time as he went over there and raked everything into a pile so the DPW could get it but he is not going to bag it. He asked that they start to get a little perspective on Wall Field, it is a park in town and they deserve to have the field taken care of, they pay their taxes for it; it is their park on that side of town.

Councilwoman Keyes thanked Mr. Frank, she would like to say that the Borough Administrator would look into the maintenance part of his comments, along with the DPW but she wanted to add that recently the Borough Engineer went to them with another plan for Wall Field in terms of upgrading and they are waiting for the sketches of the plan and they will share that and make some decision.

Mayor Hipp said as he lives in that area too on Highland Cross and it is an area that needs to be worked on and as Councilwoman Keyes said there are plans and once preliminary ideas actually take shape they will have public hearings to provide comments. The Mayor said the idea would be to improve Wall Field, and to take better care of it.

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

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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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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Under the Consent Agenda, Council President Keyes moved approval of the Minutes of the Special Meeting of February 5, 2009, seconded by Councilman Genovesi and unanimously approved on roll call.

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3/17 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 \$1,166,579.37 from the Current Account, \$17,000.00 from the Rutherford Business Improvement Account, and \$102,105.67 from the Rutherford Trust 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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3/17 Under the Consent Agenda, Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS the Borough of Rutherford has received an overpayment of 2009 1st quarter taxes on the following property and;

WHEREAS a request has been received for a refund of this overpayment;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a check in the amount of \$1826.00 as follows and charge same to 2009 taxes.

| BLOCK | LOT | NAME & ADDRES | AMOUNT |
|--------------|------------|--|---------------|
| 194 | 23 | Monique Davis 72 Vanderburgh Avenue | \$1826.00 |

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Councilwoman Keyes moved the following Resolution, seconded by Councilwoman Birdsall. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilwoman Inguanti abstained.

RESOLVED: That bills in the amount of \$895,383.89 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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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

For, **BOROUGH ADMINISTRATOR**, Leslie Shenkler said he met with three of the four unions on budget issues and he will report to the Council later in closed session. He said as they know they have been struggling with the budget and they hope to have a budget to be ready for introduction on Thursday night.

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Councilwoman Birdsall made a motion to award contract for the energy audit to **Steven Winter Associates, \$29,887**, seconded by Councilwoman Keyes and unanimously approved on roll call:

Councilman Genovesi made a point of order; he said to clarify for the record that motion was to award a contract in the amount of \$29,887. Mayor Hipp said that was the amount \$29,887.

WHEREAS, the Borough of Rutherford has received a proposal for a Municipal / Local Government Energy Audit from Steven Winter Associates, Inc, Building Systems Consultants, and

WHEREAS, the cost of this audit is \$29,887, and

WHEREAS, the aforesaid audit is deemed to be in the best interests of the people of Rutherford,

NOW, THEREFORE BE IT RESOLVED, that the Governing Body of the Borough of Rutherford hereby confirms endorsement of this energy audit by Steven Winter Associates Inc at a cost of \$29,887 to be paid in agreement with the following terms:

- 25% at start of project
- 50% of payment when the final audit is handed in with a 60 day payment period to allow time to receive reimbursement from the State of New Jersey,
- 25% of payment within 7 days of receipt of the state reimbursement

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For, **FINANCE**, Councilwoman Inguanti said it was a busy month for Finance and for the Council in general as they had three special meetings to discuss the budget, they were productive in the sense that the Council as a whole came to a good understanding of the numbers that go together to create the municipal budget. The Councilwoman said what they were working on currently is the introduced budget which is really the start of the process in terms of windling away and refining the numbers over the course of the next couple of months and then moving to final adoption. Councilwoman Inguanti said they, the State, the Country are in a very difficult fiscal crisis and the Borough is no exception; they had significant reductions in tax revenue over the last year and they continue to be plagued by the continuing Encap problem and the failure of those tax liens to sell and the failure of the developer to pay their taxes in a timely fashion. Councilwoman Inguanti said that evening there was a report made to the Council in which

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

the Director of the NJMC Mr. Robert Ceberio suggested that the Council resolve to direct the tax collector to send bills to Wachovia Bank who are claiming that they have ownership of the property and if that was so they had a big bill to pay with Rutherford. She said the Director also was very sympathetic to Rutherford's difficulties in regards to Encap and assured the Council that he was working with his legal staff to help find solutions for Rutherford's financial difficulties so she was hopeful that while there may be assumptions made in the introduced budget they will have a resolution to those assumptions much sooner than what happened the previous year. Councilwoman Inguanti said they are endeavoring to introduce a budget that takes into account the fiscal reality, the Encap problems, they are in discussion with the employees regarding what may be required of them and they are very mindful of the economic realities that face the resident, the taxpayers. She said it is a very difficult time for many people in the community and they will try with every breath they take to try to keep the municipal tax levy as low as possible, they know people are really struggling out there and assured people they would go through the budget trying to find ways to save. Councilwoman Inguanti asked that if anyone has ideas or thoughts that they think the Council might find helpful over the coming months to help reduce costs they are open to ideas. She invited residents who had interest in finding out more about the budget there will be a meeting Thursday to introduce the budget for 2009 and there will be opportunities for the public to speak at that.

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Councilwoman Inguanti moved the following Resolution for the award of contract for the **Borough Attorney**, seconded by Councilwoman Keyes and unanimously approved on roll call:

WHEREAS, the Borough of Rutherford desires to retain a Borough Attorney, and has followed a fair and open process as required by N.J.S.A. 19:44A-20.7 to the extent that a contract has been publicly advertised in newspapers providing sufficient time to give notice in advance of the award of a contract, and said advertisement solicited proposals or qualifications and disclosed the criteria required by the Borough of Rutherford, and said proposals were received, and publicly opened and announced when awarded; and

WHEREAS, the Mayor and Council of the Borough of Rutherford have determined that the value of the contract will exceed \$17,500, and the position is an exception to the requirement for public bidding under N.J.S.A. 40A:11-5(a)(I) as a professional service; and

WHEREAS, **William T. Smith, Esq. of Hook, Smith, & Meyer of Franklin Lakes, New Jersey** has submitted a proposal indicating he will provide the legal services as Borough Attorney for the annual sum of \$95,000.00, pro rated for the period between March 1, 2009 and December 31, 2009, plus an hourly fee of \$150.00 per hour for any additional services requested by the Mayor and Council not covered under this agreement; and

WHEREAS, the Chief Financial Officer has certified, or will certify, the availability of funds as the services are rendered; and therefore

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

IT IS HEREBY RESOLVED that William T. Smith, Esq. is hereby retained as Attorney for the Borough of Rutherford, under the terms described in the agreement attached hereto and incorporated herein and the Mayor and Clerk are hereby authorized to execute said agreement;

IT IS FURTHER RESOLVED that the Borough Clerk will advertise public notice of his appointment in accordance with law, and a copy of the Professional Services Agreement authorized by this resolution shall be kept on file with the Borough Clerk and available for inspection.

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Councilwoman Inguanti moved the following Resolution for the award of contract for the **Borough Engineer**, seconded by Councilman DeSalvo. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilman Sasso voting nay:

WHEREAS, the Borough of Rutherford desires to retain a **Consulting Engineer and Planner** under a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A 20.4; and

WHEREAS, the Mayor and Council of the Borough of Rutherford have determined that the value of the contract will exceed \$17,500, and the position is an exception to the requirement for public bidding under N.J.S.A. 40A:11-5(a)(I) as a professional service; and

WHEREAS, the anticipated term of this contract is one year; and

WHEREAS, the Chief Financial Officer has certified, or will certify, the availability of funds as the services are rendered;

WHEREAS, **Boswell McClave** of South Hackensack, NJ has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee in the Borough of Rutherford in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford authorize the Mayor to enter into a contract with Boswell McClave of South Hackensack, NJ as described herein; and

BE IT FURTHER RESOLVED that the Business Disclosure Entity Disclosure Certification be placed on file with this Resolution; and

IT IS FURTHER RESOLVED that the Borough Clerk will advertise public notice of his appointment in accordance with law, and a copy of the Professional Services Agreement authorized by this resolution shall be kept on file with the Borough Clerk and available for inspection.

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

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Councilwoman Inguanti moved the following Resolution for the award of contract for the **Risk Manager**, seconded by Councilwoman Keyes. The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilman Genovesi voting nay:

WHEREAS, the Borough of Rutherford has a need for the services of a Risk Management Consultant; and

WHEREAS, that pursuant to the provisions of N.J.S.A. 19:44A-20-1 et seq. and N.J.S.A. 40A:11-1 et seq.; the Borough of Rutherford publicly advertised for responses to Requests for Qualifications (RFQ) and established specific criteria for the position of Risk Management Consultant on the Borough's website; and

WHEREAS, the Borough received two responses to the RFQ for said position which were opened in public at the Borough Clerk's Office; and

WHEREAS, upon review by the Borough Council and Borough Insurance Commissioner recommend the firm of Professional Insurance Associates of Carlstadt, NJ as Risk Management Consultant; and

WHEREAS, the anticipated term of this contract will commence from March 24, 2009 through December 31, 2009; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford hereby authorize the Mayor and Borough Clerk to enter into a contract with Professional Insurance Associates of Carlstadt, NJ as Risk Management Consultant subject to approval of the Borough Attorney at to form; and

BE IT FURTHER RESOLVED that the Borough Clerk shall place public notice of the appointment.

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Councilwoman Inguanti moved the following Resolution for the award of contract for the , seconded by Councilwoman Keyes. The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilman Genovesi voting nay:

WHEREAS, the Borough of Rutherford has a need for the services of a Risk Management Consultant; and

WHEREAS, that pursuant to the provisions of N.J.S.A. 19:44A-20-1 et seq. and N.J.S.A. 40A:11-1 et seq.; the Borough of Rutherford publicly advertised for responses to Requests for Qualifications (RFQ) and established specific criteria for the position of Risk Management Consultant on the Borough's website; and

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

WHEREAS, the Borough received two responses to the RFQ for said position which were opened in public at the Borough Clerk's Office; and

WHEREAS, upon review by the Borough Council and Borough Insurance Commissioner recommend the firm of Professional Insurance Associates of Carlstadt, NJ as Risk Management Consultant; and

WHEREAS, the anticipated term of this contract will commence from March 24, 2009 through December 31, 2009; and

NOW THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford hereby authorize the Mayor and Borough Clerk to enter into a contract with Professional Insurance Associates of Carlstadt, NJ as Risk Management Consultant subject to approval of the Borough Attorney at to form; and

BE IT FURTHER RESOLVED that the Borough Clerk shall place public notice of the appointment.

Councilwoman Inguanti moved the following Resolution for the award of contract for the **Borough Auditor**, seconded by Councilman Genovesi. The Borough Clerk read the roll call: Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilwoman Keyes, voting nay:

WHEREAS, the Borough of Rutherford desires to retain a **Borough Auditor** under a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A 20.4; and

WHEREAS, the Mayor and Council of the Borough of Rutherford have determined that the value of the contract will exceed \$17,500, and the position is an exception to the requirement for public bidding under N.J.S.A. 40A:11-5(a)(I) as a professional service; and

WHEREAS, the anticipated term of this contract is one year; and

WHEREAS, the Chief Financial Officer has certified, or will certify, the availability of funds as the services are rendered;

WHEREAS, Garbarini & Company, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any reportable contributions to a political or candidate committee in the Borough of Rutherford in the previous one year, and that the contract will prohibit him from making any reportable contributions through the term of the contract;

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford authorize the Mayor to enter into a contract with Garbarini & Company, Inc. of Carlstadt, NJ as described herein; and

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

BE IT FURTHER RESOLVED that the Business Disclosure Entity Disclosure Certification be placed on file with this Resolution; and

IT IS FURTHER RESOLVED that the Borough Clerk will advertise public notice of his appointment in accordance with law, and a copy of the Professional Services Agreement authorized by this resolution shall be kept on file with the Borough Clerk and available for inspection.

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Councilwoman Inguanti made a motion to authorize the request for qualifications for Tax Counsel, Bond Counsel and Public Defender, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to authorize the Borough Attorney and Auditor to review Letter of Intent from T-Mobil to purchase provider cell tower, seconded by Councilman Genovesi and unanimously approved on roll call.

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Councilwoman Inguanti said certain items on the 2008 Budget had unexpended balances and other accounts in 2008 had insufficient amounts to cover and the following is simply a transfer of balances to cover final costs in the 2008 budget.

Councilwoman Inguanti made a motion to approve the transfer of funds, seconded by Councilwoman Keyes. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilwoman Birdsall and Councilman DeSalvo voting aye; Councilman Sasso voting nay:

WHEREAS, certain 2008 budget accounts will have unexpended balances and other 2008 budget accounts will have sufficient amounts to cover requirements;

NOW THEREFORE BE IT RESOLVED that the following amounts be transferred to and from the accounts named:

| FROM | | TO | |
|------------------------------|--------|-----------------------------------|--------|
| Sewers – Salaries | 4,500 | Audit | 7,000 |
| Sewers _ Video Underground | 5,000 | Tax Collection Data Processing | 500 |
| Recycling – Salaries | 9,500 | Legal Costs | 15,000 |
| Shade Tree Salaries | 29,000 | Engineering Costs | 35,000 |
| Shade Tree Fertilizer | 3,000 | Board of Adjustment Legal | 5,000 |
| Shade Tree Equipment | 3,000 | Police Department Signs | 1,000 |
| Roads – Rock Salt | 15,000 | Fire Dept. Servicing fire Engines | 8,000 |
| Roads – Oil, Hydraulic Fluid | 5,000 | Solid Waste – Misc other Exp | 200 |
| Roads – Other Equipment | 1,200 | Electricity | 1,000 |
| Buildings & Grounds: | | Street Lighting | 1,550 |

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

| | | | |
|------------------------------|----------------|-------------------|----------------|
| Recreation Buildings & Gr | 8,000 | Streets Salaries | 32,000 |
| Cleaning Supplies | 3,000 | Sanitation Salary | 50 |
| Underg Storage Testing | 4,000 | | |
| Other Contractural | 7,000 | | |
| Board of Health Nurse Salary | 1,600 | | |
| Animal Control | 2,500 | | |
| Recreation Salaries | 2,000 | | |
| Continuing Education | 3,000 | | |
| Totals | 106,300 | | 106,300 |

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Councilwoman Inguanti said the following resolution was for an increase in the reserve for uncollected taxes, the Borough is averaging the years of 2005, 2006, 2007 to reflect the most optimum collection rate for the 2009 budget which will greatly assist their budget as they move forward in 2009 and she urged the Council for vote yes.

Councilwoman Inguanti made a motion to approve the increase in reserve on uncollected taxes, seconded by Councilwoman Keyes.

Councilman Genovesi asked the CFO with the 98% anticipated number that they came up with, when they do the average of the three was there a limitation that the State says that they could go that low and that high over the average? The CFO said they could go lower if they wanted but they can't go any higher than 98.3%. Councilman Genovesi asked what would happen if they lowered that to 97.5%, if those taxes were indeed paid on-time would that not create surplus? The CFO said they will discuss that in quite a bit of detail when they discuss the 2009 introduced budget but if they were to go to 97.5% they have to understand that would mean a substantial increase that would have to be put into a reserve for uncollected taxes and in the version of the introduced budget which they are going to go into in detail they are not going to assume any money going in from Encap from the 2007, 2008 taxes receivable. He said in so far as 2009 they have it within their purview to assume they will pay and use a tax collection ratio of up to 98.3% and was advocating that they do use the 98.3% in the 2009 budget because the rest of the budget is extremely conservative. Councilman Genovesi said looking at the number from last year, 97.63% so he would err on the side of caution and say 97.5% but if the CFO's recommendation was 98%. The CFO said it was not only his recommendation but they went into considerable detail he and Councilwoman Inguanti with the Borough Auditors and in as much as the scenario that they are looking at in the introduced budget is not going to assume any money coming from Encap for 2007, 2008 they would still be very conservative and use the 98.3% tax collection ratio for the introduced budget. Councilman Genovesi said the CFO was the expert.

The Borough Clerk read the roll call and unanimously approved on roll call.

WHEREAS, the Borough of Rutherford collected only 97.63% of the 2008 taxes due to a major taxpayer being delinquent in their tax payment for 2008, and

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

WHEREAS, the Borough of Rutherford's average collection percentage for the prior 3 years is 98.30%, as calculated below, and

| | <u>Collection Percentage</u> |
|----------------|----------------------------------|
| 2007 | 97.79 |
| 2006 | 98.64 |
| 2005 | 98.46 |
| tota | 294.89 |
| 3-Year Average | 98.3 |

WHEREAS, the lower percentage collected in 2008 has an effect on the "Reserve for Uncollected Taxes" in 2009, and

WHEREAS, the Governing Body desires to anticipate 98.00% collection for 2009, to help reduce the "Reserve for Uncollected Taxes", with prior written consent of the Director of Local Government Services,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Rutherford, County of Bergen, State of New Jersey, that the prior written consent of the Director of Local Government Services be requested to anticipate 98.0% collection of taxes in 2009 in figuring the "Reserve for Uncollected Taxes".

BE IT FURTHER RESOLVED that three certified copies of this resolution be forwarded to the Office of the Director of Local Government Services.

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Councilwoman Inguanti said the next resolution was providing for other details of general obligation bonds in the aggregate principle amount of up to \$10,070,500 and providing for the sale of said bonds. She said for clarification it was not new debt, it was over the course of the last few years there was a variety of debt instrument that were authorized but not issued and so they are taking advantage of the very advantageous bond rates and put those out for sale and it was their hope in doing so they will significantly reduce their debt service. Councilwoman Inguanti asked the Council to vote yes.

Councilwoman Inguanti moved the following Resolution for the sale of the bonds, seconded by Councilman Genovesi and unanimously approved on roll call:

WHEREAS, the Borough of Rutherford in the County of Bergen, New Jersey (the "Borough"), in accordance with N.J.S.A. 40A:2 1 et seq. (the "Local Bond Law"), and in particular, N.J.S.A. 40A:2-3, has determined to issue general obligation bonds authorized by the ordinances of the Borough set forth in

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

the annexed Schedule A (the "Bond Ordinances"), in order to permanently fund the capital projects authorized in the Bond Ordinances.

WHEREAS, the Borough deems it desirable and necessary to issue General Obligation Bonds in the aggregate principal amount of up to \$10,070,500 for the purposes set forth in the Bond Ordinances and it is deemed advisable and in the best interests of the Borough to provide for the sale, form and other matters in connection with the Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN NEW JERSEY, TWO-THIRDS OF THE FULL MEMBERSHIP OF THE COUNCIL VOTING AFFIRMATIVELY, AS FOLLOWS:

SECTION 1. Authority for Resolution. This resolution is adopted pursuant to the Local Bond Law, in conjunction with the Bond Ordinances, for the purpose of authorizing the issuance and sale of General Obligation Bonds of the Borough.

SECTION 2. Combination of Obligations; Authority of Sale. In accordance with the Ordinances, in order to pay the \$8,460,500 Bond Anticipation Note maturing on May 1, 2009, to provide permanent financing for costs of the various improvement projects set forth in Schedule A which have not been previously funded and to pay the costs of issuing such General Obligation Bonds, there are to be issued General Obligation Bonds of the Borough in the aggregate principal amount of up to \$10,070,500. All of said Bonds shall constitute a single issue and shall be designated "General Obligation Bonds, Series 2009".

SECTION 3. Details of Bonds. The Bonds will be issued in fully registered form. One certificate shall be issued for the aggregate principal amount of Bonds maturing in each year. Both principal of and interest on the Bonds will be payable in lawful money of the United States of America. Each certificate will be registered in the name of Cede & Co., as nominee of DTC, which will act as Securities Depository. The certificates will be on deposit with The Depository Trust Company. The Depository Trust Company will be responsible for maintaining a book entry system for recording the interests of its participants or the transfers of the interests among its participants. The participants will be responsible for maintaining records recording the beneficial ownership interests in the Bonds on behalf of individual purchasers. Individual purchases may be made in the principal amount of \$5,000 or any multiple thereof (provided that such minimum amount of the Bonds in excess of the largest principal amount thereof equaling a multiple of \$5,000 will be in the denomination of \$1,000 or any integral multiple thereof) through book entries made on the books and records of The Depository Trust Company and its participants. The Bonds will bear interest payable semiannually on the Interest Payment Dates set forth below until maturity at a rate per annum, expressed in a multiple of 1/8 or 1/20 of 1% as proposed by the successful bidder in accordance with the Notice of Sale authorized herein. The principal of and the interest on the Bonds will be paid to the Securities Depository by the Borough on the respective maturity dates and due dates and will be credited on the respective maturity dates and due dates to the participants of The Depository Trust Company as listed on the records of The Depository Trust Company as of the fifteenth day next preceding the respective Interest Payment Date or such earlier dates as may be required by The Depository Trust Company (the "Record Dates" for the Bonds).

The following matters are hereby determined with respect to the Bonds:

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Dated Date of Bonds: Date of Delivery
Interest Payment Dates: Commencing November 1, 2009 and each May 1 and November 1 thereafter until maturity on May 1, 20__ or earlier redemption of the Bonds.
Place of Payment: Cede & Co., New York, New York

SECTION 4. Redemption. The Bonds maturing prior to May 1, 2020 are not subject to redemption prior to their stated maturities. The Bonds maturing on or after May 1, 2020 are redeemable at the option of the Borough in whole or in part, on any date on or after May 1, 2019, at par, plus unpaid accrued interest to the date fixed for redemption.

SECTION 5. Payment of Bonds. The principal of and interest on the Bonds will be paid to DTC on each due date and each interest payment date.

SECTION 6. Execution of Bonds. The Bonds shall be executed in the name of the Borough by the manual or facsimile signature of the Mayor and Chief Financial Officer of the Borough and the seal of the Borough shall be affixed, imprinted, engraved or reproduced thereon and attested by the manual signature of the Borough Clerk of the Borough. If any officer whose signature appears on the Bonds ceases to hold office before the delivery of the Bonds, as the case may be, his or her signature shall nevertheless be valid and sufficient for all purposes. In addition, the Bonds may bear the signature of, or may be signed by, such persons as at the actual time of the signing of such Bonds, as the case may be, shall be the proper officers to sign such Bonds although at the date of such Bonds, as the case may be, such persons may not have been such officers.

SECTION 7. Appointment of Securities Depository. The Depository Trust Company, New York, New York ("DTC"), shall act as securities depository for the Bonds. The ownership of one fully registered bond for each maturity of the Bonds each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as nominee for DTC.

Pursuant to the book-entry only system, any person for whom a DTC Participant acquires an interest in the Bonds (the "Beneficial Owner") will not receive certificated Bonds and will not be the original owner thereof. Ownership interests in the Bonds may be purchased by or through DTC Participants. Each DTC Participant will receive a credit balance in the records of DTC in the amount of such DTC Participant's interest in the Bonds, as the case may be, which will be confirmed in accordance with DTC's standard procedures. Receipt by the Beneficial Owners (through any DTC Participant) of timely payment of principal, premium, if any, and interest on the Bonds, is subject to DTC making such payment to DTC Participants and such DTC Participants making payment to Beneficial Owners. Neither the Borough nor any Paying Agent will have any direct responsibility or obligation to such DTC Participants or the persons for whom they act as nominees for any failure of DTC to act or make any payment with respect to the Bonds.

The appropriate officers of the Borough are hereby authorized to execute Letters of Representation to DTC and such other documents as may be necessary or desirable in connection with DTC's services as securities depository.

DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the Borough and discharging its responsibilities with respect thereto under applicable

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

law. Under such circumstances the Borough shall designate a successor securities depository or deliver certificates to the beneficial owners of the Bonds, as the case may be.

SECTION 8. Ownership of Bonds. The Borough and any Paying Agent may treat and consider DTC as the holder and absolute owner of any Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of or interest thereon and for all other purposes whatsoever.

SECTION 9. Form of Bonds. Subject to the provisions of this Resolution, the Bonds shall be in initially the following form, with such omissions insertions, endorsements and variations as may be required by the circumstances and be required or permitted by this Resolution or as may be consistent with this Resolution and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto.

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Councilwoman Inguanti announced there will be a Citizens Finance Committee Meeting that week and she thanked them for taking on some research for the Borough and looking for some savings for the residents of the town.

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As Liaison to the LOCAL ASSISTANCE BOARD, Councilwoman Inguanti commended Kathy Hildebrand, they re-organized and she is a tremendous asset to the Borough, there was a situation with a person who was collecting fraudulent benefits through the County and State and had accessed some services of the Borough which was uncovered by Ms. Hildebrand. She said they have to keep in mind, while the cost savings of consolidation they also have to keep in mind that when they have local control, they have local awareness and knowledge with accuracy in rooting out in situations like that, that when they get into County control of Social Services the level of fraud tends to increase dramatically. Councilwoman Inguanti wanted to commend Kathy Hildebrand for her tremendous work ethic and the way she serves the residents of the Borough not only those who are her clients but also the taxpayers.

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For **POLICE**, Councilman Genovesi said he had two pieces of information; he was pleased to announce that after many months of hard work that Rutherford's Blue will be going Green. He said the RPD will be taking a vital first step in being the first of the Departments to incorporate green vehicles or hybrid vehicles into its fleet; the current year they will purchase their first hybrid with plans to try to convert the entire road fleet over to hybrids over the next five years. Councilman Genovesi said he first approached the PD about the project, Mr. Mayor in December in conjunction with their constant efforts to cut their Department's operating budget they saw the need to conserve fuel. He said a total team effort between the PD, Mr. Shenkler, and himself they came to the decision to purchase their first hybrid to run a one year test, they'll be keeping records of day-to-day fuel consumption and maintenance and provide the Borough with a final tally at the end of

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

the year. Councilman Genovesi said they are hopeful that the vehicle's service record shows the need to convert the entire road fleet over to hybrid; he along with Mr. Shenkler then began to work on the project flowing Mayor Hipp's green initiatives, they took it upon themselves to look for even more cost saving tactics within the PD. He thanked Mr. Mayor for his continued support on that project and also the initiatives that he set forth on green policy as regards to the Borough of Rutherford; Mr. Shenkler was able to demonstrate knowledge of the issue that was quite honestly astounding. Councilman Genovesi said they have quantified data in their possession that demonstrates the amount of fuel and service that could be saved on their road fleet; their fleet runs 24 hours a day, seven days a week, the amount of fuel consumed by the police vehicles is sizable and the new hybrid will help cut the cost to operate a single vehicle in half in regards to their fuel consumption per vehicle. He thanked Mr. Shenkler for his constant efforts in green projects and energy conservation as a means to cut cost and save taxpayer dollars within their Departments. He also wanted to thank Dir. Thompson and Capt. Egbert for their work on that project, the review of the project and the time they took to investigate and perform road tests on hybrid police vehicles currently in use in Bergen County was a key asset in reaching the decision and they are hopeful that the vehicle will deliver the fuel consumption savings numbers that they as a Government and the taxpayers demand. He said they are confident in the new venture that will make Rutherford's PD the first Dept. in Southern Bergen County to incorporate a full-time hybrid vehicle in its road fleet; while the decision of the vehicle choice lies within the Dept. itself the funding lies with the Borough Government, funding as with recent years will be delivered via a map grant from the NJMC. Councilman Genovesi said that is the mode in which they purchase their new vehicles, there will be no cost to the taxpayer of Rutherford simply savings in the form of fuel consumption management; the Council will be receiving a resolution in April for the purchase of two vehicles, one a standard Crown Victoria and a new test hybrid vehicle. He said as the vehicle will be dedicated as "unmarked" its make and model will be revealed at that date, upon purchase of the vehicles the NJMC will reimburse the Borough for the amount of the vehicle costs and he was certain that his colleagues will agree that it is the first vital step towards steering the Depts. towards green vehicles and saving fuel costs in difficult times. Councilman Genovesi said he looks forward to receiving their support in April on such an important issue and he looks forward to addressing the DPW's fuel consumption issues with Councilman DeSalvo as he knows that he was keen on checking out bio-diesel saving mechanisms for that fleet as well.

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Councilman Genovesi said residents will be happy to know, unfortunately they had a rash of break-ins not to long ago, the good news is that on March 23, 2009 at 6:00 pm with the assistance of the Newark PD Homicide Squad the Rutherford PD arrested Louis J. Cruz, 18 a Newark resident and charged him with a total of 34 criminal offenses and 4 motor vehicles summons as follows: 1 count of conspiracy to commit burglary; 2 counts of criminal attempt burglary; 1 count of criminal attempt theft; 12 counts of burglary; 7 counts of theft; 10 counts of criminal mischief; 1 count of receiving stolen property; reckless driving; driving on sidewalks; suspended driver and unlicensed driver; bail was set at \$150,000 with a 10% option by the Hon. Warren Stroedecke of Rutherford; Louis J. Cruz was remanded to the Bergen County Jail on default of bail. He said the charges stem from motor vehicle burglary spree which occurred during the early morning hours of Tuesday, March 10, 2009 with a total 14 cars being burglarized and one car was stolen

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

which was subsequently recovered by the Newark PD which was unfortunately allegedly involved in a homicide in Newark the next day. Councilman Genovesi said information developed the joint investigation between the Rutherford and Newark PD resulted in the charges filed against Louis Cruz with additional charges being filed against Junior Aurora, 23 Paterson who was currently lodged in the Essex County Jail on \$750,000 bail for robbery and homicide. He said two additional suspects are being sought out in connection with the recent rash of motor vehicle burglaries. Councilman Genovesi wanted to commend the PD for their efforts they made, the amount of great work they put into it, the community was hit hard with it and he was very proud of the work they did.

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Councilman Genovesi reported for the first two months in 2009, 1811 calls for service handled by the PD; 19 adult arrests; 5 drug arrest; 1 motor vehicle stolen; 5 DUI; 76 burglary alarms; 100 ambulances dispatches; 151 - 911 calls; 58 reportable auto accidents; summons issued parking 653 and moving 377.

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Councilman Genovesi moved 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: **St. Mary Carnival** **11 Games**

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Under the Consent Agenda, Councilwoman Keyes made a motion to increase Liquor License renewal fee, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes made a motion approved the request for the 28th Annual Crop Walk on Sunday, May 3 and to provide police assistance for traffic control, seconded by Councilman Genovesi and unanimously approved on roll call.

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Councilwoman Keyes asked the Mayor to appoint Ann Meyer, Thomas Tierney and Donna Diaz as Alternate School Traffic Guards and Marie Guillod as a permanent School Guard. So ordered.

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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

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

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION AND BOROUGH OF RUTHERFORD

WHEREAS, the State of New Jersey intends to construct Train Preemption for Traffic Signals North II Project within the Borough of Rutherford; and

WHEREAS, the project proposed by the State of New Jersey Department of Transportation may require the use of municipal police as Traffic Director for work zone safety operations supplementing the traffic control plan established under the contract for construction of the project; and

WHEREAS, the State of New Jersey Department of Transportation has requested that the Borough of Rutherford enter into a Police Agreement for use of Borough officers as Traffic Directors;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford, in Bergen County and the State of New Jersey, that the Mayor and Council are hereby authorized to execute an agreement between the State of New Jersey Department of Transportation and the Borough of Rutherford to provide Police Officers as Traffic Directors.

The costs incurred by the Borough of Rutherford for use of its officers in connection with the State construction project shall be paid directly to the Borough of Rutherford by the State of New Jersey Department of Transportation pursuant to the agreement attached hereto.

In addition, the Borough of Rutherford authorizes the following individuals to submit and execute State Payment Vouchers, PV-C, on behalf of agreement signatory. Edward Cortright, Chief Financial Officer.

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As Liaison for MUNICIPAL ALLIANCE, Councilman Genovesi said he met with Denise Brennan and discussed various projects that fall under Municipal Alliance, Denise was really a wealth of knowledge having done that in her prior town and what they would like to do over the next few weeks was come up with a plan. He said the have funding as Councilwoman Inguanti brought to their attention that it needs to be used that year so they will come up with some projects of interests which were prescription drug abuse programs for their citizens at the Kip Center to dedicate some money towards that; to reinforce the drug programs that are within the High School and the educational programs helping parents understand their relationship with their children when it comes to drugs. Councilman Genovesi said basic general awareness community programs they would like to try to make a list to dedicate that funding to.

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

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For **PUBLIC WORKS**, Councilman DeSalvo said the DPW logs for March 2009 show that between March 1st and March 24th DPW collected and dumped 425 tons of trash with an additional 32 tons collected by the street sweeper totally approximately \$36,804 in total dumping costs; they implemented their snow removal plan only once in March; applying 100 tons of salt and only 36 man-hours and hopefully that will be the last snowstorm for the year and overtime with that concern. He said the DPW is working hard at Memorial Field to remove the trailer that they approved, the rest of the trailer should be removed by the end of the week.

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Under the Consent Agenda, Councilwoman Keyes made a motion to approve the requests from 55 Kip Center to use the mini-bus on April 2nd and the request from the Old Guard on May 13th, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes made a motion to authorize the Borough Engineer to prepare bid specification for the Grand Avenue and Mortimer Avenue road reconstruction project, seconded by Councilman Genovesi and unanimously approved on roll call.

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For **FIRE**, Councilwoman Keyes reported that just that evening there was a fire at Lincoln School and the entire playground was engulfed in flames and it took about two hours with no injuries to the Fire Dept. or anyone else on the property but they have been very busy of late. Last Saturday evening they responded to another fire at Meadowlands Parkway where a chemical building was engulfed in flames and they were there for 4 ½ hours. She said the Fire Dept feels that sometimes they don't get enough credit, they are out there all the time and they put their lives on the line keeping everyone safe; one of the things that maybe the residents don't realize is that they just don't stop at going to fires they are coming and going from fires, they are constantly going out for training, they come back from training and then train the other firemen in town, they write grant requests to get additional equipment, vehicles, they're always thinking about what else they could do for the community and maybe next time they see a firemen hug them or something. Councilwoman Keyes reported their stats for the month of February; 41 incidents; 2 vehicles fires; 22 false alarms; 16 other types of alarms; estimated dollar loss of \$1,800; 236 man-hours used for the month of February.

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Under the Consent Agenda, Councilwoman Keyes made a motion to approve the request to change the April 21st Meeting to Wednesday April 22nd due to conflict with School Elections, seconded by Councilman Genovesi and unanimously approved on roll call.

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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Under the Consent Agenda, Councilwoman Keyes made a motion for the formation of a Bylaws Committee, seconded by Councilman Genovesi and unanimously approved on roll call.

Councilwoman Keyes said the formation of the Bylaws Committee was done at the work-session and the Committee that evening with the Borough Attorney and made some progress in directing him to get back to the Council with a draft of a new Bylaws paper and they should have that by the next meeting to report back to the Council.

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As Liaison for COMMUNITY DEVELOPMENT, Councilwoman Keyes introduced a resolution authorizing the grant agreement with Bergen County for the Open-Space Trust Fund for funding of \$65,000 for the Memorial Field Walkway Improvements known as Leisure Lane.

Councilwoman Keyes made a motion to approve the following Resolution, seconded by Councilwoman Inguanti.

Councilman Genovesi wanted them to clarify that it was a matching grant. Councilwoman Keyes confirmed. Councilman Genovesi said for the \$65,000 they get from the County, they will put \$65,000 in. Councilwoman Keyes responded yes it is a matching grant.

Mayor Hipp wanted to caution the Council that Leisure Lane was the recipient of Green Acres Grant Funds and if the Council had to act that night because they had 30 days to enter into that agreement otherwise they lose it but he asked if the Council did approve it that they make sure they did not run a foul of any Green Acres rights and that Green Acres be aware that monies will be used for improvement to Leisure Lane. Mayor Hipp asked that the Council authorize the Borough Attorney to make sure the I's are dotted and T's are crossed. Councilwoman Keyes said she would like the Borough Attorney to look into that.

The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso and Councilwoman Birdsall voting aye; Councilman Genovesi and Councilman DeSalvo voting nay:

BE IT RESOLVED, that the Mayor and Council of the Borough of Rutherford wishes to enter into a grant agreement with the County of Bergen for the purpose of using \$65,000 in 2009 Open Space Trust Funds for Memorial Field Walkway Improvements in the Borough of Rutherford; and

BE IT FURTHER, that the Mayor and Council hereby authorizes Les Shenkler to be a signatory to the aforesaid grant agreement; and

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Mayor Hipp to sign all County vouchers submitted in connection with the aforesaid project; and

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

BE IT FURTHER RESOLVED, that the Mayor and Council recognizes that Rutherford is liable for a dollar for dollar match for any funds awarded in accordance with the Trust requirements.

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As Liaison to the BOARD OF HEALTH, Councilwoman Keyes announced that there will be a Blood Screening Program taking place on April 24 & 25; the Health Dept. in concert with the Building Dept. have been working with the Recreation Dept and Borough Administrator to clean up the Memorial Field House. The Councilwoman said they have been working hard to try to get it up to par for the upcoming season for the children at Memorial Field which should happen pretty quickly. Councilwoman Keyes said the rabies clinic was held on March 7th . She reported that the 7/11 was inspected a number of times and has conditional marking, there were eight areas in town that received a satisfactory upon initial inspection-Kim Square, 17 Tiger, Meadowlands School Kitchen, Female Fitness, Mama Rosa Pizza, Sweet Avenue Bake Shop, Subway which was back on track, Good Health Massage Therapy; three areas in town that were conditionally satisfactory 7/11 and Krausers; two areas that received unsatisfactory food samples Arby's and Steve and Andreas and always the Health Dept. follows-up and goes back for re-inspection.

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For **BUILDINGS & PUBLIC UTILITIES**, Councilwoman Birdsall said the report will be on file with the Borough Clerk. Councilwoman Birdsall wanted to bring to the attention of the public that something the Building Dept. has been seeing, she believed it had to do with the economy was an increase in illegal tenants within the Borough which is a very dangerous situation for any of those illegal tenants such as people living in the basement presents a safety hazard for lots of different reason in particular a fire. She said that she wanted people to know that the Building Dept. is actively investigating and it is something people should be sure they have safe facilities to live in; there was about a 100% increase already for 2009.

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Under the Consent Agenda, Councilwoman Keyes moved to accept the approval from Boswell Engineering, of Studio WASA for the restoration of the WWI Monument, seconded by Councilman Genovesi and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to accept the request for award of contract for vending machines in Borough Hall to Culinary Ventures Vending, seconded by Councilman Genovesi and unanimously approved on roll call.

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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Under the Consent Agenda, Councilwoman Keyes moved to accept the request for award of contract for on-site Elevator Inspection and Plan Review Sub Code Services to NJ Technical Services, seconded by Councilman Genovesi and unanimously approved on roll call.

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As Liaison, to the BOARD OF ASTHETIC REVIEW, Councilwoman Birdsall wanted the public to know about the Arbor Day Celebration being held on April 21st at 6:30 in Sunset Park which a tree will be planted in memory of Thomas Schmeding and another tree planted in memory of Fred Bunker on the Library property.

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Councilwoman Birdsall announced that RUTHERFORD DOWNTOWN PARTNERSHIP will hold its Rutherford Clean-Up Day on April 25 9:00-12:00.

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As Liaison to the HISTORIC PRESERVATION COMMITTEE, Councilwoman Birdsall announced that they have been working on the World Way I monument.

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For **HUMAN RESOURCES**, Councilman Sasso said the winter indoor sports programs that are run through the Recreation Dept have all successfully completed; April 3rd is the Annual Easter Egg Hunt at 8:00 pm in Tamblyn Field; April 5th is the Pre-K & 2 grade Easter Egg Hunt at Tryon Field; April begins the Men's softball league for which registration has been closed and accepted; May 1 begins the summer camp sign-ups. Councilman Sasso said the summer camp which was previously held outdoors will be held indoors to avoid any kind of closures due to inclement weather.

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Councilman Sasso made a motion for the approval of the application to serve beer and wine in the Recreation Area for the Rutherford PBA Local 300 on August 22nd for the Annual PBA Family Fun Day at Memorial Field, seconded by Councilwoman Keyes. The Borough Clerk read the roll call; Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall, Councilman DeSalvo voting aye; Councilman Genovesi abstained.

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Under the Consent Agenda, Councilwoman Keyes made a motion to accept the request to hold the 8th Annual Pumpkin Run for the Lindsey Meyer Foundation on October 10th, seconded by Councilman Genovesi and unanimously approved on roll call.

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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

As Liaison to the BOARD OF EDUCATION, Councilman Sasso reminded all that the School Board Election is on April 21st for their budget.

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MAYOR'S COMMITTEE REPORT

Mayor Hipp wanted to emphasize a couple of points they face with the budget as it is a difficult economic year, there are some hard choices the Council has to make which will happen at the upcoming Thursday meeting. The Mayor wanted to re-enforce his request the public as Thursday will be a public meeting for introducing the 2009 operating budget; there will be opportunity for public comment and he asked that members of the public who were interested to take the time to attend. Mayor Hipp wanted to thank the efforts of the Borough Administrator, the CFO, members of the Citizens Finance Committee, Members of the Council for the hard work that went into the Budget. The Mayor said they had more than three Special Meetings on the subject, brought about by the good grace of Trenton which allowed them until the end of the month to adopt but they face very difficult times; Encap is one of the huge ones and in 2007 it failed to pay taxes, 2008 failed to pay taxes, 2009 it hasn't paid their taxes but it is his belief that they move aggressively toward collecting that money from wherever and whomever they could get it from as Encap is not the only entity. Mayor Hipp said they were pleased to hear that night from Robert Ceberio Executive Director of the Meadowlands Commission that as of May 3 they were going to seek an order from the Court to have the land revert back to the Meadowlands Commission pursuant to the redeveloper's agreement, that means if that works that the Commission would be owner of the property and they will pay the back taxes as well as the current taxes going forward. The Mayor said they are hopefully for May 3 even though they won't see that money then but it means that they will look forward to receiving that money some time in the current year; they also authorized the tax collector to send tax information to the Wachovia Banks with respect to a certain portion of the Encap site, western node of the northern node which received a DEP no further action letter. Mayor Hipp said apparently the Wachovia Bank consortium was under the belief that it owns the land by virtue of a mortgage; they are happy to accommodate that belief and they will send them a tax bill but he wanted the public to know that this year the money is coming in and they will do everything in their power to make sure that happens because they are not going to put that burden on the taxpayers. The Mayor said he wanted to congratulate the fine efforts that they went through and he thinks everyone on the Council is intimately aware of the issues and will be ready to vote with their conscientious on 26th and he invited all to be there.

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Mayor Hipp said there will be hearings by the Meadowlands Commission on the Highland Cross Project taking place on March 31 and April 1 and personally he couldn't resist the temptation on the April 1st night to make a comment that it was fitting and appropriate that they have the meeting but he urged all to attend; 7:00-11:00 on both evenings. The Mayor said it will be a Meadowlands Commission Hearing, it is not a hearing of the Mayor and Council, they will be in attendance as guests, they will be making the presentation. Mayor Hipp said there was a development plan implemented by the Meadowlands Commission and the Borough of Rutherford some years back in addition to

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

that the Borough entered into a redevelopment agreement with Linque Development LLC in that same time and what Linque is attempting to do is amend the development plan that was entered into by the Borough by resolution and by the Meadowlands Commission by its own resolution in 1999. Mayor Hipp said the amendment is seeking to add more options to build at the site; originally it was office and hotel now they want to expand that to housing and retail and what they are looking for is the right to build whatever the market conditions will dictate at the time they decide to build. The Mayor said he is not in favor of that kind of broad and unrestricted development plan and he thinks they should hold them to it at the same time there have been major, monumental changes in not only the local economy but the laws in the State including laws that require them to build affordable housing in a community which was provided a variety of housing through its entire history. Mayor Hipp said laws have given new and broader powers and/or obligations to the Meadowlands Commission to see to it that affordable housing takes place in the area of its jurisdiction including the powers to seize land for those purposes. The Mayor said that is how they have new and daunting realities in connection with that and he doesn't like to ruin their nights but he asks everyone in the town who has a concern, interest or a question to please take the time to attend the meetings, please attend one of them to become informed and that their voices could be heard. He said it will be a long process but they can't wait unto the end to begin to discuss it, the community needs to be involved.

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Mayor Hipp said with the Nereid Boat Club the project will continue probably in the Fall, the Council will have to deal with a couple of documents, a new lease agreement as required by Green Acres, an assumption agreement and several other matters that they will probably present them if not at the April meeting than at the May meeting. Mayor Hipp said they will be discussing it in more detail, the Borough Attorney had reviewed the documents and had been in discussion with Nereid about some of the changes, so they will be in the process of presenting the matters to the Council probably over the next 60 days.

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MAYOR'S APPOINTMENTS

Marie Guillod – School Traffic Guard

Councilman Genovesi made a motion to confirm the appointment of Marie Guillod as School Traffic Guard, seconded by Councilwoman Birdsall and unanimously approved on roll call.

Donna Diaz, Ann Meyer & Thomas Tierney – Alternate School Traffic Guards

Councilman Genovesi made a motion to confirm these appointments as Alternate School Traffic Guards, seconded by Councilwoman Inguanti and unanimously approved on roll call.

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MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

ORDINANCES ON 1st READING

Councilman Genovesi said the Borough Clerk informed the Governing Body that they could increase the fees with regards to the annual permit fee for liquor licenses which by law the State of New Jersey allows for a maximum of 20% increase per year so the Ordinance is a reflection of that.

The Borough Clerk read the title: **AN ORDINANCE AMENDING CERTAIN PORTIONS OF CHAPTER 7 OF THE CODE OF THE BOROUGH OF RUTHERFORD ENTITLED ALCOHOLIC BEVERAGES TO INCREASE CERTAIN FEES COLLECTED ANNUALLY BY THE BOROUGH OF RUTHERFORD.**

Councilman Genovesi moved that the Ordinance be passed on first reading and advertised as according to the law, seconded by Councilman DeSalvo.

Mayor Hipp opened the ordinance for discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call; unanimously approved on roll call.

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ORDINANCES ON 2nd READING

Councilwoman Inguanti said the following Ordinance was to exceed the municipal budget appropriations limits and to establish a CAP bank; the Ordinance allows the municipality, when they came in under their CAP in prior years it, to use the reserve to exceed the CAP and as long as they have the CAP bank.

The Borough Clerk read the title: **CALENDAR YEAR 2009 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:45.14)**

Councilwoman Inguanti made a motion for the Ordinance on 2nd reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the hearing to the public; as no one wished to speak the hearing was closed. Mayor Hipp asked for discussion among the Council; seeing none the discussion was closed.

The Borough Clerk read the roll call; unanimously approved on roll call.

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Councilwoman Inguanti introduced the bond ordinance in the \$644,567 for a variety of capital improvements in the budget they are utilizing unexpended fund balances primarily from 2005-2007. She was hopeful that it will help the Borough continue to maintain the Borough facilities in an appropriate way.

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Borough Clerk read the title: **BOND ORDINANCE TO AMEND THE PREVIOUS BOND ORDINANCE #3168-08 WHICH TOTALLED \$932,076 AND APPROPRIATE THE SUM OF \$644,567 FOR VARIOUS CAPITAL IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY AND TO TRANSFER UNEXPENDED BOND ORDINANCE BALANCES AND REAPPROPRIATE SAME TO FINANCE SUCH APPROPRIATION.**

Councilwoman Inguanti made a motion for the Ordinance on 2nd reading and advertised according to law, seconded by Councilwoman Keyes.

Mayor Hipp opened the hearing to the public; as no one wished to speak the hearing was closed. Mayor Hipp asked for discussion among the Council; seeing none the discussion was closed.

The Borough Clerk read the roll call; unanimously approved on roll call.

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Councilwoman Inguanti introduced the Ordinance to create the position of municipal housing liaison. She said it is a position that acts largely as a by-pass for information between the Borough, the Developer's, the Council on Affordable Housing; it is as the Mayor expressed with the Highland Cross issue the Borough is up against it she alternately wants to thumb her nose on affordable housing but then she wants to do something like she did yesterday when she read the decision out of Carlstadt and East Rutherford and it makes her blood run cold. Councilwoman Inguanti said about how much power they have given over to Trenton, to unelected judges to determine their fate and while she doesn't like to go along to get along, she thinks that it is the hill to die on. She said there will be other battles probably very soon and she thinks that it is a figure head position and she recommends they adopt the Ordinance and prepare to fight another day on the issues that are more important.

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 made a motion for the Ordinance on 2nd reading and advertised according to law, seconded by Councilwoman Keyes.

Mayor Hipp opened the hearing to the public.

Frank Wilson, 171 Montross Avenue said listening again to COAH being brought up and to Councilwoman Inguanti's statement, he didn't know how many more fights they could fight as he thinks they need to start putting their heels back and digging in. Mr. Wilson said COAH, Highland Cross needs to stop; some of them had gone on record with letters to the Editor saying they denied they don't want Highland Cross and yet they vote for Highland Cross and they vote for COAH and everything else. He said when he says he is against something he is against something, he was against Highland Cross for years and he is still against Highland Cross, they should hold them to the reason why developer's say

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

they wanted to change their agreement was because they couldn't rent office buildings; well they can't sell houses right now and everyone is getting foreclosed so why do they want to put houses and can't sell it and it will foreclose anyway so they should hold them to that end of it. Mr. Wilson said if they are going to create a position, he didn't see anything about a salary, make it a dollar as it doesn't say what they have to pay them, he had sat at meetings and never heard anything about a salary structure so to approve it with a stipulation that they give a buck and it won't hurt the taxpayers and Trenton gets what it wants and in order for it to be on record they could give a dollar.

Dennis Letsche, 228 Prospect Place wanted to thank the Governing Body on behalf of the Lindsey Meyer Foundation for the approval for the run and picnic coming up in October and they hope to see everyone there.

As no one else wished to speak the hearing was closed.

Mayor Hipp asked for discussion among the Council.

Councilman Genovesi said repeating what he said on the 1st reading and he wanted to thank Councilman DeSalvo for voting against the Ordinance. He said it is a complete shame, everybody up there knew it, they need to vote against it; this is the creation for the first time ever of a taxpayer funded real estate agent who would sit downstairs and if they are having a hard time paying taxes don't worry because that real estate guy that they are paying for is going to find someone who qualifies for affordable housing to move into the Borough. Councilman Genovesi said the problem is when they fill those affordable units those people who are living in those affordable units don't pay full share of their taxes, they pay only what the affordable unit is worth, so while they are struggling at home to pay their taxes on a house that is worth full value those people get to skate by. He said that is what is wrong with the COAH business, it's providing opportunity to people while denying it to others, so he says if Jon Corzine is so interested and so adamant about helping out people he could think of about 18,000 people in Rutherford that could use help, why not start there, why bring them in from somewhere else and put them into affordable units and have them pay less of the tax burden. He said a couple of months ago he called it a Sopranos type situation because when he watched that show he looks at the characters and he often thinks people are muscled into things, there is nothing much they could do, the guy walks in with a cigar and tells them what they are going to do or else. Councilman Genovesi said that is what Corzine is doing right now, whether any one wanted to admit it or not, the gentlemen from Heyer and Gruel who are the guys who are helping them negotiate through the murky COAH orders with the State. He said to the gentlemen the real problem is Jon Corzine, and he said no the judges are the problem; the judges are not the problem, the judges can only follow the laws that the legislature puts in place; who tells the legislature what he wants in place, it's Jon Corzine. Councilman Genovesi said that is the true problem, the root of it is Corzine's administration and his desire for those 180,000 affordable units but who pays the price is the people in towns like Rutherford and if they vote to approve that they are giving in to that and they are never going to stop and he has been telling them for what; they have been threatening them with builder's remedy lawsuits or not, they are going to sue them anyway. He said they are going to give into 800 units, they are going to want 1,200 they are going to say no and sue them anyway and the next time they'll want 2,000. Councilman Genovesi said don't use taxpayer money to create the office, don't vote for it, don't have anything to do with

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

that, the town will get sued anyway for that stuff. He said he hopes that they honestly really think about the situation instead of just sitting there saying there is nothing they could do, do something about it, so therefore he will continue to act in a responsible manner which he is against COAH, he is against high density housing and he thinks it is opening the doors to high density housing, he has said no for five years and he will continue to say to no and he says no again that night.

Councilman DeSalvo said he believes it is another requirement that the State is putting on them to basically keep backing them down into a corner and they are going to get so far down in the corner that when it comes time for them to tell what they have to build, not what they want, they are not going to ask, they are going to tell what they have to build. He said he thinks each time that they agree to give them another piece and they back down it is going to hurt them in the long run, he is opposed to that petition.

Councilwoman Birdsall said she doesn't think that anyone up there agrees with COAH, no one likes COAH, she doesn't like COAH, the Round 3 rules are unfair that is why they are being challenged legally but they can't just sit up there and not fight the fight on two fronts and she believes the Mayor said that as well. She said not creating that position, unfortunately puts them in a position of negating the entire affordable housing plan that was developed within the Committee and approved by the Council. Councilwoman Birdsall said she doesn't agree with development on Highland Cross either, unfortunately they made their statement as a community that they are against Highland Cross and now it is out of their hands; they are two separate issues. She said she doesn't want to put the Borough in a position by not creating the municipal housing liaison where they are open to losing all of their authority and she will look at the situation in Carlstadt, because it was a significant case and they can't negate legislation or the cases that had gone up to court in those communities have lost and she doesn't think it is fair to put the Borough in the position for further legal challenges. Councilwoman Birdsall said she is happy they are part of challenging the Round 3 COAH rules within the League of Municipalities and she thinks that they have to operate in good faith until that challenge is completed and she doesn't believe it is giving in but she believes now that they are playing by the unfair rules that they have to play by in order to accomplish what they want to in the end. She said based on that she doesn't want to negate what protects them from the builder's remedy lawsuits, she thinks they have to create that position just for protection.

Councilwoman Inguanti said she totally appreciates the passion that Councilman Genovesi brought to the table and Councilman DeSalvo. The municipal housing liaison does not necessarily require a taxpayer salary schedule to be created but what is more troubling to her is further down on the list which is the requirement for an administrative agent. She said what COAH told them is they could pay that person out of the fees collected on a yearly basis for the affordable housing by the developer but what is problematic is that for commercial fees 2.5% have been suspended or they are contemplating suspending them. Councilwoman Inguanti said the biggest problem that they face as a Borough is that the affordable housing plan passed by the Planning Board and the Council then passed subsequent to that anticipated using those fees to engage in some necessary functions in Rutherford in terms of rehabilitation of properties and buy down, rent down situations that help get properties that need some help with the funding that need to get improved. She said unfortunately if the legislature engages in what it is contemplating in terms of suspending the fee they want to put language into the

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

requirements for certification that the Council is obligated to bond to make up any short fall so when she talks about the battles that are coming it's on those fronts that she thinks they have to take a stand and at that point the most effective tool they have is to have to stall in terms of certain decisions they make. Councilwoman Inguanti said the people who appoint the judges matter and they get to decide that in November and she would encourage everyone who is concerned about the local character and the neighborhood feel of Rutherford to avail themselves of reading the TOMU decision because in that decision Judge Harris quotes the Chief Justice from the Mt. Laurel decision in which the Chief Justice says the government controls the land, all the land and that is what they are up against. She said the previous Courts and certainly Judge Harris is an activist judge who is using his authority as a judge to force communities by whatever means necessary to do what he thinks is best for the people of the State, he has total disregard for the character of the community and the fact that in places like Carlstadt, East Rutherford and Rutherford, they have always taken care of their own regardless of race, creed, color, they have always provided for their own. Councilwoman Inguanti said they would continue to do that without the top down management, with that said she doesn't think that is the battle to pick, she thinks the other battles she mentioned are very soon and she thinks that is the time to act aggressively on behalf of the residents.

Councilwoman Keyes said it seems like some of them are saying all the same things but the Ordinance should be looked at as nothing more than protection for the Borough and it is protection against what happened to their neighbors in East Rutherford and Carlstadt and she would encourage them to pass it along.

Mayor Hipp said he had spoken of that Ordinance before and he does sadly and unfortunately feel compelled to ask the Council to adopt the Ordinance. The Mayor said it is not simply buying time, unfortunately they are in a battle, a war with affordable housing advocates, they have unfortunately, the judges and the legislature on their side and until that changes, they are going to have to do things to protect themselves. Mayor Hipp said it doesn't mean they are embracing the idea of social engineering which was being imposed on them, it doesn't mean by their actions if the Council adopts the Ordinance, they are in favor of placing additional burden on the hard working taxpayers but they are in favor of protecting the town and protecting the residents and allowing them to continue the battle.

Mayor Hipp said that at the end of April, he and other Mayor's of the State of New Jersey will be gathering in Atlantic City for the Mayor's Conference and the top issue that will be discussed will be affordable housing and affordable development in the communities. They will be talking with the Governor, with his Cabinet, with State Legislatures, and they will be letting their voices be heard that it has to change. The Mayor said they will continue to fight that battle and they will coordinate their efforts with other communities; they will get buses if they have to down to Trenton to send the message they will do that because it is important that everyone realize that they cannot solve the problems of the economy, the problems of the poor, the problems that they all face by the social engineering way of creating subsidized housing for thousands of people so that the rest of the taxpayers, those of them who have to pay their own share and the share of everyone else. Mayor Hipp said he thinks there is a better way but they need the critical mass of communities and citizens of the State to affect that change otherwise it won't happen so they will be reporting more on that next month after he attends. Mayor

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

Hipp said he wanted the public to know that they are aggressively moving, it is not just simply joining a lawsuit opposing the Round 3 regulations, it is also a matter of talking to the elected officials, appointed officials and getting the changes made. Mayor Hipp said he urge that all members of the Council vote in a united effort so that they could show a strong front and he asked for the adoption of the Ordinance.

No further discussion was requested; the discussion was closed.

The Borough Clerk read the roll call; Councilwoman Keyes, Councilwoman Inguanti and Councilwoman Birdsall voting aye; Councilman Genovesi, Councilman Sasso and Councilman DeSalvo voting nay. Mayor Hipp voted aye - Motion carried.

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Councilman DeSalvo introduced the amendment to the Solid Waste Ordinance to comply with the New Jersey mandatory recycling act to provide environmental benefits.

The Borough Clerk read the title: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 82A ENTITLED RECYCLING.**

Councilman DeSalvo made a motion for the Ordinance on 2nd reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the hearing to the public; as no one wished to speak the hearing was closed. Mayor Hipp asked for discussion among the Council; seeing none the discussion was closed.

The Borough Clerk read the roll call; unanimously approved on roll call.

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Mayor Hipp opened the hearing of the citizens; As no citizens wished to speak, Mayor Hipp closed the hearing to the citizens.

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Councilwoman Birdsall stated that they had a good turn-out for the first Citizen's Round Table that took place the previous Saturday approximately 25 residents, they discussed the pros and cons of the community, they categorized them into five committees and anyone who wished to attend there is another one scheduled for this Saturday from 10:00 till noon. She said they will be dividing out into five working groups in order to work through the process of prioritization and developing plans of actions and perhaps brainstorming on different ideas on how to turn negative aspects of the community into positive aspects. Councilwoman Birdsall said she believes it was very well received, she thanked all the residents who turned out and hopefully they will have a few more faces on Saturday. She said she would have a written report for the members of the Governing Body.

MINUTES OF REGULAR MEETING HELD MARCH 24, 2009

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Councilman DeSalvo moved the following resolution for a closed session, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS, the Open Public Meetings Act requires that a public body adopt a resolution at an open meeting before going into closed session to discuss a matter which excludes the public as permitted under the Act:

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford will hold a closed meeting on Tuesday, March 24, 2009 at 10:10 p.m. in the Committee of the Whole Room to discuss the following matter:

- Review of Closed Session Minutes
- Discussions of NJAC 4A:8 - Layoffs
- Reappointment of Redevelopment Special Counsel
- Potential Litigation regarding Highland Cross

The meeting re-convened to open session 11:45 p.m.

There being no further business, Councilwoman Keyes moved to adjourn at 11:46 p.m., seconded by Councilwoman Birdsall and unanimously approved on roll call.

Borough Clerk