

MINUTES OF A REGULAR MEETING HELD TUESDAY, MAY 22, 2007

MINUTES OF A REGULAR MEETING OF THE MAYOR AND COUNCIL HELD TUESDAY, MAY 22, 2007

The meeting was called to order by Mayor McPherson at 8:10 p.m. with the following Councilmembers present:

Councilman Reyes
Councilwoman Keyes
Councilman Frazier
Councilman Sommer
Councilman Genovesi

Councilman Fecanin - absent

Mayor McPherson asked those present to join her in a salute to the flag followed by a moment of silent prayer.

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Mayor McPherson made the following presentations:

- Unveiling of Mayor's Portraits
- In memory of Helen Matthies
- RHS Interact Club – Honoree: "USA Make a Difference Award"
- Crop Walk
- Lion's Club of Rutherford
- Emergency Medical Services Week – May 20th – 26th
- "Putting the Pieces Together" – Williams Center

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Council President Reyes read the provisions of the Open Public Meetings Law.

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Mayor McPherson opened the hearing of citizens.

Frank Wilson, 171 Montross Avenue – Mr. Wilson said that the presentation given tonight to the Williams Center in regards to children with autism is a great thing that the Williams Center has done and everybody that has been involved with this really needs to be recognized. He said the children need to come first and this really touched him. He said he wanted to make a point that if we could do more we should do more.

Mr. Wilson asked Councilwoman Keyes in regards to the budget about the 20% that each department was going to cut and if that had been accomplished.

Councilwoman Keyes responded that the 20% asked of the Department Heads to revisit was already included in that number that was given out at the last meeting which was about 15%. She said that this number has changed again and she will talk about such in her report.

As no further citizen wished to speak, Mayor McPherson closed the hearing of citizens.

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Councilman Reyes made a motion to move that all the items on the Consent Agenda be passed, seconded by Councilman Frazier with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved approval of the minutes of the regular meeting of May 1, 2007, seconded by Councilman Frazier with all members present voting aye.

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5/15 Under the Consent Agenda, Councilman Frazier moved the following resolution, seconded by Councilwoman Keyes with all members present voting aye:

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

1. In the amount of \$75.00 payable to Ursula Klim – refund for Circuit Training Class.
2. In the amount of \$860.00 payable to Carmine's – deposit for trip on 6/14.
3. In the amount of \$1,296.75 payable to USATF-NJ – payment for Track & Field participants.
4. In the amount of \$2,775.00 payable to MSG Group Sales – payment for Radio City tickets.
5. In the amount of \$75.00 payable to Vanessa Warner – refund for Mom & Me Class.
6. In the amount of \$75.00 payable to Bettina Santiago – refund for Mom & Me Class.
7. In the amount of \$85.00 payable to Kelly Rios – refund for Mom & Me Class.

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier with all members present voting aye:

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

1. In the amount of \$150.00 payable to Rutherford Golden Age – payment towards Golden Age Picnic.
2. In the amount of \$85.00 payable to Wendy Armacost for a recreation refund.

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5/15 Under the Consent Agenda, Councilman Frazier moved the following Resolution, seconded by Councilwoman Keyes with all members present voting aye:

RESOLVED: That bills in the amount of \$3,379,364.76 payable from the Current Account, \$186,678.03 payable from Trust Account and \$10,000 from the Rutherford Business Improvement Account all as detailed as follows on the attached sheets be passed for payment, warrants drawn and charged to the proper account. A complete list of these bills is on file with the Borough Clerk.

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier with all members present voting aye:

RESOLVED: That bills in the amount of \$1,054,165.38 payable from the Current Account, and \$100.00 from the Public Assistance Trust Fund #1 all as detailed as follows on

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the attached sheets be passed for payment, warrants drawn and charged to the proper account. A complete list of these bills is on file with the Borough Clerk.

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For **FINANCE**, Councilwoman Keyes said that she wanted to briefly touch upon the budget again, they introduced the preliminary budget at about a 24% increase and through their diligent and hard work, which is still ongoing, they are right now at about 12%. She said it is their goal to be in the single digits and she prays that they get there. Councilwoman Keyes added that they continue to receive grant money; a couple of items that have come in since the last meeting - \$129,653 for Community Development which was an application put forward for repair and restructuring of the Williams Plaza, which is in dire need, it won't cover the entire cost but it is a nice chunk and it is also the largest allocation that the County, (through Federal Funds) granted to any Municipality in the Meadowlands District. Councilwoman Keyes also said that they received \$18,000 in the Clean Community Grant Money and \$4,000 for the Click It or Ticket Grant Money.

Councilwoman Keyes asked the Mayor to open the public hearing on the 2007 Municipal Budget.

In continuing with the hearing on the Municipal Budget, Mayor McPherson asked if there was anyone who wished to address the Council on the Municipal Budget. As no one wished to speak, Mayor McPherson said that the hearing on the 2007 Budget will remain open. Mayor McPherson said that Councilwoman Keyes mentioned prayer and that is a good thing but asked her not to under-mind her own efforts because she has worked very hard as an advocate for the Borough and the Williams Center grant is an example of that, one of many.

Councilwoman Keyes introduced Bond Counsel Mr. Baumann and asked him to update them on the restructuring of the debt. She said that they have had meetings, in the worksession and at the last meeting, the Bond Counsel, as well as the auditors approached them with a restructuring program and they have had to tweak a little bit going forward and she asked Mr. Baumann to address this.

Mr. Baumann said as he mentioned in the last meeting, they have been working on this restructuring for approximately two months, beginning with the discussion with the Bergen County Improvement Authority, an application was submitted by them on our behalf together with a number of issues. He said subsequent to that meeting the Mayor, himself and members of the staff went down to the Local Finance Board to discuss the application with them and to discuss what was the best way to tackle the restructuring, the goal for the beginning is to take that 24% tax increase in the introduced budget and get it down to something that is much more reasonable for the taxpayers. Mr. Baumann said that as a result of that meeting with the Local Finance Board it was recommended that they resubmit an application which is going in tomorrow, which he is working on as we speak. He said the ordinance will be introduced tonight, the Local Finance Board will hear that application in June and then the ordinance can be adopted afterwards, assuming they get positive approval of the Local Finance Board. Mr. Baumann said that fundamentally what they are trying to accomplish between this restructuring and the other ordinance that purchases a number of vehicles and equipment that are on leases is to achieve approximately between 1.2 and 1.5 million dollars in budget savings this year. Additional savings next year and some the year after that. He said that they are basically restructuring the debt, reducing it this year, moving some of it into the future, with the goal of having a net impact in today's dollars to the Borough and the taxpayers.

Mr. Baumann said he has roughly the cost of issuance, nothing more, nothing less meaning the lower interest rates on the new bonds versus the higher interest rates on the old bonds which does exist on most of them. He said there is an interest rate savings that they are trying to get as close to zero, but there will be some as in value of today's dollar cost but there will be a substantial cash flow benefit in this year's budget, next year's budget and that is impacted by future increases. Mr. Baumann said they are now working on a five year, not just thinking about today, but also about the next four or five years. He said with the Chief Financial Officer, Administrator and Mayor, they have worked on a five year fiscal plan to show how this change in the debt service over the next five years can be

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absorbed through additional cost cutting measures, careful eye on the budget, future development that they've identified by the tax assessor to see what those future ratables will be.

Mr. Baumann said that he also wanted to point out that for the time being, they are continuing, not reserving anything for the benefit of the EnCap project. He said they are trying to leave that off the table while they believe that it can be a substantial development in the future, for the time being they are not considering that in this analysis whatsoever. Mr. Baumann said this is the most conservative approach they think they can take, it is designed to take that 24% tax increase which is now down to 11 or 12%, with this restructuring and hopefully even further lower for today, they are looking at next year's rates as well and they are trying to blend that into the future growth cost cutting measures and ratables that will come out over the next four to five years.

Mayor McPherson thanked Mr. Baumann. Councilwoman Keyes asked that for the next meeting if Mr. Baumann provide them with a spreadsheet with the obligations and how far they go out. Mr. Baumann responded that they will and that tomorrow they will have finished, in time for filing, not only this projection but also the five year. Councilwoman Keyes said that she would like to see the comparison of the restructuring and no restructuring to which Mr. Baumann replied he will show such on the spreadsheet.

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier with all members present voting aye:

RESOLVED: that the following list of Capital Project as delineated constitute the 2007 Capital Budget for the Borough of Rutherford:

2007 CAPITAL BUDGET IMPROVEMENTS				
	TOTAL OF	FUNDED BY	FUNDED BY	FUNDED BY
PROJECT	PROJECT	BCIA	BONDS	GRANTS
LIBRARY				
Preliminary Costs for Grant Funding	11,000.00		11,000.00	
Fix Library Facade	5,000.00		5,000.00	
DEPARTMENT OF PUBLIC WORKS				
3/4 Ton Pick-up with Plow	40,000.00		40,000.00	
10 Cubic Yd Dump with Plow & Salter	110,000.00		110,000.00	
High Pressure Washer	13,229.00		13,229.00	
Mini Bus	100,000.00			100,000.00
Handicapped Ramps	80,426.00			80,426.00
ROAD PROJECTS				
Vanderburg Grant - Matching Funds	130,228.00		130,228.00	
Add'l for 2006 Road Bid	447,000.00		447,000.00	
Various Emergency Sewer Repairs - Morse Ave	15,000.00		15,000.00	
" " " " Grove & Wash.	7,230.00		7,230.00	
" " " " Route 3	7,000.00		7,000.00	
Pierrepont Ave. Drainage	40,000.00		40,000.00	
Mortimer Ave. Imp	150,000.00			150,000.00
Fairview	100,000.00			100,000.00
POLICE DEPARTMENT				
Radio System	160,252.00		160,252.00	
Emergency Equipment	5,000.00			5,000.00
Body Armor	4,035.00			4,035.00
RECREATION				

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Diamond 2, 3 Replace Back stop	20,000.00		20,000.00	
Diamond 5, 6 replace Fencing	30,000.00		30,000.00	
Sunset Park Improvements	265,340.00		265,340.00	
Little League Drainage	8,000.00		8,000.00	
FIRE DEPARTMENT				
Portable Radios & Pagers	26,940.00		26,940.00	
Gear, Bunker Boots, Helmets	30,650.00		30,650.00	
OTHER MAJOR IMP TO BLDGS & GROUNDS				
Master Plan	50,000.00			50,000.00
CAPITAL ENGINEERING				
For Library HVAC	236,000.00		236,000.00	
All Other	100,000.00		100,000.00	
BOND SALE COSTS				
	15,000.00		15,000.00	
GRAND TOTAL	2,343,830.00		1,854,369.00	489,461.00
Funded By:				
Capital Improvement Fund	92,369.00			
Bonds	1,762,000.00			
Grants	489,461.00			
Grand Total	2,343,830.00			

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier with all members present voting aye:

WHEREAS, the Mayor and Council of the Borough of Rutherford have been advised of the proposed amended settlement of a Tax Appeal on behalf of Margaret F. Nisi and Frank P. Nisi under Docket Nos.: 006398-2005 and 008442-2006 for the years 2005 and 2006; 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 of 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 Keyes said that the committee reports are on file with the Borough Clerk.

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For **POLICE**, Councilman Frazier stated that in addition to the monthly report being on file in the Borough Clerk's office with 1,440 calls police responded to during the month of April and 725 summonses were issued.

Councilman Frazier wished to thank the Chief of Police and the entire Police Department for the outstanding work they have done in regards to the recent incident that occurred in Rutherford.

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5/15 Under the consent agenda, Councilman Frazier moved the following Resolution, seconded by Councilwoman Keyes with all members present voting aye:

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

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

**Rutherford Elk's Club
Rutherford Elk's Club**

**On-Premise 50/50 Raffle
Tricky Tray**

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Under the Consent Agenda, Councilman Reyes moved to accept awarding a two-year contract to Verizon Wireless for Panasonic Toughbooks for use by the Police Department at a total cost of \$10,080., seconded by Councilman Frazier with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved to authorize the Borough Attorney to draft an ordinance restricting trucks over 4 tons on Marginal Road, seconded by Councilman Frazier with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes made a motion to authorize the Borough Attorney to draft an ordinance increasing the renewal fees for liquor license renewals, seconded by Councilman Frazier, with all members present voting aye.

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For **PUBLIC WORKS**, Councilman Reyes said that these reports are on file in the Borough Clerk's Office.

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Under the Consent Agenda, Councilman Reyes moved authorization to request to advertise bids for the 2006 capital budget items as follows: adult mini bus, 2 sanitation trucks, vacuum catch basin cleaner, 2 sweepers and 2 salt spreaders, seconded by Councilman Frazier, with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved to authorize the Borough Attorney to review the Solid Waster Service Agreement and the Borough Administrator to execute same, seconded by Councilman Frazier, with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved to authorize a one year contract with Zazzaro Brothers, Inc. for the Recycling Agreement, seconded by Councilman Frazier, with all members present voting aye.

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Councilman Reyes advised of memo from Superintendent Chris Seidler with recommendations for summer help at DPW.

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For **FIRE**, Councilman Reyes stated that he would like to thank the members of the Historic Preservation Committee for their work, as well as Mayor McPherson's, in regards to the Borough Mayor's portraits that were unveiled tonight. He went onto say that Helen Matthies was one of the best parliamentarians and noted that they are going to miss her. Councilman Reyes reminded all that May is National Historic Preservation Month and said that Bergen County recently presented Rutherford, once again with a proclamation for the educational series of the 125th Anniversary which was submitted by Jackie Bunker. He thanked Ms. Bunker and all who served on the 125th Anniversary Committee for their efforts.

Councilman Reyes said that the Fire Department Report is on file with the Borough Clerk. He said that there was 167 incidents: two structural, one vehicle, five other types of fires; one firefighter was injured with a minor injury treated at the scene.

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Councilman Reyes asked the Borough Attorney to comment on the ordinance regarding convenience stores. The Borough Attorney said that she wanted to let the public know, per the direction of the Mayor and Council that she has continued to do the research and handle the matter involving the 110 Jackson Avenue property, 112 Jackson Avenue property, as well as, the 24 hour convenience store prohibition that the Council has on the agenda for consideration tonight. She said with respect to the 24 hour convenience store ordinance, she thinks that we will hear from the Councilmembers as to their motivations, but the bottom line is that the ordinance was introduced as an exercise of both the zoning power and the police power of the Borough of Rutherford and this Council. The Borough Attorney stated that it is a reaction to concerns involving both residential impact as well as the possibility for activities that might border along the line of trespass or public nuisance and the like. She said that will have a second reading this evening, there will be a public hearing at that point.

The Borough Attorney said she has consulted with the Borough Fire Official, Construction Official and Borough Administrator and has done research that is necessary for the convenience store operation and the introduction of that ordinance and the main issue is that there are building permits issued for the two uses that are present at the property of 110 Jackson Avenue and they will result in the issuance of COs assuming that all of the requirements are met. The Borough Attorney said that currently it is her understanding from the Building Department that the 20 or 30 so requirements for the CO for the 7-Eleven have been met. She said there is a legal provision that involves the planning board resolution that exists, which many know about and the easements that exist. The Borough Attorney said that the property owners have reached a settlement with respect to that over the course of last Friday, yesterday and this morning with substantial conferences, they have submitted the legal documentation that is appropriate to make a decision that the easement is not violated with respect to the steel staircase that has been installed. She said that moreover the Borough Fire Marshall went down to the property and had confirmed that the steel staircase, which is a requirement for the second floor, (the allegation that it

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involved the easement however was for the first floor and the four fire doors in the back side of the property as well as the neighboring property) meets the fire codes and there is no safety violation because of the installation of the steel staircase. This removes the last hinderance to issuance of the CO as far as she knows for the 7-Eleven. She said that she expects that the one last legal piece of paper that she will need will be in her hands tomorrow and she expects that the 7-Eleven will open once the CO has been issued and she is sure in respect to the day care, they are proceeding as well and that the CO will be issued.

The Borough Attorney said that one last important factor she would like to make the public aware of is that all of our Borough Officials, herself, the people she has mentioned, Chief Nienstedt and the Traffic Coordinator, is that one of the main concerns that developed from the ensuing investigation of this property was the fact that the two uses: the day care use on the upstairs and the 7-Eleven downstairs both permitting uses allowable under our zoning, but they generate a coming/go type of traffic in the morning and the concern is that day care mothers are going to drop off their children in that congested parking lot when in fact 7-Eleven will expect to have a heavy volume of traffic. She said that they looked at different analysis for whether or not there should be a drop-off zone for the parents, whether or not there should be restricted parking in some manner and they will continue to investigate that, but the investigation resulted that there should not be, through our Traffic Coordinator, a specific drop off zone because it would create more of a hazard. The Borough Attorney said at this point once the COs are issued and the two uses are in fact in operation our Traffic Coordinator will continue to monitor the Jackson Avenue traffic at the traffic light, the Union Avenue traffic at the traffic light as well as the parking situation within the two parking lots that share the easement. She said that part of the resolution settlement between the property owners, one of which is present here tonight, is that they are going to continue to cooperate with the existing easement, which is an easement for the cross properties for use of the parking and the traffic and in the Borough's opinion that is very important for the safety of the children.

Councilman Reyes stated that concluded his report. Mayor McPherson said that she and the Council directed that legal review and research be done as to what action, if any, the Borough could take in terms of the 7-Eleven. She said just to summarize as reported, there can be no delay on the Borough's part in terms of issuing the CO. The Borough Attorney said that the Borough, nor any municipality in this United States of America, can legislate as to the right to open a business, the right to have free trade and competition. She said that is pretty much what America is all about, there is nothing legal that can be done to stop a deli use from being located next to another deli use. The Borough Attorney said that legally they will do nothing further on that point, legally she has done easement issues and substantiated our file. The Council has taken the action with respect to protecting the neighborhood which is most of the Borough we have allowed convenience stores on Rte. 17 to remain all night should they choose to. She said that within the Borough proper which is mainly residential, we have legislated and it is up for second reading tonight.

Mayor McPherson asked the Council if they had any further questions. As no further questions were asked, that concluded the report.

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Under the Consent Agenda, Councilman Reyes moved the request to take Engine Co. 4 out of town to the Meadowlands Sports Complex on May 20th , seconded by Councilman Frazier, with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved the request to take Rescue No. 5 out of town May 28th to pay respects to fallen brothers, seconded by Councilman Frazier, with all members present voting aye.

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As Liaison to the **Library**, under the Consent Agenda, Councilman Reyes request acceptance of letter of resignation from Larry Mango from the Library Board of Trustees seconded by Councilman Frazier, with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier, with all members present voting aye:

WHEREAS, the Borough of Rutherford released a public bid for construction and installation of an HVAC system on two separate occasions;

WHEREAS, both public bid solicitations resulted in pricing above the available funding;

WHEREAS, the Borough Administrator has engaged in negotiations with the bidder, Envirocon, and has agreed upon a contract amount of \$1,365,000.00 for completion of all of the services defined in the public bid document as the Base Bid

WHEREAS, Envirocon has previously agreed to hold to contract price at \$1,365,000.00 until May 1, 2007;

WHEREAS, the Mayor and Council did award this contract pursuant to oral motion and consent vote on April 17, 2007;

WHEREAS, a Certification of availability of funds by Edward Cortright, Borough Chief Financial Officer has been received for this award;

NOW THEREFORE, be it resolved by the Mayor and Council of the Borough of Rutherford as follows:

1. The negotiated contract for the construction and installation of the HVAC system at the Borough of Rutherford's main library located on Park Avenue, Rutherford, NJ, as detailed in the previously-released bid documents, be and is hereby awarded to Envirocon, to perform all of the services detailed in the Base Bid, in the amount of \$1,365,000.00;

2. The line item contingency fee in the amount of \$65,000.00 be and is hereby approved;

3. The Borough Engineer is directed to provide a 30-hour-per-week inspection, supervision, and engineering services for the HVAC contract, such services to be rendered by Schoor DePalma for the sum of \$236,000.00.

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As Liaison to the **Meadowlands Municipal Committee**, under the Consent Agenda, Councilman Reyes moved to authorize the Borough Attorney to review the request for temporary site access by NJMC, seconded by Councilman Frazier, with all members present voting aye.

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As Liaison to the **Civil Rights Commission**, under the Consent Agenda, Councilman Reyes moved to accept the request to move the Multicultural Festival from Lincoln Park to the Williams Plaza on September 29, 2007, seconded by Councilman Frazier, with all members present voting aye.

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Under the Consent Agenda, Councilman Reyes moved the following Resolution, seconded by Councilman Frazier will all members present voting aye:

WHEREAS, scientific consensus has developed that carbon dioxide (CO₂) and other greenhouse gases released into the atmosphere have a profound effect on the Earth's climate; **and**

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WHEREAS, in 2006 the U.S. National Climate Data Center confirmed clear evidence of human influences on climate due to changes in greenhouse gases; **and**

WHEREAS, the U.S. Conference of mayors endorsed the 2005 U.S. Mayor's Climate Protection Agreement initiated by Seattle Mayor Nickels and signed by 435 mayors in the United States as of April 2007; **and**

WHEREAS, the Urban Environmental Accords adopted by local government delegated during UN World Environment Day 2005 call for reduced emissions through energy efficiency, land use and transportation planning, waste reduction, and wiser energy management; **and**

WHEREAS, in 2003 the American Geophysical Union adopted a Statement noting that human activities are increasingly altering the Earth's climate and that natural influences cannot explain the rapid increase in near-surface temperatures observed during the second half of the 20th century; **and**

WHEREAS, in 2001, at the request of the Administration, the National Academy of Sciences (NAS) reviewed and declared global warming a real problem caused in part by the actions of humankind; **and**

WHEREAS, the 2001 Third Assessment Report from the International Panel on Climate Change (IPCC) and the 2000 U.S. Global Change Research Program's (USGCRP) First National Assessment indicate that global warming has begun; **and**

WHEREAS, 162 countries including the United States pledged under the United Nations Framework Convention on Climate Change to reduce their greenhouse gas emissions; **and**

WHEREAS, energy consumption, specifically the burning of fossil fuels, accounts for more than 80% of U.S. greenhouse gas emissions; **and**

WHEREAS, local government actions taken to reduce greenhouse gas emissions and increase energy efficiency provide multiple local benefits by decreasing air pollution, creating jobs, reducing energy expenditures, and saving money for the local government, its businesses, and its residents; **and**

WHEREAS, the Cities for Climate Protection Campaign[®] sponsored by ICLEI – Local Governments for Sustainability has invited the Borough of Rutherford in the County of Bergen to join ICLEI and become a partner in the Cities for Climate Protection Campaign;

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Rutherford, Bergen County, New Jersey will join ICLEI as a Full Member and participate in the Cities for Climate Protection Campaign and, as a participant, pledges to take a leadership role in promoting public awareness about the causes and impacts of climate change.

BE IT FURTHER RESOLVED, that the Borough of Rutherford in the County of Bergen will undertake the Cities for Climate Protection Campaign's five milestones to reduce both greenhouse gas and air pollution emissions throughout the community, and specifically;

- Conduct a greenhouse gas emissions inventory and forecast to determine the source and quantity of greenhouse gas emissions in the jurisdiction;
- Establish a greenhouse gas emissions reduction target;
- Develop an action plan with both existing and future actions which when implemented will meet the local greenhouse gas reduction target;
- Implement the action plan; and
- Monitor and report progress; and

BE IT FINALLY RESOLVED, that the Borough of Rutherford in the County of Bergen requests assistance from ICLEI's Cities for Climate Protection Campaign as it progresses through the milestones.

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For **BUILDINGS & PUBLIC UTILITIES**, Councilman Genovesi said that the Council has been discussing the current Comcast franchise for the television service in the Borough which expires December 23, 2008. He said that they will be working over the next few months to accomplish the task of cable renewal that the Borough Attorney will be working with him which is a very lengthy process. Councilman Genovesi said that there will be public hearings and surveys will be made available so that the public can comment on what they feel their level of service has been up to date. He then asked if the Borough Attorney had any comments.

The Borough Attorney said that in the earlier work session the Council listened to a presentation from Leslie London from the law firm of McManimon and Scotland who is a specialist in this Board of Public Utilities area and will be handling this matter. The Borough Attorney said that any inquiries can be directed to our Clerk and in working with Councilman Genovesi there will be postings on the website and flyers will be prepared and they want the town's people to know that it is time to discuss whether or not you are happy with the services of Comcast of the Meadowlands, our current franchiser and we need to decide whether to go forward and what format with the refranchising of that entity before the end of the year.

Councilman Genovesi said it is a lengthy process that will taken place starting shortly.

Councilman Genovesi reported on the activities of the Building Department construction fees collected: Uniform Construction Code Revenue for the month of April \$44,525; Construction Department Revenue \$2,715; Grant Total \$47,240; total value of construction for April \$1,997,914; total number of permits issued were 165; total number of Construction Department inspections 541. He stated that the complete report is on file in the Borough Clerk's Office.

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For **HUMAN RESOURCES**, Councilman Sommer said that tonight there was an update on the restoration of the tennis courts at Memorial Field from the Borough Engineer and the Tennis Committee. They have downsized the project quite a bit in order to stay within budget. He said he didn't want to commit to a date but it should be done before the opening of the school year.

Councilman Sommer said that another Recreation Department item that was consented to tonight has to do with a code of conduct which has traditionally been socialized in training sessions with coaches and participants in our programs for many years. He said that what they have done is broaden its application to coaches and beyond to parents, participants and anyone using our fields and facilities. Councilman Sommer said that they have also added sanctions so that aside from the code that they sign, there will be abilities to discipline people to keep us within our bounds when they are coaching or participating. He said there is not any single or multiple events that this is addressing it is just that they always want to continue to have the most professional level at our Recreation events. Councilman Sommer said that will be up on the website for all to review.

Councilman Sommer said that all the committee reports are on file at the Borough Clerk's office.

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Under the Consent Agenda, Councilman Reyes moved to accept the following Resolution, seconded by Councilman Frazier, with all members present voting aye:

WHEREAS, the Legislature of the State of New Jersey adopted N.J.S.A. 5:17-1 et seq., finding that interscholastic and youth athletic programs play an important role in promoting the physical, social and emotional development of children; that it is essential for parents, coaches and officials to encourage youth athletes to embrace the values of good sportsmanship; and that adults involved in youth sports events should be models of good sportsmanship and should lead by example by demonstrating fairness, respect, and self-control;

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WHEREAS, the Governing Body of the Borough of Rutherford agrees that it is essential that all coaches, umpires, parents, participants, and attendees, who are participating in or watching athletic programs, events or activities of the Recreation Department of the Borough of Rutherford, or who are playing or watching any athletic program, event or activity upon any public property owned by the Borough of Rutherford, shall conduct themselves with fairness, respect, and self-control at all times;

WHEREAS, the Governing Body of the Borough of Rutherford has resolved that each such coach, umpire, parent, participant, and attendee shall govern themselves in accordance with the following Code of Conduct;

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

A. All coaches, umpires, parents, participants, players, spectators, and attendees who participate in or watch athletic programs, events or activities of the Recreation Department of the Borough of Rutherford, or who are playing or watching any athletic program, event or activity upon any public property owned by the Borough of Rutherford, shall be responsible for his or her own words and actions, and each such person shall conform his or her behavior to the following Athletic Code of Conduct:

1. Each person shall demonstrate fairness, respect, and self-control at all times;
2. Each person shall encourage his or her child or children to demonstrate fairness, respect, and self-control at all times;
3. Each person shall treat any coach, umpire, parent, player, participant, official or any other attendee with respect, regardless of race, creed, color, national origin, sex, sexual orientation or ability.
4. Each person shall encourage his or her child or children to treat any coach, umpire, parent, player, participant, official or any other attendee with respect, regardless of race, creed, color, national origin, sex, sexual orientation or ability.
5. Each person shall not engage in unsportsmanlike conduct with any coach, umpire, parent, player, participant, official or any other attendee.
6. Each person shall not encourage his or her child or children, or any other person, to engage in unsportsmanlike conduct with any coach, umpire, parent, player, participant, official or any other attendee.
7. Each person shall not engage in any behavior which would endanger the health, safety or well being of any coach, umpire, parent, player, participant, official or any other attendee.
8. Each person shall not encourage his or her child or children, or any other person, to engage in any behavior which would endanger the health, safety or well being of any coach, umpire, parent, player, participant, official or any other attendee.
9. Each person shall not use or be under the influence of drugs or alcohol while at a youth sports event or at Borough property, and shall not attend, coach, officiate or participate in an athletic event or activity while under the influence of drugs or alcohol.
10. Each person shall not permit his or her child or children, or encourage any other person, to use or be under the influence of drugs or alcohol at a youth sports event or upon any Borough property, and shall not permit his or her child, or encourage any other person, to attend, coach, officiate or participate in any athletic event or activity while under the influence of drugs or alcohol.
11. Each person shall not engage in the use of profanity.
12. Each person shall not encourage his or her child or children, or any other person, to engage in the use of profanity.
13. Each person shall not engage in verbal or physical threats or abuse aimed at any coach, umpire, parent, player, participant, official or any other attendee.
14. Each person shall not encourage his or her child or children, or any other person, to engage in verbal or physical threats or abuse aimed at any coach, umpire, parent, player, participant, official or any other attendee.
15. Each person shall not initiate a fight or scuffle with any coach, umpire, parent, player, participant, official or any other attendee.
16. Each person shall not encourage his or her child or children, or any other person, to initiate a fight or scuffle with any coach, umpire, parent, player, participant, official or any other attendee.

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B. The Borough of Rutherford Recreation Department shall distribute and disseminate this Resolution and the Athletic Code of Conduct to its coaches, umpires, parents, and participants. The Recreation Department shall require that each coach, umpire, parent, and parent on behalf of his or her child or children, agree in writing to abide by and obey the Athletic Code of Conduct. The Borough of Rutherford and its Recreation Superintendent, using fairness and acting in a non-arbitrary or capricious manner, may impose penalties in any order or in any combination, suitable to the matter at hand and in consideration of past relevant conduct of the coach, umpire, parent, participant, or attendee being disciplined. The Borough of Rutherford Recreation Department shall include the following acknowledgement of penalties with each such written agreement:

I hereby agree that if I fail to conform to the Borough of Rutherford Recreation Department's Athletic Code of Conduct, I will be subject to disciplinary action, including but not limited to the following. I understand that penalties may be imposed in any order or in any combination.

1. *Verbal warning issued by the Recreation Department, or by a properly-authorized league, organization, or school official.*
2. *Written warning issued by the Recreation Department, or by a properly authorized league, organization, or school official.*
3. *Suspension or immediate ejection from an athletic event or activity issued by the Recreation Department, or by a properly-authorized league, organization, or school official.*
4. *Suspension from multiple athletic events or activities events issued by the Recreation Department, or by a properly-authorized league, organization, or school official.*
5. *Season suspension or multiple season suspension issued by the Recreation Department, or by a properly-authorized league, organization, or school official.*

C. The Borough of Rutherford shall post this Athletic Code of Conduct on the Borough website and at its athletic facilities.

D. Nothing herein is intended to supersede any ordinance or statute imposing criminal or civil penalties. This Resolution shall be read in *para materia* with other Borough Ordinances.

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Councilman Sommer advised of memo from Superintendent Lori Rosenbower with recommendations for summer camp counselors.

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Mayor McPherson wished to thank Mary Kriston and Robyn Esposito for their assistance in getting to the point that the Mayor's portraits could be hung and unveiled.

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Mayor McPherson made the following appointments:

Joseph Atalla, Anthony Donadia and William Goldy to the position of DPW summer help subject to the rules and regulations and policies and procedures of the Borough of Rutherford and subject to the rules and regulations of the New Jersey Department of Personnel as well as all applicable New Jersey Statutes. Confirmation moved by Councilwoman Keyes, seconded by Councilman Sommer with all members present voting aye.

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The following appointments as set forth by the Recreation Superintendent to positions of Summer Camp Counselors all subject to the rules and regulations and policies and procedures of the Borough of Rutherford and subject to the rules and regulations of the New Jersey Department of Personnel as well as all applicable New Jersey Statutes:

Cheyenne Allen, Jennifer Alvarez, Nicole Apolito, Keri-Ann Bennett, Ryan Bennett, Jonathon Bigley, Jackie Corcoran, Meghan Dozier, Chris Falcicchio, Richard Falcicchio, Stephen Finelli, Jonathon Fischer, Lindsay Fitzpatrick, Alyssa Fiume, Gina Forte, Suzanne Fox, Caitlin Gearity, Michael Gumbman, Megan Hild, Katie Landrigan, Amanda Maak, Kimberly Mahon, Kyle McAuley, Andrea Mikolay, Connor Molloy, Patrick Moloney, Steve Montanez, Amanda Musarra, Keith Papa, Daniel Pitre, Alexander Rivera, Tayler Rivera, Raven Santana, Jesse Schnackenberg, Erin Vogel, Patrick Walsh, David Zurla.

Confirmation moved by Councilwoman Keyes, seconded by Councilman Sommer approved on roll call with the exception of Councilman Sommer who abstained.

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Mayor McPherson made the following proclamations:

**Myasthenia Gravis Awareness Month – June
Scleroderma Awareness Month - June**

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5/15 For Ordinance on First Reading, Councilwoman Keyes asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS AND THE PURCHASE OF VARIOUS EQUIPMENT BY THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING \$6,610,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$6,293,000 BONDS OR NOTES TO FINANCE A PORTION OF THE COST THEREOF.**

Councilwoman Keyes moved this ordinance be passed on first reading and advertised according to law, seconded by Councilman Sommer with all members present voting aye.

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5/15 For Ordinance on First Reading, Councilwoman Keyes asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **REFUNDING BOND ORDINANCE OF THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF GENERAL OBLIGATION BONDS AND GENERAL IMPROVEMENT BONDS OF THE BOROUGH, APPROPRIATING NOT TO EXCEED \$10,500,000 THEREFORE AND AUTHORIZING THE ISSUANCE BY THE BOROUGH OF ONE OR MORE SERIES OF REFUNDING BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$10,500,000 FOR FINANCING THE COST THEREOF.**

Councilwoman Keyes moved this ordinance be passed on first reading and advertised according to law, seconded by Councilman Sommer with all members present voting aye.

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For **Ordinance on First Reading**, Councilman Frazier asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 126, ENTITLED VEHICLES AND TRAFFIC, ORDINANCE NO. 2140-74**

Councilman Frazier moved this ordinance be passed on first reading and advertised according to law, seconded by Councilman Reyes and unanimously approved on roll call.

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For **Ordinance on First Reading**, Councilman Frazier asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 7, ENTITLED ALCOHOLIC BEVERAGES, ORDINANCE #1377**

Councilman Frazier moved this ordinance be passed on first reading and advertised according to law, seconded by Councilwoman Keyes and unanimously approved on roll call.

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For **Ordinance on Second Reading**, Councilman Reyes asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 22A, ENTITLED "CONVENIENCE STORES"**

Mayor McPherson opened the public hearing for discussion on this Ordinance.

Nassor Nassor, on behalf of NOH Inc., known as 7-Eleven Inc. at 110 Jackson Avenue. Mr. Nassor said that in reference to this ordinance if it is passed tonight they are going to appeal this ordinance according to the letter that was sent to the Council and that was his only comment. Mayor McPherson thanked him for his comments.

As there was no citizen wishing to speak, Mayor McPherson closed the public hearing.

Mayor McPherson opened to discussion of the Council. Councilman Reyes said that it is important that the residents of Rutherford understand that this is an important ordinance for the Borough in whole specifically because it regulates the hours of all convenience stores. He said this ordinance needs to be passed and he asked his fellow Councilmembers to join him in passing this ordinance. Councilman Reyes said it is important that residents be protected and by that he means the hours between 5 in the morning to midnight, is sufficient for any convenience store to be opened throughout the Borough. He said this is not directed at any one location but directed to all the areas of the Borough of Rutherford. Councilman Reyes said he is using his past experience, 20 years as a police officer and appreciating the importance of a neighborhood and good neighbors, including businesses and he thinks that midnight is sufficient time for any store to be opened in the Borough of Rutherford and he asked his fellows Councilmembers to support him on this ordinance.

Mayor McPherson said notwithstanding Mr. Nassor's comments and respectfully she urged all those doing business within the Borough and Seven Eleven in particular, to demonstrate their willingness to be a good neighbor and certainly not waste the resources of the Borough in any unnecessary legal action to defend its ordinance and she applauds Councilman Reyes' comments.

Councilman Genovesi said that he concurs with Councilman Reyes and stated his support of this ordinance. He said while he respects the gentlemen in the time he took to come here this evening, this ordinance takes into consideration what this Body felt is best

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for our Borough. Councilman Genovesi said this ordinance reflects guidelines that we as a Borough have set-forth in regards to the hours of operation for all convenience stores in the Borough. He said this action is one that uses our power to decide, as a municipality, what is best for our community and as a big supporter of business, he personally welcomes all business ventures so long of course they are legal in nature and he personally feels that business drives America and he is happy for business owners and he does appreciate that however, the power that the municipality has and should have to govern over its ordinances is something we have to hold onto as a governing body. Councilman Genovesi said any entity wishing to do business in our Borough should be held to our standards as a Borough and we as a governing Body shouldn't waiver on that. He said this ordinance is more than just an ordinance it's an example of a guideline that a community sets forth in the exercise of its do powers and businesses that wish to do business in our Borough should follow our guidelines. He thanked everyone for attending.

Councilman Reyes moved this ordinance be passed on second reading and advertised according to law, seconded by Councilwoman Keyes, with all members present voting aye.

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Under **Miscellaneous**, Councilman Genovesi wished to thank the Kip Center for the Golf Outing was a great function and the Kip Center does a great job.

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Councilwoman Keyes moved to adjourn at 9:30 p.m. seconded by Councilman Reyes with all members present voting aye.

Borough Clerk