

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, JULY 28, 2009**

The meeting was called to order by Mayor Hipp at 8:45 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:

- **Grace Kim** – “Be Creative At Your Library” T-Shirt Contest Winner
- **Bryan Sartori** – Appointment in Rutherford Fire Dept. Rescue Co. No. 5
- **Bryan DiKun** – Appointment in Rutherford Fire Dept. Rescue Co. No. 5

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Mayor Hipp opened the hearing of citizens.

Michael Paskas, 123 Washington Avenue spoke regarding the Rutherford Recreation Cheerleading program and the cost of running such program. Mr. Paskas asked what was the status of the ice machine and the storage he was promised by the Council. He stated he was asked by Denise Brennan if he could help her cut \$34,000 out of the Recreation budget, he suggested not having the recreation cheerleading program because it will cost too much money. Mr. Paskas spoke regarding Councilman Sasso. He asked the Council questions.

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The following residents stated that they will be voting in the next year or two and they will not support anyone who did not support RJF:

Michael Paskas-123 Washington Ave, Jeff Kim-111 Chestnut Street, Michael Bows-115 Mountain Way, Dan Russell-225 Carmita Ave, Brian Gasky-182 Washington Ave, Jay Gonzalez-217 Sylvan Street, Rich Figueroa-145B Hastings Ave, Christian Allen-112 Mountain Way, Damian Sunogo-289 Park Ave, Michael Gerbasio-6 Lynn Court, Akeem Palie-298 Carmita Ave, Tyler Kauker-153 Eastern Way, David Milnic-50 Donaldson Ave, Adam Martez-50 Donaldson Ave, Paul Paviseno-398 Park Ave, Ryan Dealit-142 Hastings Ave, Mike Willis-2 Circle Lane, Andrew Santiago-17 Delafield Ave, Daniel Santiago-17 Delafield Ave, Anthony Genardi-155 Montross Ave, George Colon-26 Spring Dell.

Ann Ohanian, 181 Vanderburgh Ave spoke regarding the lack of ice at RJF for their kitchen and asked where she was supposed to get it from?

Glen Gardner, 43 Yahara Ave spoke as the President of RJF and wanted to know how the Recreation Department began to develop the cheerleading program.

M. Vlachos-258 Springfield Ave spoke against the Recreation Cheerleading Program.

Andrew Godsil, 148 Belford Ave stated the Recreation Cheerleading Program was a personal backstabbing and felt that the information brought forward was not true. Mr. Godsil spoke on behalf of RJF of the unfair practices.

Ken Meister, 428 Lincoln Ave spoke as a Coach of numerous teams, asked why the town would take on a cheering program that would place the burden on taxpayers instead of staying with the existing program which raises its own funds.

Tracey Paskas, 123 Washington Ave spoke as Cheering Coordinator with RJF stating that it doesn't show solidarity in the town if there are two programs competing with each other.

Viola Godsil, 148 Belford Ave commented that they were looking for answers as to the difference between that the Recreation Cheering Program and RJF.

Bonnie Corcoran, 390 Montross Ave spoke regarding the manner in which the Mayor ran the meetings in relation to the bylaws and statute and which was he going to follow, she spoke about the Mayor not paying his taxes on time and she asked for an explanation from the Mayor regarding him denying he spoke about layoffs.

Margaret Schak, 78 Orient Way spoke as a resident and on behalf of Josephine Clark stating that they feel the parking meter ordinance is unfair to the public. Ms. Schak stated that she disapproved of the laying off of police.

Robin Reenstra-Bryant, 450 Riverside Terrace spoke as Manager of the Downtown Partnership thanked them for closing Park Avenue for Dining Under the Stars as it was a success. She requested the continued closing of the street for two more nights either

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being August 6, 13, 10, and 17. Ms. Reenstra-Bryant asked the status of the sandwich board ordinance and gave an explanation of the contents and specifications in the ordinance.

Det. Michael Garner-72 Plymouth Road, Nutley thanked the Mayor and Council for canceling the special meeting that was scheduled for the following night. Det. Garner asked Mr. Shenkler if he provided the Council with the figures that he had outlined in a letter to him showing that the PBA was forced out of their insurance and placed into a more expensive plan and how it will cost the town more money. Det. Garner expressed his displeasure of the Table of Organization Ordinance because he felt it was laying the ground work for eliminations of positions in the Dept.

Kathleen Lovatt, 47 Clark Court spoke against increasing the parking meter fees and how it will hurt business downtown.

Shonya Jordan, 109 Delafield Ave said in regards to the RJF competition cheering; all the shirts, uniforms, etc. all say Rutherford Cheering not RJF and it is very confusing for all especially the kids and they need to show solidarity.

Andrew Godsil, 148 Belford Ave said the traffic on Belford is dangerous and it needs to be fixed. He stated that something permanent has to happen perhaps the Board of Ed should handle the situation. Mr. Godsil offered his services to assist.

Mayor Hipp closed the hearing of citizens.

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Mayor Hipp announced that the Special Meeting scheduled for July 29 was canceled due to the receipt of funds from Encap.

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Mayor Hipp opened the hearing to the Council.

Councilman Genovesi spoke regarding the Recreation Cheering Program, the parking meter ordinance and the Police Table of Organization.

Councilwoman Inguanti spoke regarding the Recreation Cheering Program, the ice machine and the golf cart, the Table of Organization and the parking issue on Belford Avenue.

Councilman Sasso spoke regarding Mr. Paskas's comments, the cheering program and the facility issues.

Councilwoman Birdsall spoke regarding the facility issues, the cheering program, the parking meter ordinance, the Police Table of Organization ordinance and the parking around schools.

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Councilwoman Keyes spoke regarding the Police Table of Organization, the sandwich board ordinance, the cheering program and the parking meter ordinance.

Councilman DeSalvo spoke regarding the RJF lease agreement, the ice machine, and the storage issue.

Mayor Hipp spoke regarding the cheering program, the sandwich board ordinance, police layoffs, budget concerns and the Police Table of Organization.

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Councilwoman Birdsall made a motion to move that all the items on the Consent Agenda be passed, seconded by Councilman Sasso and unanimously approved on roll call.

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Councilman Genovesi made a motion to move the approval of the Special Meeting Minutes for May 5, 2009 as corrected by Councilwoman Keyes. No one seconded; motion failed.

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Councilwoman Keyes moved approval of the Special Meeting Minutes for May 13 2009, seconded by Councilman Sasso.

Councilwoman Birdsall noted a correction needed on page 13 to the word "roles".

Councilwoman Keyes moved the approval of the Special Meeting Minutes for May 13 2009 with the inclusion of the word "roles" in the first paragraph page 13, seconded by Councilwoman Birdsall. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voted aye and Councilwoman Inguanti abstained.

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7/21

Under the Consent Agenda, Councilwoman Birdsall moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That bills in the amount of \$2,077,818.00 from the Current Account, all 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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7/21

Under the Consent Agenda, Councilwoman Birdsall moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS a lien on the parcel of property referred to as Block 15, Lot 31, more commonly known as 161 Woodward Avenue and assessed in the name of Silva, Hamilton & Leao, Junia G. was sold at the Borough's Tax Lien sale on June 11, 2009 to Royal Tax Lien Services and;

WHEREAS the necessary arrangements have been made with the Tax Collector's Office for the redemption of this lien and a check in the amount of \$1,073.54 has been deposited in the Tax Sale Suspense Account and a check in the amount of \$8,000.00 was deposited in the Premium Trust Account on the day of the sale;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant made payable to Royal Tax Lien Services in the amount of \$9,073.54 in settlement of Tax Title Lien # 0200901.

Principal.....	\$ 1,001.51
Interest & Penalty.....	\$20.03
Recording Fees.....	\$ 52.00
Premium.....	\$ 8,000.00
 TOTAL.....	 \$ 9,073.54

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7/21

Under the Consent Agenda, Councilwoman Birdsall moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS a lien on the parcel of property referred to as Block 118, Lot 8.01, more commonly known as 9 Lincoln Ave. and assessed in the name of 9 Lincoln Avenue, LLC was sold at the Borough's Tax Lien sale on June 11, 2009 to Robert Rothman Pension Trust and;

WHEREAS the necessary arrangements have been made with the Tax Collector's office for the redemption of this lien and a check in the amount of \$4,437.87 has been deposited in the Tax Sale Suspense Account and a check in the amount of \$2400.00 was deposited in the Premium Trust Account on the day of the sale;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant made payable to Robert Rothman Pension Trust in the amount of \$6837.87 in settlement of Tax Title Lien # 0200907.

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Principal.....\$ 4315.90
Interest & Penalty... \$ 69.97
Fees.....\$ 52.00
Premium.....\$ 2400.00

TOTAL.....\$6837.87

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Councilwoman Inguanti moved the following Resolution, seconded by Councilman Sasso and unanimously approved on roll call:

RESOLVED: That bills in the amount of \$10,193,084.78 and 2,938,049.00 from the Current Account, and \$6,000 from the Business Improvement Account all detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

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BOROUGH ADMINISTRATOR’S REPORT

Borough Administrator Leslie Shenkler deferred his comments regarding the auction and shared-services agreements with Bergen County and the Meadowlands until the work-session in the following month when he would be in a better position to give a much more detailed response.

Councilwoman Birdsall asked the Administrator the status of several grants. The Administrator responded he believed they were going to participate.

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For, **FINANCE**, Councilwoman Inguanti commended the CFO and employees after receiving the audit which only indicated one area to tighten up which was the escrow accounts for the Planning Board and Board of Adjustment Committees which had already being taken care of. Councilwoman Inguanti noted that they are still awaiting a decision from the State in regards to requests for State Aid which affects the Borough Budget.

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Mayor Hipp opened to the public the 2009 introduced municipal budget for their comments. As no one wished to speak, Mayor Hipp closed the public hearing.

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Councilwoman Inguanti moved to accept the following Resolution approving the Corrective Action Plan and seconded by Councilwoman Birdsall and unanimously approved on roll call:

RESOLVED, that the Borough of Rutherford Chief Financial Officer's Corrective Action Report attached hereto be approved by the Governing Body of the Borough of Rutherford and submitted to the Director of Local Government Services as required by New Jersey financial regulations.

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Councilwoman Inguanti moved to accept the following Resolution certifying Group Affidavit of the audit and seconded by Councilwoman Birdsall and unanimously approved on roll call:

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

WHEREAS, the Annual Report of Audit for the year 2008 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of N.J.S.A. 40A:5-6 and a copy has been received by each member of the governing body, and

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

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall be resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

and

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

as evidenced by the group affidavit form of the governing body, and

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WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

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

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 – to wit: R.S. 52:27BB-52 – “A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Borough of Rutherford, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

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Under the Consent Agenda, Councilwoman Birdsall moved the following Resolution to adopt policy for employee voluntary waiver of medical benefits, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS, the Borough of Rutherford provides a comprehensive health benefits program comprised of medical, prescription, dental and vision coverage for eligible municipal employees, dependents and retirees; and

WHEREAS, the Borough, in consultation with the Borough’s insurance consultant and legal counsel has been working on initiatives to control the increasing cost of the Borough employee health benefits program while ensuring the Borough maintains its contractual and moral obligations to the employees, dependents and retirees covered by the plan; and

WHEREAS, specifically, the Consultant recommends a Program be offered to municipal employees/Plan participants eligible for health benefits through the Borough Program the option to voluntarily waive participation in consideration of an annual financial incentive.

NOW, THEREFORE BE IT RESOLVED, the Mayor and Council of the Borough of Rutherford, County of Bergen, hereby authorizes an offering to municipal employees/Plan

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participants eligible for health benefits coverage through the Borough Employee Health Benefit Program to voluntarily waive participation in consideration of an annual financial incentive; and

BE IT FURTHER RESOLVED, the waiver of benefits financial incentive shall be set on an annual basis, such incentive set for the 2009 calendar year as follows:

ELIGIBLE COVERAGE	ANNUAL FINANCIAL INCENTIVE (2009)
Single	40% of annual premiums
Employee/Spouse	"
Parent/Child	"
Family	"

and

BE IT FURTHER RESOLVED, the specific terms and conditions of said waiver of coverage are contained within the "2009 Waiver of Coverage Offer and Agreement," a copy attached herewith and affirmed by the Resolution; and

BE IT FURTHER RESOLVED, a certified copy of this Resolution shall be forwarded to the Borough Finance Officer, Health Benefits Consultant, Borough Attorney and Borough Legal Counsel.

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Under the Consent Agenda, Councilwoman Birdsall moved the following Resolution authorizing feasibility study for shared services, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS, there have been preliminary communications between representatives from the municipalities of Rutherford, Wallington, Carlstadt, and East Rutherford regarding the possibility of sharing various municipal services; and

WHEREAS, the County of Bergen and the HMDC has made grants available to assist local units study, develop and implement new shared and regional services; and

WHEREAS, the purpose of this grant is to promote shared services between local units through the sharing of municipal services and is in the best interest of the people of the Borough of Rutherford as well as the other municipal participants, and

WHEREAS, this resolution does not obligate the financial resources of the Borough of Rutherford; and

WHEREAS, sharing services may, under the appropriate circumstances, reduce the tax burden on the residents of Rutherford; and therefore,

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AND IT IS FURTHER RESOLVED, that a copy of this resolution shall be sent to the Office of the County Executive of Bergen County to the attention of Mr. Brian Murphy; and therefore

IT IS HEREBY RESOLVED, that the Borough Administrator is authorized to participate in discussions with the aforementioned municipalities and to participate in an application for funds to finance an appropriate study and to participate in the study and discussions relevant to this issue.

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Councilwoman Inguanti moved the Resolution authorizing Garbarini and Company to prepare the audit for the Library 2009 in the amount of \$1,125, seconded by Councilwoman Birdsall and unanimously approved on roll call:

WHEREAS, the Free Public library of the Borough of Rutherford is required to have an annual audit of its financial statements by a Registered Municipal Accountant (RMA) for the year ended December 31, 2008, and

WHEREAS, the firm of Garbarini and Company, CPAs has been appointed the statutory auditor for the Borough of Rutherford, and

WHEREAS, Garbarini and Company has agreed to perform the aforementioned audit for a sum of \$2,250,

NOW THEREFORE BE IT RESOLVED, that Garbarini and Company of Division Ave and Route 17 South are hereby appointed to examine the financial statements of the Rutherford Free Public Library for a sum of \$2,250 with an offsetting charge for one-half to the 2009 Municipal Budget – Audit Fees and one-half to the Library budget.

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For, **POLICE**, Councilman Genovesi gave a summary relating to the fuel consumption of the new Hybrid vehicle versus the Crown Victoria and announced grant that will aid with new bullet proof vests for the Department. Councilman Genovesi gave a report for the month of June a copy of which was available with the Borough Clerk.

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Under the Consent Agenda, Councilwoman Birdsall moved to request to close Eastern Way from Passaic Avenue to Highland Cross for a block party on Saturday, August 8 (rain date Aug. 9th), seconded by Councilman Sasso and unanimously approved on roll call.

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

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

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

Rutherford Education Foundation

Off-Premise Merchandise Raffle

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NJ Environmental Federation request for solicit of charitable purposes was held to the August meeting.

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Under the Consent Agenda, Councilwoman Birdsall moved to approve the request for a handicap parking space on E. Gouverneur Avenue near Marginal Road, seconded by Councilman Sasso and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Birdsall moved authorization to reject Police Department miscellaneous renovations bids and re-bid for electrical system component only, seconded by Councilman Sasso and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Birdsall made a motion to approve the following Resolution to terminate a consumption liquor license issued to Rutherford LL Tarragon, seconded by Councilman Sasso and unanimously approved on roll call:

WHEREAS, Plenary Retail Consumption License No. 0256-33-017-001 was issued to Rutherford LL Tarragon LLC in November of 2005; and

WHEREAS, this license has been renewed on an annual basis in accordance with regulations established by the State of New Jersey Division of Alcoholic Beverage Control up until July 2008; and

WHEREAS, this license holder failed to submit a renewal application for this license by the required deadline of September 28, 2008 for the 2008-09 term,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Rutherford that this license #0256-33-017-001 ceases to exist for failure of timely renewal, and

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Under the Consent Agenda, Councilwoman Birdsall made a motion to authorize the transfer of an old Police car to the Auxiliary Police to replace existing car, seconded by Councilman Sasso and unanimously approved on roll call.

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For, **PUBLIC WORKS**, Councilman DeSalvo provided a report of the Department with a full report on file in the Borough Clerk's Office.

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Under the Consent Agenda, Councilwoman Birdsall moved to approve the appointment of Class III Collection Systems Operator Harry Tuvel, seconded by Councilman Sasso and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Birdsall moved to approve the request for use of the mini-bus to Van Saun Park on Tuesday, September 8, 2009, seconded by Councilman Sasso and unanimously approved on roll call.

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Councilman DeSalvo moved the following Resolution to advertise for bids for improvements to Darwin Avenue, seconded by Councilwoman Keyes and unanimously approved on roll call:

WHEREAS, the Borough of Rutherford proposes to undertake construction of a public improvement within the municipality on Darwin Avenue and commonly referred to as the **Improvements to Darwin Avenue project**; and,

WHEREAS, the municipality has caused a plan or design for the aforementioned improvement to be prepared; and,

WHEREAS, the governing body has reviewed the aforementioned plans or design and exercised its judgment and/or approved the judgments of others as represented by the plan; and,

NOW THEREFORE, BE IT RESOLVED that the governing of the Borough of Rutherford does hereby approve the plan entitled "Improvements to Darwin Avenue, Borough of Rutherford, Bergen County, New Jersey (3 sheets)", dated June 22, 2009 and prepared by the Borough Engineer, Boswell McClave Engineering for a certain public

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improvement generally described as roadway improvements/resurfacing to Darwin Avenue from Union Avenue to its southern dead end.

BE IT FURTHER RESOLVED that the Council authorizes the Borough Clerk and Borough Engineer to advertise the project for bid at a date, time and location mutually agreed to.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be placed in the permanent project file together with one copy of the plan referred to above with a notation referring to the Resolution of Approval placed thereon.

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Councilman DeSalvo announced the recommendation for award of one year recycling contract was on hold until the August meeting.

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Councilman DeSalvo made a motion to approve the request for the Guardsman to use the mini-bus for the trip to the Brownstone on Wednesday, October 7, seconded by Councilwoman Keyes and unanimously approved on roll call.

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Councilman DeSalvo made a motion authorizing an agreement with Bergen County for \$65,250 for the Community Development Block Grant for the improvements to Darwin Avenue, seconded by Councilwoman Keyes and unanimously approved on roll call:

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 \$65,250 in 2009 Community Development Block for **Improvements to Darwin Avenue** in the Borough of Rutherford; and

BE IT FURTHER RESOLVED, that the Mayor and Council hereby authorizes Mayor John F. Hipp to be a signatory to the aforesaid grant agreement; and

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

BE IT FURTHER RESOLVED that the Mayor and Council recognizes that the Borough of Rutherford is liable for any funds not spent in accordance with the Grant Agreement; and that the liability of the Mayor and Council is in accordance with HUD requirements.

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As Liaison to the **Downtown Partnership**, Councilman DeSalvo moved to approve the request from Kaleidoscope of Hope Foundation to tie teal ribbons on trees downtown in September for National Ovarian Cancer Awareness Month, seconded by Councilwoman Keyes and unanimously approved on roll call.

Mayor Hipp asked the Borough Clerk when notifying the organization to remind them not to staple on the trees and to remove them after the month is over.

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Councilman DeSalvo made a motion to approve additional nights of closure of Park Avenue for Dining Under the Stars in August in September, seconded by Councilwoman Birdsall.

Councilwoman Inguanti called Point of Order; asked when the dates were added to the agenda. Mayor Hipp stated the by-laws do not prevent the Council from taking action on anything that the public brings forward.

The Borough Clerk read the roll call; the motion was unanimously approved.

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Councilman DeSalvo stated he wasn't in agreement to the Sandwich Board Ordinance with merchandise being placed on the sidewalk for sale.

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For, **FIRE**, Councilwoman Keyes reported on the Volunteer Fire Department stats for the month of June. The full report is on file in the Borough Clerk's Office.

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Under the Consent Agenda, Councilwoman Birdsall moved to approve the request from Engine Co. #2 to close Mortimer Ave on Saturday, September 12, seconded by Councilman Sasso and unanimously approved on roll call.

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Councilwoman Keyes made a motion to accept the membership for Jeff Peterson to Engine Co. #2, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Under **President of the Council**, Councilwoman Keyes stated there were still corrections being made to the by-laws and that will be held until the August meeting.

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As Liaison to the **Board Of Health**, Councilwoman Keyes asked that the following letter regarding the Board of Health be placed into the record:

July 22, 2009

Honorable Mayor John F. Hipp
and Members of the Governing Body
Borough Hall
176 Park Avenue
Rutherford, New Jersey 07070

Dear Members of the Governing Body:

On July 20, 2009, a special meeting of the Rutherford Board of Health was called to discuss the outstanding issue of the temporary ten (10) day furloughs as it pertains to the five full time Board of Health employees.

The Board of Health had been removed from this process early on by the Governing Body who elected on their own to serve the Board of Health employees with a notice of temporary layoff signed by the Mayor and received by the Board of Health employees on June 24, 2009. The employees exercised their rights as outlined on the notice received, to file a good faith appeal to the temporary layoff notice with the New Jersey Civil Service Commission on June 26, 2009.

This issue was discussed in more detail at the July 20, 2009 Board of Health meeting. It is clear to the Board of Health that the Governing Body does not fully understand the responsibilities delegated to a local board of health under State Statute that is required under the Borough's form of government, as outlined in NJSA 26:3-1. One of the responsibilities of a local board of health as noted in NJSA 26:3-19, states "The local board may employ such personnel as it may deem necessary, to carry into effect the powers vested in it. It shall fix the duties and compensation of every appointee..." This has been supported by a host of court decisions, particularly in *Grosso v City of Paterson*, which was upheld by the New Jersey Supreme Court. In lieu of a lengthy discussion on a host of court decisions supporting the Board of Health's sole right to compensate its' employees, I have enclosed a legal opinion on the autonomous nature of the local board of health that was prepared by the Borough Attorney in July of 1980. The only information not currently correct in the letter is the fact that the Rutherford Board of Health has since 1980, passed their own salary ordinances.

The issue at hand is the temporary layoff notice received by the Board of Health employees from the Governing Body. It has never been the position of the employees that they were not willing to accept the ten (10) furlough days along with their fellow Borough Hall employees and the DPW employees. Rather it was the fact that the Board of Health,

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who hires and sets the rate of compensation for the staff at the health department, was excluded from the process by the Governing Body. It should also be noted that the employees of the Board of Health do not belong to any collective bargaining unit.

At the July 20, 2009 Board of Health meeting, the Board was updated on the status for the furloughs and it was noted that apparently the Governing Body had been advised that the mandatory furloughs initiated by the Governing Body would not prevail as they relate to the Board of Health employees. However, our Department Head noted that the Board of Health employees are agreeable to the voluntarily layoffs, based on the approval of the Board of Health.

The Board of Health moved by motion to allow the employees to participate in the temporary layoffs commencing on Friday, July 24, 2009 and concluding on Friday, November 13, 2009, including two half days on December 24th and December 31st along with receiving the five personal days on the schedule established for the other employees affected by the temporary layoffs.

While the temporary layoffs will have a financial effect to the Board of Health employees, the Board noted at its' most recent meeting the potential adverse impact this will have on residents who receive a host of public health services. Most notably, the temporary furloughs encompass a period of time when the health department is responsible for providing the nursing services at the three nonpublic schools, under a contract with the Board of Education, which this year yielded the Borough \$39,758.00. The Department will have to deal with issues of the seasonal influenza compounded by the expected resurgent of the swine flu (H1N1 virus) and the possibility of mass inoculations of the general public in the fall. In addition, the staff has been completing "Point of Distribution" (POD) classes as state and county governments prepare for the best way to handle mass distribution of antibiotics to the public over a 24 to 48 hour period of time as a result of an act of bioterrorism. Food safety inspections of retail food establishments will be delayed and routine laboratory food sampling of potentially hazardous foods will in some cases have to be curtailed. Counter services for such items as applying and picking up a marriage license will be impacted, along with the issuance of burial permits and copies of certified death records for the two funeral homes at the time of a death. Residents will see a delay in response to citizen complaints, as the temporary furloughs will result in 350 less man hours devoted to providing health services to the public in the second half of the year. While the private sector might see a decline for it's' goods and services during a down turn in the economy, the health department has only seen an increase in demand for assistance by the public during the current recession.

Additionally, the Board of Health has concerns since the Board earlier in the year agreed not to fill a vacant nursing position, which resulted in a reduction of the nursing staff by 33% and an overall reduction in the level of staffing in the health department by 17%. Not filling the vacant nursing position has a yearly savings of up to \$80,000 when salary and benefits are factored into the position, a five-fold savings over the temporary furloughs and consecutive year savings. The Board of Health is aware and understands the financial

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difficulties that the Governing Body is currently facing and feels it has tried to be part of the solution by not filling the open nurse position this year.

There needs to be an open dialogue by the Governing Body with the members of the Board of Health. The seven members of the Board of Health serve on the Board to fill the statutory requirements of a local board of health as required under Title 26 and receive no compensation or benefits for their service to the community. Mutual respect is mandatory so that the public health needs of the residents can be addressed at these most difficult times.

In closing, I would like to make two additional points:

#1 - The Centers for Disease Control and Prevention have noted the following. "During the 20th century, the health and life expectancy of persons residing in the United States improved dramatically. Since 1900, the average lifespan of persons in the United States has been lengthened by more than 30 years; 25 years of this gain are attributable to advances in public health".

#2 - The cost of providing the public health services by the Rutherford Board of Health to the community, when you factor in the Borough budget with the Board of Education budget, required 0.77% of the money raised by taxes to cover the entire Board of Health budget in the calendar year 2008.

The Board of Health hopes that this current episode regarding the temporary furloughs can be used as a learning experience and the Governing Body will develop a better understanding of the responsibilities delegated by state statute to a local board of health.

Thank you for your time in this matter.

For the Board of Health,

Dorothy Willms
President, Rutherford Board of Health

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For, **BUILDINGS AND PUBLIC UTILITIES**, Councilwoman Birdsall provided a monthly report for the Department. Councilwoman Birdsall provided an explanation that she reached out to PSE&G as was requested regarding tree cutting which was completed with the reason of the cutting being the safe and reliable delivery of electric service.

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Councilwoman Birdsall moved to approve the request to advertise for bids for cell tower co-location, seconded by Councilman Sasso and unanimously approved on roll call.

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MINUTES OF REGULAR MEETING HELD JULY 28, 2009

Councilwoman Birdsall moved to approve the request to advertise for bid assignments of the rent at the cell tower co-locator lease for a minimum of 15-20-25 years, seconded by Councilman Sasso and unanimously approved on roll call.

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As Liaison to the **Board of Adjustment**, Councilwoman Birdsall acknowledged the notice to property owners at 1 East Passaic Avenue and notice of hearing regarding East Rutherford Zoning Ordinance.

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As Liaison to the **Historic Preservation Committee**, Councilwoman Birdsall announced a celebration for Edgar Williams on October 2 & 3 and asked support from the Council at the celebration.

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As Liaison to the **Green Team**, Councilwoman Birdsall spoke regarding the sustainable land use pledge.

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Councilwoman Birdsall made a motion in regards to the composters that they authorize the purchase under the Department of Agriculture Grant which was awarded, seconded by Councilman DeSalvo. Councilwoman Birdsall stated that the grant was through the RDP, the placement of the composter had to be determined. Mayor Hipp stated to Councilwoman Birdsall that the motion was not needed due to the fact that it was for the RDP but the Council needed to find a location. Councilwoman Birdsall changed her motion. Councilman Genovesi suggested they speak with the Board of Health before determining a location.

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As Liaison to the **West End Committee**, Councilwoman Birdsall announced the website www.rutherfordwestend.com and spoke of the Festival being held on October 3rd.

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For, **HUMAN RESOURCES**, Councilman Sasso reported on the events that took place and those that would be taking place; elaborating on the success of the summer camp. Councilman Sasso asked the Borough Attorney and/or Administrator to follow up on the High School Shared Services Agreement.

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Councilman Sasso made a motion for the following Resolution authorizing the advertisement of bids for the Memorial Field Fence Improvements Contract #2, seconded by Councilwoman Keyes. The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voted aye and Councilman Genovesi abstained:

WHEREAS, the Borough of Rutherford proposes to undertake construction of a public improvement within the municipality at Memorial Field and commonly referred to as the Memorial Field Fence Improvements, Contract No. 2 project; and,

WHEREAS, the municipality has caused a plan or design for the aforementioned improvement to be prepared; and,

WHEREAS, the governing body has reviewed the aforementioned plans or design and exercised its judgment and/or approved the judgments of others as represented by the plan; and,

NOW THEREFORE, BE IT RESOLVED that the governing of the Borough of Rutherford does hereby approve the plan entitled " Memorial Field Fence Improvements, Contract No. 2 (7 sheets)", dated June 22, 2009 and prepared by the Borough Engineer, Boswell McClave Engineering.

BE IT FURTHER RESOLVED that the Council authorizes the Borough Clerk and Borough Engineer to advertise the project for bid at a date, time and location mutually agreed to.

BE IT FURTHER RESOLVED that a certified copy of this resolution shall be placed in the permanent project file together with one copy of the plan referred to above with a notation referring to the Resolution of Approval placed thereon.

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As Liaison to the **Neried Boat Club**, Councilman Sasso asked the Borough Attorney to update. The Borough Attorney responded the Resolution needed to be approved by the Council.

Discussion took place between the Mayor, Borough Attorney and Council.

Councilman Sasso made a motion to authorize submission of the proposed lease agreement, developer's agreement and assumption agreement to Green Acres for their approval with the understanding that if Green Acres' approves it in the form submitted that it would be executed, seconded by Councilwoman Keyes and unanimously approved on roll call.

Councilman Sasso made a motion to approved a Professional Services Contract with Biohabitat Company subject to further discussion with the Borough Attorney with them to

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confirm that the agreement needs to be entered into and the money to be paid to Biohabitat was coming from Nereid and then Nereid would be reimbursed from Green Acres with no direct cost from the Borough, seconded by Councilwoman Birdsall. The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilman Sasso, Councilwoman Birdsall and Councilman DeSalvo voted aye and Councilman Genovesi voted nay.

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Under the Consent Agenda, Councilwoman Birdsall moved to accept the request to review regulations for tax surcharge in the Rent Control Ordinance referred to CFO, Tax Assessor, and Borough Attorney, seconded by Councilman Sasso and unanimously approved on roll call.

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MAYOR'S COMMITTEE REPORT

MAYOR'S APPOINTMENTS

West End Committee

**Robin Reenstra-Bryant
Peter VanWinkle
Beatrice Goldberg**

**Tim Willis
Odayls Lezcano**

**Sue Willis
Marion Douglas**

Day Camp Personnel

Councilwoman Birdsall moved confirmation of the following Day Camp Personnel, seconded by Councilman Sasso, unanimously approved on roll call.

Nicole Cappiello

Hattie Alston

Jose Garcia

Economic Development Committee

John Della Fave

Substitute Park Ranger

Councilwoman Keyes moved confirmation of the **Roy Lochheed** as Substitute Park Ranger, seconded by Councilwoman Birdsall. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilwoman Birdsall and Councilman DeSalvo voted aye. (Councilman Sasso was absent for this vote.)

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Resolution in memory of former Police Captain Louis Arnold was held.

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ORDINANCES ON 1ST READING

Councilman Genovesi introduced the Ordinance for a handicap space on East Gouverneur Avenue.

The Borough Clerk read the title: **AN ORDINANCE AMENDING SECTION 126-69 OF THE CODE OF THE BOROUGH OF RUTHERFORD ENTITLED VEHICLES AND TRAFFIC DESIGNATION OF SPACES ADDING HANDICAP PARKING SPACE.**

Councilman Genovesi made a motion to approve the Ordinance being passed on 1st Reading and advertised according to law, seconded by Councilman DeSalvo.

Mayor Hipp opened the Ordinance for discussion; discussion took place.

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

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Councilman Genovesi introduced and gave an explanation of the Ordinance regarding the Police Department Table of Organization.

The Borough Clerk read the title: **AN ORDINANCE AMENDING SECTION 76-1 OF THE CODE OF THE BOROUGH OF RUTHERFORD ENTITLED POLICE DEPARTMENT GENERAL PROVISIONS.**

Councilman Genovesi made a motion to approve the Ordinance being passed on 1st Reading and advertised according to law, seconded by Councilman DeSalvo.

Mayor Hipp opened the Ordinance for discussion; no discussion took place.

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

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Councilwoman Keyes announced the by-laws were being held until August.

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MINUTES OF REGULAR MEETING HELD JULY 28, 2009

ORDINANCES ON 2nd READING

Councilwoman Birdsall introduced the Ordinance amendment to increase the rates in the meters throughout the Borough from 25 cents/hour to 50 cents/hour and include 10 cents/10 minutes and gave an explanation of the costs.

The Borough Clerk read the title: **AN ORDINANCE AMENDING SECTION 126 OF THE CODE OF THE BOROUGH OF RUTHERFORD TO INCREASE PARKING METER CHARGES.**

Councilwoman Birdsall made a motion to approve the Ordinance being passed on 2nd Reading and advertised according to law, seconded by Councilman Sasso.

Mayor Hipp opened the Ordinance for public hearing.

Margaret Schak, 78 Orient Way stated it was her experience that they haven't been enforcing the current ordinance and she heard that night they would step up the enforced.

Bonnie Corcoran, 390 Montross Avenue suggested they get DPW worker Fred DeCarlo certified to write out tickets as she had done by her home in the past. Councilwoman Birdsall responded that she had asked about that but there was apparently civil service issues.

Robin Reenstra-Bryant, 450 Riverside Terrace stated the RDP trustees spoke to her and they were not concerned about the increase but that their clients were. She stated that the ten cent option was being well received.

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

Mayor Hipp opened the Ordinance for discussion.

Councilman Genovesi voiced his concerns against the ordinance.

Councilwoman Inguanti asked for clarification on the enforcement.

Councilman Sasso stated that he believes that the enforcement was being done more than in the past.

Councilwoman Birdsall stated she hadn't heard of the voucher for the parking meters to be fix until that meeting but that there was a \$2,000 balance remaining from the grant after the meters were renovated. She clarified the difference between taxation and revenue.

The Administrator stated that the \$5,000 was not a grant it was a capital fund and the \$1,441 bill was for repairing meters; his question was could they use capital funding for operating expenses he believed they shouldn't be comingled.

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Councilwoman Birdsall read from the certification of funds from the CFO which stated that funds were available for reprogramming the parking meter mechanisms June 22, 2009.

Discussion took place regarding changing the meters over to the new amount; would it be from capital funding or operating expenses. The Borough Attorney stated that from what he understood from the CFO was that the funds to change over the meters could be considered capital expenditures.

Councilwoman Birdsall asked if the Borough Attorney to discuss the issue with the CFO and moved the Ordinance for 2nd reading to the next month to make sure they are abiding by the guidelines. The ordinance was held.

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UNFINISHED BUSINESS ITEMS

Mayor Hipp removed the resolution regarding Timothy Stafford.

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Mayor Hipp opened the hearing of citizens.

Bonnie Corcoran, 390 Montross Avenue spoke regarding layoffs, taxes and employee benefits.

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

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Councilman Genovesi moved to adjourn at 12:50 a.m., seconded by Councilwoman Inguanti and unanimously approved on roll call.

Borough Clerk