

**MINUTES OF A REGULAR MEETING OF THE  
MAYOR & COUNCIL  
HELD TUESDAY, SEPTEMBER 22, 2009**

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The meeting was called to order by Mayor Hipp at 8:14 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:

- Herb Cutter, retiring from Chamber of Commerce
- Historic Preservation Committee House Awards
- Rutherford Bulldogs U12 Girl's Softball Champs
- Rutherford Babe Ruth U15 All Stars Northern NJ Champs

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Mayor Hipp opened the hearing of citizens.

Richard Doren, 121 Ridge Road spoke in regards to paving Ridge Road and suggested they move the bus route from Ridge Road to Park Avenue.

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

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Mayor Hipp opened the hearing to the Council.

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Councilman Genovesi responded he would ask Police to perform a road survey. Councilwoman Inguanti felt it was a good idea. Mayor Hipp agreed.

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

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**9/15**

Under the Consent Agenda, Councilwoman Birdsall made a motion to approve the Minutes for the following dates, seconded by Councilman DeSalvo and unanimously approved on roll call:

- Special Meeting Minutes of May 5, 2009
- Special Meeting Minutes of May 13, 2009 with corrections
- Regular Meeting Minutes of May 26, 2009
- Special Meeting Minutes of June 3, 2009
- Regular Meeting Minutes of June 23, 2009
- Special Meeting Minutes of July 7, 2009

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Councilwoman Keyes made a motion to approve the Special Minutes from the July 14, 2009 Meeting, seconded by Councilwoman Inguanti. The Borough Clerk read the roll call: Councilwoman Keyes, Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso and Councilman DeSalvo voted aye. Councilwoman Birdsall abstained.

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**9/15**

Under the Consent Agenda, Councilwoman Birdsall made a motion to approve the Minutes for the following dates, seconded by Councilman DeSalvo and unanimously approved on roll call:

- Closed Meeting Minutes of March 11
- Closed Meeting Minutes of March 24
- Closed Meeting Minutes of March 26
- Closed Meeting Minutes of April 28
- Closed Meeting Minutes of May 5
- Closed Meeting Minutes of May 13

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**9/15**

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

**RESOLVED:** That bills in the amount of \$664,280.31 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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**9/15**

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

**WHEREAS** the Borough of Rutherford has received duplicate payments of 2009 3<sup>rd</sup> quarter taxes for the following properties; and,

**WHEREAS** the party listed has requested and is entitled to a refund of these overpayments;

**NOW THEREFORE BE IT RESOLVED** that the Chief Financial Officer be and he is authorized to issue a warrant in the amount \$14, 483.99 to First American Real Estate Tax Service as a refund for the following properties.

<b>BLOCK</b>	<b>LOT</b>	<b>NAME&amp;ADDRESS</b>	<b>AMOUNT</b>
18	7.06	Dell'Aquila, F.&P. 184 W. Passaic Avenue	\$3310.25
18	8	Wigg, J. & Cuccia, C. 219 Hollister Avenue	\$2559.69
35.01	3.02	Nicpon, E. 187 Fairview Avenue	\$2765.31
92	21	Mooney, R. & Vasiliades, M. 11 Walnut Street	\$2536.11
106	3 Q. C0006	Kim, S.H. 253 Park Avenue- #106	\$1459.39
163.01	15.01	Tripathi, A.&R. 318 State Highway 17	\$1853.24

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

**RESOLVED:** That bills in the amount of \$1,074,587.99 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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**FINANCE**

Mayor Hipp announced they meeting was being moved to the Committee of the Whole Room to discuss the 2009 Municipal Budget.

Councilwoman Inguanti and CFO Cortright provided an overview of the **2009 Municipal Budget** as amended.

Mayor and Council discussion took place.

Councilwoman Inguanti motion to adopt the following budget amendment number 5 which includes a \$200,000 revenue from NJMC and contingent documentation supporting that and \$30,603 being cancelled out of capital projects, seconded by Councilman DeSalvo:

**WHEREAS**, the local budget for the year 2009 was approved on the 11<sup>th</sup> day of March, 2009; and

**WHEREAS**, the public hearing on said budget has been held as advertised; and

**WHEREAS**, it is desired to amend said approved budget;

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Rutherford, County of Bergen that the following amendments to the approved budget be made:

<b>Recorded Vote</b>	<b>Ayes</b>	<b>Nays</b>	<b>Absent</b>
Inguanti	X		
Sasso	X		
Birdsall	X		
DeSalvo	X		
Keyes		X	
Genovesi		X	

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**Anticipated Revenues:**

3. Miscellaneous Local Revenues – Section A:

	<b>From</b>	<b>To</b>
Interest on Investments	\$ 70,000	\$ 25,000
Total Section A: Local Revenues	\$1,072,700	\$1,027,700

3. Miscellaneous Revenues – Section F:

Special items of revenue anticipated with prior written consent – public and private revenues offset with appropriations:

	<b>From</b>	<b>To</b>
Drunk Driving Enforcement Fund	\$ 2,339	\$ 5,174
Clean Communities Program	\$ 22,491	\$ 27,917
Municipal Alliance on Alcoholism	\$ 0	\$ 12,933
NJ Div of Criminal Justice Body Armor	\$ 3,880	\$ 4,052
NJ Meadowlands Commission:		
Fair Share Housing Grant	\$ 0	\$ 45,000
Downtown Revitalization	\$ 0	\$ 26,300
NJ Division of Highway Traffic Safety	\$ 0	\$ 6,000
NJ Board of Public Utility – For Energy Audit	\$ 0	\$ 29,886
Comcast Cable Grant	\$ 0	\$ 50,000

Total Section F:

Special items of revenue anticipated with prior written consent – public and private revenues offset with appropriations:

<b>From</b>	<b>To</b>
\$ 445,415	\$ 623,967

3. Miscellaneous Revenues – Section G:

Special items of general revenue anticipated with prior written consent of Director – other special items:

	<b>From</b>	<b>To</b>
Reserve For Debt Service	\$ 65,128	\$ 95,731
Hotel Occupancy Fee	\$ 330,000	\$ 250,000
Additional Interest & Costs on taxes – AIG/AHA		
Purchase of Encap liens	\$ 0	\$ 45,000
Joint Insurance Fund – Safety Incentive Award	\$ 0	\$ 1,000
Assignment of Cell Tower Lease	\$ 276,400	\$ 0
NJ Meadowlands Commission – Additional	\$ 400,000	\$ 200,000

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Elevator Inspection Fees \$ 0 \$ 12,000

Total Section G:

Specials items of general revenue anticipated with prior written consent – other special items:

	<b>From</b>	<b>To</b>
	\$1,802,541	\$1,344,744
Total Miscellaneous Revenues	\$5,542,183	\$5,207,938
4. Receipts from delinquent taxes	\$ 609,159	\$1,940,000
5. Subtotal General Revenues	\$6,151,342	\$7,147,938
6. Amount to be raised by taxes for support of Municipal budget:		
A. Local tax including reserve for uncollected taxes	\$20,034,231	\$19,649,281
7. Total General Revenues	\$26,185,573	\$26,797,219

**8. General Appropriations:**  
 A. Appropriations-within "CAPS"

	<b>From</b>	<b>To</b>
General Government Functions:		
General Administration		
Salaries & Wages	\$ 162,617	\$ 170,130
Mayor & Council		
Salaries & Wages	\$ 20,500	\$ 20,238
Municipal Clerk		
Salaries & Wages	\$ 165,665	\$ 171,093
Financial Administration		
Salaries & Wages	\$ 230,649	\$ 236,174
Collection of Taxes		
Salaries & Wages	\$ 120,333	\$ 124,550
Assessment of Taxes		
Salaries & Wages	\$ 75,232	\$ 77,038
Legal Services and Costs		

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Other Expenses	\$ 220,000	\$ 200,000
Engineering Services & Costs	\$ 45,000	\$ 40,000
Municipal Land Use:		
Planning Board		
Salaries & Wages	\$ 2,308	\$ 2,400
Board of Adjustment		
Salaries & Wages	\$ 2,308	\$ 2,400
Public Safety		
Police		
Salaries & Wages	\$5,013,862	\$5,149,318
Other Expenses	\$ 134,900	\$ 136,900

General Appropriations Continued

A. Appropriations within Caps – Continued:

	<b>From</b>	<b>To</b>
Emergency Management		
Salaries & Wages	\$ 3,606	\$ 3,700
Fire Official		
Salaries & Wages	\$ 124,610	\$ 131,653
Municipal Court		
Salaries & Wages	\$ 188,964	\$ 194,821
Public Works		
Streets & Roads		
Salaries & Wages	\$ 899,000	\$ 979,000
Shade Tree		
Salaries & Wages	\$ 269,600	\$ 295,000
Sewer System Salaries	\$ 15,500	\$ 15,700
Garbage & Trash		
Salaries & Wages	\$ 678,500	\$ 556,500
Recycling		
Salaries & Wages	\$ 522,725	\$ 555,910
Buildings & Grounds		

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Salaries & Wages	\$ 365,454	\$ 325,301
Health & Welfare		
Board of Health		
Salaries & Wages	\$ 384,516	\$ 352,076
Admin. Of Public Assistance		
Salaries & Wages	\$ 90,645	\$ 94,276
Parks and Recreation		
Recreation Commission		
Salaries & Wages	\$ 498,110	\$ 567,440
Insurance		
Employee Group Insurance	\$3,315,483	\$3,588,000
Uniform Construction Code		
Construction Code Official		
Salaries & Wages	\$ 383,927	\$ 394,578
Other Expenses	\$ 8,825	\$ 24,825
Total Operations – Item 8-A Within Caps	\$18,281,077	\$18,747,259
Total Operations – Including Contingent Within Caps	\$18,283,077	\$18,749,259
Detail:		
Salaries & Wages	\$10,335,071	\$10,535,736
Other Expenses (including contingent)	\$ 7,948,006	\$ 8,213,523

- 8. General Appropriations Within Caps (continued)
- E. Deferred charges & statutory expenditures – municipal within caps

	<b>From</b>	<b>To</b>
(2) Statutory Expenditures		
Contribution to Public Employees Retirement System	\$0	\$ 260,509
Contribution to Police Retirement System	\$ 484,490	\$ 493,251
Total Deferred Charges & Statutory Expenditures - Municipal-within Caps	\$1,123,490	\$ 1,392,760
H-1 Total General Appropriations for Municipal Purposes within Caps	\$20,059,228	\$20,794,680

- 8. General Appropriations

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A. Operations Excluded From Caps:

Maintenance of Free Public Library with State Aid	\$1,051,731	\$1,026,698
Emergency Services Volunteer Length of Services Award	\$ 108,000	\$ 105,000
Public Employees Retirement System	\$ 245,426	0
Total Other Operations Excluded from Caps	\$2,744,207	\$2,470,748

A. Operations Excluded From CAPS  
Public & Private Programs Offset By Revenues

8. General Appropriations Continued

	<b>From</b>	<b>To</b>
Bergen County Office – Drug & Alcohol Dependency Drunk Driving Enforcement Fund Body Armor Grant	\$ 0 \$ 2,339 \$ 3,880	\$ 12,933 \$ 5,174 \$ 4,052
NJ Meadowlands Commission Fair Share Housing	\$ 0	\$ 45,000
Clean Community Program	\$ 22,491	\$ 27,917
Comcast Cable Grant	\$ 0	\$ 50,000
NJ Division of Highway Traffic Safety	\$ 0	\$ 6,000
NJ Board of Public Utility For Energy Audit	\$ 0	\$ 29,886
NJ Meadowlands Commission For Downtown Revitalization	\$ 0	\$ 26,300
Total Public & Private Programs Offset By Revenues	\$ 245,415	\$ 423,967
Total Operations Excluded From CAPS	\$2,989,622	\$2,894,715
Detail:		
Salaries	\$ 40,535	\$ 54,796
Other Expenses	\$2,949,087	\$2,839,919

D. Municipal Debt Service – Excluded From CAPS

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	<b>From</b>	<b>To</b>
Payment of Bond Anticipation Notes & Capital Notes	\$ 446,618	\$ 218,500
Interest on Bonds	\$ 196,886	\$ 393,000
Interest on Notes	\$ 0	\$ 3,105
 Total Municipal Debt Service Excluded From CAPS	 \$1,838,899	 \$1,810,000
 H-2 Total General Appropriations For Municipal Purposes – Excluded From Caps	 \$5,106,521	 \$4,982,715
 O. Total General Appropriations – Excluded From CAPS	 \$5,106,521	 \$4,982,715
 L. Subtotal General Appropriations (Items H-1 and O)	 \$25,165,749	 \$25,777,395
 9. Total General Appropriations	 \$26,185,573	 \$26,797,219

**BE IT FURTHER RESOLVED**, that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services for her certification of the local municipal budget so amended.

**BE IT FURTHER RESOLVED**, that this complete budget, in accordance with the provisions of N.J.S.A. 40A:4-9, be published in the Record in the issue of September 26, 2009 and that said publication contain notice of public hearing on said amendment to be held at Rutherford at September 29, 2009 at 8:00 p.m.

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

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**9/15**

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

**WHEREAS**, N.J.S.A. 54:5-113 authorizes assignment by a municipality of Tax Sale Certificates for the full amount of the Certificate; and

**WHEREAS**, AHA Meadowlands has presented an offer to purchase by assignment the following Certifications of Sale for the total combined amount of \$1,323,104.78, plus interest accrued through July 31, 2009 in the additional amount of \$32,416.07, plus an \$8.00 filing fee for each Certification totaling \$32.00, for a total payment of \$1,355,552.85:

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1. Certificate of Sale No. M-200912 which was issued to the Borough of Rutherford at a tax sale held on June 11, 2009 on Block 219.01, Lot 74.04, Qualifier HM, known as 760 Edwin L. Ward, Sr. Memorial Highway, Rutherford, New Jersey, and assessed to ENCAP, c/o C. Dimoski, Cherokee NE LLC in the amount of \$9,310.91, being the full amount of the Certificate plus costs and interest through July 31, 2009 in the amount of \$236.12, for a total paid for transfer of the Certificate of \$9,547.03;

2. Certificate of Sale No. M-200913 which was issued to the Borough of Rutherford at a tax sale held on June 11, 2009 on Block 220, Lot 2.01, Qualifier HM, known as Berry's Creek, Rutherford, New Jersey, and assessed to ENCAP, c/o C. Dimoski, Cherokee NE LLC in the amount of \$1,079,186.47, being the full amount of the Certificate plus costs and interest through July 31, 2009 in the amount of \$26,448.07, for a total paid for transfer of the Certificate of \$1,105,634.54;

3. Certificate of Sale No. M-200914 which was issued to the Borough of Rutherford at a tax sale held on June 11, 2009 on Block 220, Lot 14, Qualifier HM, known as Berry's Creek, Rutherford, New Jersey, and assessed to ENCAP, c/o C. Dimoski, Cherokee NE LLC in the amount of \$40,039.94, being the full amount of the Certificate plus costs and interest through July 31, 2009 in the amount of \$988.98, for a total paid for transfer of the Certificate of \$41,028.92;

4. Certificate of Sale No. M-200915 which was issued to the Borough of Rutherford at a tax sale held on June 11, 2009 on Block 220, Lot 15.03, Qualifier HM, known as Berry's Creek, Rutherford, New Jersey, and assessed to ENCAP, c/o C. Dimoski, Cherokee NE LLC in the amount of \$194,567.46, being the full amount of the Certificate plus costs and interest through July 31, 2009 in the amount of \$4,774.90, for a total paid for transfer of the Certificate of \$199,342.36; and therefore

**IT IS HEREBY RESOLVED** that the Borough of Rutherford has received a check in the amount of \$1,355,552.85; and

**IT IS FURTHER RESOLVED** by the Mayor and Council of the Borough of Rutherford that the municipality of Rutherford hereby authorizes the Mayor and Municipal Clerk to execute the necessary assignment documents to effect the assignment of the above-referenced Certificates of Sale.

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**9/15**

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

**WHEREAS**, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

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**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Surplus, and unused debt authorizations may be cancelled; and

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Rutherford, that the following unexpended and dedicated balances of General Capital Appropriations be cancelled to reserve for debt service:

<b><u>Ordinance No.</u></b>	<b><u>Project Description</u></b>	<b><u>Amount Cancelled – Funded</u></b>
3137-07	2007 BCIA Refunding	\$37,147.75
<b>Total</b>		<b>\$37,147.75</b>
To Reserve for Debt Service		\$37,147.75
<b>Total</b>		<b>\$37,147.75</b>

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**9/15**

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

**WHEREAS**, the Mayor and Council of the Borough of Rutherford desires to have a Multicultural Festival during the early summer months of each year; and

**WHEREAS**, the costs association with the Multicultural Festival is paid for the most part by donations from various vendors; and

**WHEREAS**, the Mayor and Council have authorized that a separate bank account be established for the festival;

**NOW, THEREFORE BE IT RESOLVED**, that such fees received by the municipality be placed in a specific trust fund and such trust fund shall be considered a "Dedication by Rider" to the budget of the local unit per N.J.S. 40A:4-39 for the sole purpose stated above.

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**9/15**

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

**WHEREAS**, the Borough of Rutherford has a resolution on file from prior years with the Division of Local Government Services for the dedication by Rider for Funds set apart for the definite use of recycling operations; and

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**WHEREAS**, the Mayor and Council of the Borough of Rutherford has a revenue line item in the 2009 budget for recycling revenues to help reduce the annual municipal tax levy; and

**WHEREAS**, the Division of Local Government Services has advised that the Borough may not have both a dedicated by Rider Clause for recycling revenues and a revenue line item for recycling fees; and

**NOW, THEREFORE BE IT RESOLVED**, that the resolution previously establishing this dedication by Rider for Recycling be and it is hereby rescinded; and

**BE IT FURTHER RESOLVED**, that two (2) certified copies of this resolution be forwarded to the Division of Local Government Services.

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

**WHEREAS**, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Surplus, and unused debt authorizations may be cancelled; and

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Rutherford, that the following unexpended and dedicated balances of General Capital Appropriations be cancelled to reserve for debt service:

<b><u>Ordinance No.</u></b>	<b><u>Project Description</u></b>	<b><u>Amount Cancelled – Funded</u></b>
3095-05	2005 Vanderburgh Ave Improvements	\$ 4,393
3168-08	2008 GPS Devise	\$ 1,210
3137-07	2007 BCIA Refunding	\$25,000
<b>Total</b>		<b>\$30,603</b>
Total Res For Debt Service		\$30,603

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Councilwoman Inguanti moved to approve the following Resolution for tax assessment reductions, seconded by Councilwoman Keyes and unanimously approved on roll call:

**WHEREAS** the following properties have applied for a State Tax Court Judgment to reduce their assessed valuation and;

**WHEREAS** their assessments have been reduced for the year(s) indicated;

**NOW THEREFORE BE IT RESOLVED** that the Chief Financial Officer be and he is hereby authorized to issue warrants totaling \$5,227.00 to the property owners indicated.

<b>BLOCK</b>	<b>LOT</b>	<b>NAME &amp; PROPERTY ADDRESS</b>	<b>AMOUNT</b>	<b>YEAR</b>
76	14	CR Holding Co., LLC 16 Park Avenue	\$4155.48	2008
15	2	Sara Badushov 361 Carmita Avenue	\$1071.52	2008

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Councilwoman Inguanti gave an overview of the Citizens Finance Committee report with recommendations.

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Mayor Hipp opened the public hearing on the 2009 Municipal Budget.

Charles DiNoto, 123 West Passaic Avenue spoke regarding the meeting proceedings.

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

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As Liaison to the **Planning Board**, Councilwoman Inguanti informed all that Linque was appealing the COAH regulations. Borough Attorney William Smith spoke regarding Les Shenkler being appointed on a temporary basis as the Administrative Agent and the plan with NJMC to have a shared Administrator. Mayor Hipp asked for confirmation of Mr. Shenkler.

Councilwoman Keyes moved confirmation for the appointment of **Les Shenkler** to be the Administrative Agent on a temporary basis, seconded by Councilwoman Inguanti. The Borough Clerk read the roll call: Councilwoman Keyes, Councilwoman Inguanti, Councilwoman Birdsall, and Councilman DeSalvo voted aye; Councilman Sasso voted nay; Councilman Genovesi abstained.

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For, **POLICE**, Councilman Genovesi stated that the monthly report was on file at the Borough Clerk's office. Councilman Genovesi gave an update on the hybrid's fuel consumption.

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**9/15**

Under the Consent Agenda, Councilwoman Birdsall made a motion to approve the following Resolution, seconded by Councilman DeSalvo 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:

**Grand Court of NJ, Order of the Amaranth  
Grand Court of NJ, Order of the Amaranth  
Grand Court of NJ, Order of the Amaranth  
American Legion Post 109**

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

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Under the Consent Agenda, Councilwoman Keyes made a motion to approve the request for a block party on October 10<sup>th</sup> (r/d 10/11) on Myrtle Street, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes made a motion to approve the following Resolution for an on-line auction, seconded by Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, the Borough of Rutherford has determined that the property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

**WHEREAS**, the Local Unit Technology Pilot Program and Study Act (P.L. 2001 c.30) authorizes the sale of surplus property no longer needed for public use through the use of an on-line auction service; and

**WHEREAS**, the Borough of Rutherford intends to utilize the on-line services of an on-line auction site located at [www.propertyroom.com](http://www.propertyroom.com); and



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**WHEREAS**, the Borough of Rutherford received bids for the **Improvements to Darwin Avenue** project on August 19, 2009; and,

**WHEREAS**, the aforesaid project is to be performed by the Borough of Rutherford and has provided a Certification of the Availability of Funds (CAF) in accordance with law; and

**WHEREAS**, Berge V. Tombalakian, P.E. of Boswell McClave Engineering, Borough Engineer, has reviewed the bid from AJM Contractors to construct the improvements for a price of \$71,978.82, which is the lowest of the four (4) bids received and finds it to be acceptable; and,

**WHEREAS**, it is in the best interested of the Borough of Rutherford to accept the proposal aforesaid;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of the Borough of Rutherford that the proposal of **AJM Contractors**, 300 Kuller Road, Clifton, New Jersey in the amount of \$71,978.82 is hereby accepted; and,

**BE IT FURTHER RESOLVED**, that the Borough Attorney is hereby authorized to prepare the necessary documents and that the Mayor is hereby authorized to execute same on behalf of the Borough of Rutherford.

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Under the Consent Agenda, Councilwoman Keyes moved to accept the request for mini buses for the West End Festival and WCW Poetry Symposium on Saturday, Oct. 3, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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As Liaison to **55 Kip Center**, Councilman DeSalvo announced the Pumpkin sale on September 26<sup>th</sup>.

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As Liaison to **Shade Tree Committee**, Councilman DeSalvo requested feedback on the Proposal for the Tree Ordinance Revision. Discussion took place and follow-up would take place at the next work-session meeting.

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As Liaison to the **Downtown Partnership**, Councilman DeSalvo spoke regarding the request for lamp post plaques as a fund raiser. Councilwoman Birdsall made a motion to authorize the Borough Attorney to review the request, seconded by Councilwoman Keyes and unanimously approved on roll call.

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For, **FIRE**, Councilwoman Keyes provided a monthly report for the Department.

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Under the Consent Agenda, Councilwoman Keyes moved to approve the request for permission to use various apparatus for CDL License training, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to accept the resignation of Jeffrey DeVecchio from Rescue No. 5, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Under the Consent Agenda, Councilwoman Keyes moved to accept the removal of David Kinney, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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As Liaison to the **Board of Health**, Councilwoman Keyes advised of the resignation of Alan Talarsky from the Board of Health and announced the upcoming programs for the Health Dept.

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As Liaison to the **Community Development**, under the Consent Agenda, Councilwoman Keyes moved to approve the following Resolution endorsing the 55 Kip Center application for \$31,900 for the Kip Kafe, seconded by Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, a Bergen County Development grant of \$31,900 has been proposed by 55 Kip Center, Inc. for the Kip Kafe in the municipality of Rutherford, and

**WHEREAS**, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body; and

**WHEREAS**, the aforesaid project is in the best interest of the people of Rutherford, and

**WHEREAS**, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds.

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**NOW, THEREFORE BE IT RESOLVED**, that the Governing Body of the Borough of Rutherford hereby confirms endorsement of the aforesaid project, and

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be sent to the Director of the Bergen County Development Program so that implementation of the aforesaid project may be expedited.

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American Legion's ADA renovation application was held to the next meeting.

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For, **BUILDINGS AND PUBLIC UTILITIES**, Councilwoman Birdsall provided a monthly report for the Building Dept.

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Under the Consent Agenda, Councilwoman Keyes made a motion to award bid for **HVAC Maintenance Services** to **Carrier Corporation**, seconded by Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, the Borough of Rutherford has a need for HVAC Maintenance Services; and,

**WHEREAS**, the Borough Council authorized the advertisement of an open public bid; and,

**WHEREAS**, the Borough received bid proposals from the following companies:

- |                        |          |
|------------------------|----------|
| 1. Carrier Corporation | \$ 7,600 |
| 2. Automated Building  | \$13,800 |
| 3. Binsky Service      | \$10,700 |
| 4. Pow-R-Save, Inc.    | \$ 7,650 |
| 5. Reiner Group        | \$10,859 |

**WHEREAS**, Carrier Corporation, 14-30 Madison Road, Fairfield, New Jersey 07004 was the lowest responsible bidder in the amount of \$7,600; and

**WHEREAS**, Carrier Corporation has agreed to honor its bid dated August 27, 2009 in the amount of \$7,600 and to provide the services set forth in its bid proposal in accordance with the bid documents; and

**WHEREAS**, Carrier Corporation will complete and submit a Business Entity Disclosure Certification which certifies that it has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44-1 *et seq.* that, pursuant to P.L. 2004, c. 19, would bar the award of this contract in the one year period preceding the

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award of this contract, to any of the following named candidate, committee, joint candidates committee, or political party committee representing the elected officials of the Borough of Rutherford as defined pursuant to N.J.S.A. 19:44A-3(p), (q) and (r); and

**WHEREAS**, the Borough Attorney has reviewed and approved Carrier Corporation's, 14-30 Madison Avenue, Fairfield, New Jersey 07004 bid proposal; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds for award of this contract for HVAC Maintenance Services; and

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

1. The contract for the Borough of Rutherford HVAC Maintenance Services open public bid is hereby awarded to **Carrier Corporation**, 14-30 Madison Road, Fairfield, New Jersey 07004;
2. The Business Entity Certification will be placed on file with this Resolution;
3. The Mayor and Borough Clerk are hereby authorized to execute contracts in this matter.

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Under the Consent Agenda, Councilwoman Keyes made a motion authorizing the agreement with PSE&G to upgrade 838 street lights with energy saving fixtures, Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, the Borough of Rutherford requires street lighting; and

**WHEREAS**, PSE&G is proposing to upgrade the 838 street lights currently in the Borough of Rutherford with energy saving fixtures and lamps at no cost to the Borough; and

**WHEREAS**, the cost of installation of the new fixtures will be borne solely by PSE&G and the new fixtures will use induction technology instead of sodium vapor; and

**WHEREAS**, the average annual savings to the Borough of Rutherford is estimated to be \$8426.00; and

**WHEREAS**, this will be an additional opportunity for the Borough of Rutherford to "go green" since these are energy saving fixtures.

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Rutherford, in the County of Bergen and the State of New Jersey, the Borough Administrator is hereby authorized to enter into an agreement for the next 5 years with PSE&G to proceed with this installation and project expected in the first or second quarter of 2010.

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Councilwoman Birdsall made a motion awarding 20 year lease co-location for \$30,000 a year at a 3% annual increase, seconded by Councilwoman Inguanti and unanimously approved on roll call:

**WHEREAS**, the Borough of Rutherford received bids for the Cellular Tower Antenna Collocation, 184 Park Avenue project on September 9, 2009; and,

**WHEREAS**, the aforesaid project is for a lease agreement to permit an additional cellular phone carrier to collocate onto the existing cell tower at 184 Park Avenue; and

**WHEREAS**, the Borough has reviewed the bid from **Verizon Wireless** to lease the available location on the tower and land lease to construct their improvements for a term of twenty (20) years at an annual lease of \$30,000/year with a 3% annual increase, which was the only bid received and finds it to be acceptable; and,

**WHEREAS**, it is in the best interest of the Borough of Rutherford to accept the proposal aforesaid:

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Borough of Rutherford that the proposal of Verizon Wireless in the amount of \$30,000/year with a 3% annual increase over a term of twenty (20) years is hereby accepted; and,

**BE IT FURTHER RESOLVED**, that the Borough Attorney is hereby authorized to prepare the necessary documents and that the Mayor is hereby authorized to execute same on behalf of the Borough of Rutherford.

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As Liaison to the **Board of Aesthetic Review**, Councilwoman Birdsall announced the Committee and the Green Team will be cleaning the Train Station on October 24 and invited all.

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As Liaison to the **Historic Preservation Committee**, Councilwoman Birdsall made a motion to approve the following Resolution endorsing William Carlos Williams and Edgar Williams, seconded by Councilwoman Keyes and unanimously approved on roll call:

**WHEREAS**, the Williams Carlos Williams Poetry Symposium and the Borough Historian will host a tribute to the architect **Edgar Irving Williams** and all Rutherford veterans of World War I on Friday, October 2, 2009, at the Soldiers and Sailors Monument in Memorial Circle; and

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**WHEREAS**, this event commences the celebration of the 125<sup>th</sup> anniversary of the birth of Edgar Irving Williams with a program on October 3, 2009, that includes ceremonial music, poetry readings, photographic and art exhibits, architectural and historic presentations, dramatic readings, and guided tours; and

**WHEREAS**, this event marks the first major tribute to Edgar Irving Williams in his hometown since he was named Man of the Year in 1946 by the Rutherford Chamber of Commerce; and

**WHEREAS**, Edgar Irving Williams, who is highly regarded for his architectural achievements in Rutherford and throughout the world, is especially beloved in Rutherford for his design of the venerated World War I Monument, which is the centerpiece of Rutherford's Civic Center that includes two other structures for which this architect is responsible, the U.S. Post Office and Rutherford Public Library; and

**WHEREAS**, this event will also mark the first major celebration in Rutherford, since the dedication of the Soldiers and Sailors Monument on May 31, 1920, that will pay tribute for the ultimate sacrifice of the nineteen Rutherford men, whose names are etched on the face of the World War I Monument; and pay tribute to Sgt. John C. Latham, whose meritorious conduct in the war was acclaimed in military honors bestowed by Great Britain, France and the United States of America; and pay tribute to all Rutherford men and women who participated in World War I , whose names were mentioned and not mentioned at the 1920 dedication;

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Rutherford do hereby endorse the Williams Carlos Williams Poetry Symposium and the Borough Historian in their efforts on this day and urge all of Rutherford's residents to come and celebrate Rutherford's cherished resident, Edgar Irving Williams and Rutherford's veterans of World War I.

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Councilwoman Birdsall spoke in regards to the Poetry Symposium, tribute to Edgar Williams and a time capsule.

\*

As Liaison to the **Green Team**, Councilwoman Birdsall reported they applied for a green house gas grant reduction program for a pilot composting program within the Borough. Councilwoman Birdsall commended the Green Team for their efforts in submitting for Sustainable New Jersey Certification as they are currently in the pending phase.

Under the Consent Agenda, Councilwoman Keyes moved to authorize submission of the draft Energy Audit to Sustainable New Jersey, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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As Liaison to the **West End Committee**, Councilwoman Birdsall briefly informed all of the status of the October Fall Festival.

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Councilwoman Birdsall stated there will be a follow-up meeting in regard to the prior **Citizen Round Table Forum**.

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For, **HUMAN RESOURCES**, Councilman Sasso provided a monthly report for the Recreation Department including the programs that were beginning. Councilman Sasso indicated that there were a few situations occurring at the fields during the evening hours and asked the police to patrol more.

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Memorial Field Fence Improvement contract was held to the next meeting.

\*

Councilman Sasso made a motion to approve an enabling Resolution authorizing the Mayor and Clerk to sign the lease agreement for the Nereid Boat Club and funding coming from Green Acres for park improvements at the Boat Club, seconded by Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

**WHEREAS**, the Borough of Rutherford desires to further the public interest by obtaining a loan of \$335,074 and/or a grant of \$ 111,691 from the State to fund the following project(s): Rutherford Waterfront Park, Project #0256-07-018

**NOW, THEREFORE**, the governing body/board resolves that John F. Hipp or the successor to the office of the Mayor is hereby authorized to:

- (a) make application for such a loan and/or such a grant
- (b) provide additional application information and furnish such documents as may be required
- (c) act as the authorized correspondent of the above named applicant, and

**WHEREAS**, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

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**WHEREAS**, the applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above named project;

**NOW, THEREFORE, BE IT RESOLVED BY THE** Mayor and Council of the Borough of Rutherford

1. That the Mayor of the above named body or board is hereby authorized to execute an agreement and any amendment thereto with the State known as Rutherford Waterfront Park; and
2. That the applicant has its matching share of the project, if a match is required..
3. That, in the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project, and;
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project.
5. That this resolution shall take effect immediately.

\*

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

**WHEREAS**, the Nereid Boat Club provides a benefit to the residents of Rutherford in the form of a club rowing facility on the Passaic River which residents of the Borough of Rutherford can belong to and use at a reduced price; and

**WHEREAS**, it has been proposed by the Nereid Boat Club that substantial improvements be made to the facility which is owned by the Borough of Rutherford and leased to Nereid; and

**WHEREAS**, Nereid and the Borough of Rutherford have obtained a commitment from the state of New Jersey, Green Acres, for a sum in the total amount of \$446,765 to be utilized to pay for a part of these improvements, \$335,074 as a loan and \$111,691 as a grant, and

**WHEREAS**, Green Acres requires that the Borough of Rutherford be obligated to repay the loan from the state of New Jersey in the event that Nereid defaults; and

**WHEREAS**, the security provided by Nereid to the Borough of Rutherford in the event of a default includes termination of the Lease, and repossession of the property by the Borough of Rutherford; and

**WHEREAS**, a form of Lease, Assumption Agreement, and Development Agreement have been approved by the Borough, and by Green Acres; and therefore

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**IT IS HEREBY RESOLVED** by the Mayor and Council of the Borough of Rutherford That the following documents be executed by the Mayor, the Borough Clerk and all other required and appropriate borough officials and thereafter forwarded to Green Acres.

1. Lease
2. Project Development Agreement
3. Assumption Agreement
4. Certificate of Debt
5. Account information form
6. Updated Recreation Open Space Inventory

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Councilman Sasso reminded all that the 2009 Head of the Passaic Regatta will be held on October 4<sup>th</sup>.

\*

In regards to the **Rent Board**, Borough Attorney provided a brief analysis of market values in respect to rent control; Discussions took place. It was determined that Councilman Sasso and Councilwoman Inguanti would report back on the rent ordinance at the next month's meeting.

Councilman Genovesi moved confirmation of the appointment of Councilman Sasso and Councilwoman Inguanti to the **Committee to review the Rent Control Ordinance**, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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### **MAYOR'S AGENDA**

Mayor Hipp advised the Council that the NJMC approved a resolution authorizing \$200,000 to Rutherford as additional revenue and \$200,000 will be allocated to North Arlington. This is from the \$400,000 that was given to the Borough earlier in the year.

\*

Councilwoman Keyes made a motion to approve the following Resolution for a CD Grant for the Kip Garage Elevator, seconded by Councilwoman Birdsall and unanimously approved on roll call:

**WHEREAS**, a Bergen County Community Development Grant of \$250,000 has been proposed by the Borough of Rutherford for the rehabilitation/replacement of the Kip Center Garage Elevator in the Borough of Rutherford; and,

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**WHEREAS**, pursuant to the State Interlocal Services Act, Community Development funds, may not be spent in a municipality without authorization by the Mayor and Council; and,

**WHEREAS**, the aforesaid project is in the best interest of the people of Rutherford; and,

**WHEREAS**, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds; and,

**THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Rutherford hereby confirm endorsement of the aforesaid project; and,

**BE IT FURTHER RESOLVED**, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

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**ORDINANCES ON 1<sup>ST</sup> READING**

Councilwoman Keyes introduced the Ordinance to amend the Administrative Code – By-laws to bring the code to match the State Statutes wherever possible.

The Borough Clerk read the title: **AN ORDINANCE CREATING THE ADMINISTRATIVE CODE OF THE BOROUGH OF RUTHERFORD INCORPORATING THE BY-LAWS OF THE MAYOR AND COUNCIL.**

Councilwoman Keyes made a motion to approve the Ordinance being passed on 1<sup>st</sup> Reading and advertised according to law, seconded by Councilwoman Inguanti.

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

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

\*

Councilman Genovesi introduced the Ordinance for handicap space at 63 Chestnut Street and 5 Hasbrouck Place.

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 1<sup>st</sup> Reading and advertised according to law, seconded by Councilwoman Keyes.

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

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

\*

Shade Tree Ordinance – Regulations protecting trees within Borough was held to the next meeting.

\*

Councilman Sasso introduced the Ordinance authorizing appropriation of \$446,765 for the Waterfront Park.

The Borough Clerk read the title: **AN ORDINANCE AUTHORIZING THE APPROPRIATION OF \$446,765 TO BE UTILIZED FOR THE RUTHERFORD WATERFRONT PARK, \$335,074 TO BE PROVIDED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, GREEN ACRES BY WAY OF A LOAN AND \$112,691 TO ALSO BE PROVIDED BY THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, GREEN ACRES BY WAY OF A GRANT WILL ALSO BE REPAID TO GREEN ACRES BY THE NEREID BOAT CLUB, THE TENANT ON THE PROPERTY TO BE IMPROVED.**

Councilman Sasso made a motion to approve the Ordinance being passed on 1<sup>st</sup> Reading and advertised according to law, seconded by Councilwoman Birdsall.

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

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

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**ORDINANCES ON 2<sup>nd</sup> READING**

Councilman DeSalvo introduced the Ordinance for the Special Improvements District to amend with items to remain on the sidewalk.

The Borough Clerk read the title: **AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 105A OF THE CODE OF THE BOROUGH OF RUTHERFORD TO PERMIT CERTAIN ITEMS TO BE PLACED ON THE SIDEWALK WITHIN THE SPECIAL IMPROVEMENT DISTRICT OF THE BOROUGH OF RUTHERFORD.**

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

Mayor Hipp opened the Ordinance for public hearing.

Charles DiNoto, 123 West Passaic Avenue inquired if there would be enough room with tables being placed on both sides of the walkway.

As no further citizens wished to speak the hearing was closed.

Mayor Hipp responded that the tables are governed under another existing ordinance which was called a café ordinance.

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

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

\* \* \*

**NEW BUSINESS**

The Borough Attorney stated that he hadn't concluded the investigation of the Police Director vacation issue.

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Citizen request for a STOP sign at Vanderburgh and Clark Avenues was referred to the Police Traffic Coordinator.

\* \* \*

Mayor Hipp opened the hearing of citizens; as no citizens wished to speak the hearing was closed.

\*

Mayor Hipp asked for consent to the request by the Borough Attorney to receive guidance from the Council in reference to the letter from the ACLU. The Council consented for the discussion in be held in open session.

The Borough Attorney gave an overview of the a letter received from the ACLU in reference to political signs and that the current Borough Ordinance was unconstitutional,

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as such the sign Ordinance should not be enforced and a letter should be sent from the Borough informing the ACLU that the Borough will not be enforcing the Ordinance.

Discussion took place between the Council and the Borough Attorney.

Councilman Genovesi made a motion to authorize the Borough Attorney to send a letter to the ACLU informing them that there would be no enforcement of the Ordinance, seconded by Councilwoman Inguanti and unanimously approved on roll call.

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Councilwoman Birdsall moved to adjourn at 11:43 p.m., seconded by Councilwoman Inguanti and unanimously approved on roll call.

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Borough Clerk