

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD MONDAY, NOVEMBER 23, 2009**

The meeting was called to order by Mayor Hipp at 8:17 p.m. with the following Councilmembers present:

Councilwoman Inguanti
Councilman Sasso
Councilwoman Birdsall
Councilman DeSalvo

Councilwoman Keyes - Absent
Councilman Genovesi - Absent

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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 presentation:

- "Pancreatic Cancer Awareness Month" - November

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Mayor Hipp opened the hearing of citizens.

Josephine Clark, 24 Carlton Place and Co-President of the Rutherford Taxpayer's Association supported the Borough Administrator's job performance.

Margaret Schak, 78 Orient Way spoke positively in reference to Mayor Hipp and the Borough Administrator's job performance.

Susan Jamison, 29 Clark Court asked the Council what the grievance was against the Borough Administrator.

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Robin Reenstra-Bryant, 450 Riverside Terrace, Manager of the RDP spoke on behalf of the Partnership regarding the suspension of parking meters for the holiday season.

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.

Councilwoman Birdsall thanked the public for their input and confirmed the need of the Council to be pro-active for the Borough.

Mayor Hipp asked if a member of the Council wished to put the issue of parking meters on that night's agenda. Councilman DeSalvo moved to add the item to his agenda. Mayor Hipp stated that he supported Mr. Shenkler as Borough Administrator.

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Council Vice-President Inguanti made a motion to move that all the items on the Consent Agenda be passed, seconded by Councilman Sasso with all members present voting aye.

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11/16

Councilwoman Keyes made a motion to approve the Regular Meeting Minutes of July 28, August 25 and September 22, 2009, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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11/16

Councilwoman Keyes made a motion to approve the Special Meeting Minutes of September 29, and October 6, 2009, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Regular Meeting Minutes of October 13 and Closed Meeting Minutes of May 19, 26(a), 26(b), June 3, 23(a), 23(b), July 7, 14, 2009 were held to the December 8 meeting.

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

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RESOLVED: That bills in the amount of \$5,833,997.90 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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11/16

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 \$1,792,614.90 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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11/16

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

WHEREAS the following property, Block 219.04, Lot 2, Qualifier HM and more commonly known as 220 Highland Cross, assessed to Linque-H.C. Partners, LLC has entered into a Use and Occupancy Agreement with the Borough of Rutherford, and;

WHEREAS this agreement stipulates that the Borough of Rutherford will be solely liable for property taxes;

NOW THEREFORE BE IT RESOLVED that the 2009 property taxes for Block 219.04, Lot 2, Qualifier HM in the amount of \$51,143.21 be cancelled from the levy by virtue of this Agreement.

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11/16

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

WHEREAS, the Department of Veteran Affairs has certified that the following property owners are 100% disabled as a result of a wartime service-connected disability, and;

WHEREAS, in accordance with N.J.S.A. 54:4-30, ET SEQ. the Borough of Rutherford has exempted these properties from the payment of property taxes for 2009;

NOW, THEREFORE BE IT RESOLVED, that the Chief Financial Officer reduce the 2009 tax levy \$16,363.70 as follows:

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<u>BLOCK</u>	<u>LOT</u>	<u>NAME & ADDRESS</u>	<u>AMOUNT</u>
146	1	Talocco, John 30 Spring Dell	\$7737.64
158	17	Torre, Armand 287 Feronia Way	\$8626.06

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11/16

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

WHEREAS the Borough of Rutherford has received an overpayment of 2009 4th quarter taxes for the following property; and,

WHEREAS the party listed has requested and is entitled to a refund of this overpayment;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is authorized to issue a warrant in the amount \$1,401.16 to Wells Fargo Home Mortgage as a refund for the following property.

<u>BLOCK</u>	<u>LOT</u>	<u>NAME & ADDRESS</u>
142.01	12	Sriram, R. & A. 218 Orient Way

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11/16

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

WHEREAS a lien on the parcel of property referred to as Block 34, Lot 18.02, more Commonly known as 70 Donaldson Avenue 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 \$19,561.82 has been deposited in the Tax Sale Suspense Account and a check in the amount of \$24,100.00 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 \$43,661.82 in settlement of TTL # 200903.

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Principal.....\$ 18,538.20
Interest & Penalty.....\$ 971.62
Fees.....\$ 52.00
Premium Reimbursement....\$24,100.00

TOTAL.....\$43,661.82

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

RESOLVED: that the following warrants be issued in the amounts indicated for the purposes stated:

1. In the amounts indicated in payment of the uniform allowances for the five volunteer fire companies and for special duty fire fighters in accordance with Borough Code Chapter 33 and Annual Officer Allowances:

Rutherford Truck Co. #1	\$12,825.00
Rutherford Fire Engine Co. #2	17,287.52
West End Engine & Hose Co. #3	13,268.36
Rutherford Engine Co. #4	14,217.10
Rescue Co. #5	15,202.56
Special Duty fire fighters -	
Harry J. Western	360.00
Michael Flynn	360.00
Colin Swift, Jr.	360.00
TOTAL	\$73,880.54

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

WHEREAS the following resident has applied for and is entitled to a Veteran's Property Tax Deduction, and;

WHEREAS the 2009 property taxes have been paid in full for this property, the taxpayer is now entitled to a refund of this deduction;

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NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer issue a warrant in the amount of \$250.00 as follows;

BLOCK	LOT	NAME & ADDRESS	AMOUNT
6	22.03	Rene Rao, Jr. 242 Carmita Avenue	\$250.00

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FINANCE

Councilwoman Inguanti provided a report regarding the finances of the Borough.

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

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

WHEREAS their assessment has been reduced for the years indicated, and;

WHEREAS the property in question is currently delinquent for their 2009 property taxes and the Borough of Rutherford is entitled to this refund;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant totaling \$17,818.91 made payable to the Borough of Rutherford and charge same to Reserve for Tax Appeals.

BLOCK	LOT	NAME & PROPERTY ADDRESS	AMOUNT	YEAR
155	3	75 Orient Way, LLC	\$4839.18	2006
			\$5358.64	2007
			\$7621.09	2008

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The Resolution for stipulation of settlement for 75 Union Avenue was held for the December meeting.

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the

MINUTES OF REGULAR MEETING HELD NOVEMBER 23, 2009

budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough will receive \$111,691 from the New Jersey Department of Environmental Protection Green Acres Grant and wishes to amend its 2009 budget to include this amount as a revenue; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rutherford hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2009 in the sum of \$111,691 which is now available as a revenue from:

Miscellaneous Revenues

Special items of General Revenue anticipated with prior written consent of the Director of Local Government Services:

State and Federal Revenues off-set with Appropriations:

New Jersey Department of Environmental Protection – Green Acres Grant

BE IT FURTHER RESOLVED, that a like sum of \$111,691 be and the same is hereby appropriated under the caption of:

General Appropriations

(a) Operations Excluded from 5% Caps

State and Federal Programs off-set by Revenues:

New Jersey Department of Environmental Protection – Green Acres Grant –
For Development of Water front Park

BE IT FURTHER RESOLVED, that the Chief Financial Officer Edward M. Cortright forward two (2) copies of this resolution to the Director of Local Government Services.

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

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WHEREAS, the Borough will receive \$65,250.00 from the County of Bergen Community Development Block Grant and wishes to mend its 2009 budget to include this amount as a revenue; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rutherford hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2009 in the sum of \$65,250.00 which is now available as a revenue from:

Miscellaneous Revenues

Special items of General Revenue anticipated with prior written consent of the Director of Local Government Services:

State and Federal Revenues off-set with Appropriations:
County of Bergen – Community Development Block Grant

BE IT FURTHER RESOLVED, that a like sum of \$65,250.00 be and the same is hereby appropriated under the caption of:

General Appropriations

(a) Operations Excluded from 5% Caps

State and Federal Programs off-set by Revenues:
County of Bergen – Community Development Block Grant – Improvement to Darwin Avenue

BE IT FURTHER RESOLVED, that the Chief Financial Officer Edward M. Cortright forward two (2) copies of this resolution to the Director of Local Government Services.

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Under the Consent Agenda, Councilwoman Inguanti made a motion to move the following Resolution, seconded by Councilman Sasso with all members present voting aye:

WHEREAS, N.J.S. 40A4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough will receive \$4,000 from the National Highway Traffic Safety Click It or Ticket Grant and wishes to amend its 2009 budget to include this amount as a revenue; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rutherford hereby requests the Director of the Division of Local Government Services to

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approve the insertion of an item of revenue in the budget of the year 2009 in the sum of \$4,000 which is now available as a revenue from:

Miscellaneous Revenues

Special items of General Revenue anticipated with prior written consent of the Director of Local Government Services:

State and Federal Revenues off-set with Appropriations:
National Highway Traffic Safety – Click It or Ticket Grant

BE IT FURTHER RESOLVED, that a like sum of \$4,000 be and the same is hereby appropriated under the caption of:

General Appropriations

(a) Operations Excluded from 5% Caps

State and Federal Programs off-set by Revenues:
National Highway Traffic Safety – Click It or Ticket Grant

BE IT FURTHER RESOLVED, that the Chief Financial Officer Edward M. Cortright forward two (2) copies of this resolution to the Director of Local Government Services.

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Transfer of funds was held to the December meeting.

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11/16

Under the Consent Agenda, Councilwoman Keyes moved to approve the application to the Local Finance Board for consideration of a 5-year tax appeal bond to finance successful tax appeal refunds, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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11/16

Under the Consent Agenda, Councilwoman Keyes moved to approve the Bond Counsel to prepare a bond ordinance for tax appeals, seconded by Councilwoman Birdsall and unanimously approved on roll call.

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Councilwoman Inguanti moved to approve the following Resolution, seconded by Councilman DeSalvo with all members present voting aye:

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

WHEREAS their assessment has been reduced for 2008, and;

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WHEREAS the property in question is currently delinquent for their 2009 property taxes and the Borough of Rutherford is entitled to this refund;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant totaling \$402.08 made payable to the Borough of Rutherford and charge same to Reserve for Tax Appeals.

<u>BLOCK</u>	<u>LOT</u>	<u>NAME & PROPERTY ADDRESS</u>
120	1	McHale, Michael 321 Ridge Road

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As Liaison to the **Local Assistance Board**, Councilwoman Inguanti provided a report regarding the Community Food Pantry and the donations needed.

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For, **POLICE**, Councilwoman Birdsall stated that the monthly report would be on file with the Borough Clerk.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the following Resolution, seconded by Councilman Sasso with all members present voting aye:

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:

**Aquinas Club of St. Mary's
Parents Guild Immaculate
Conception High School**

**Off-Premise 50/50 Raffle
On-Premise 50/50 Raffle**

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Councilwoman Birdsall moved to approve the following Resolution authorizing retirement benefits for Thomas Reid, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, Thomas Reid has retired from the Rutherford Police Department effective September 1, 2009; and

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WHEREAS, Police Director John Thompson has certified in writing that Thomas Reid has the following Terminal Leave Days on the books kept by the Rutherford Police Department:

<u>Days</u>	<u>Time</u>
Sick	7.17
Vacation	33.50
No Charge Personal	2.0
Chargeable Personal	1.0
Terminal Leave	<u>36.00</u>
Total	79.67

WHEREAS, Thomas Reid is entitled by his Police Contract to reimbursement of the 79.67 days at his current daily rate of pay which is \$521.76; and

WHEREAS, Thomas Reid has requested that the \$41,569 be paid out over three (3) years, beginning with the 1st pay of 2010 and continuing in the 1st pay of 2011 and 2012; and

NOW, THEREFORE BE IT RESOLVED, that the Chief Financial Officer be and is hereby authorized to issue payroll checks effective as follows:

2010	\$13,856
2011	\$13,856
2012	\$13,856

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the Certification of Eligible's be requested for the title of Police Sergeant and Police Lieutenant, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the following Resolution, seconded by Councilman Sasso with all members present voting aye:

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:

**Jr. Women's Club of Rutherford
Jr. Women's Club of Rutherford**

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

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Councilwoman Birdsall made a motion to authorize the Borough Engineer to advertise for bids for revised Police Department Electrical/HVAC project, seconded by Councilman Sasso with all members present voting aye.

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For, **PUBLIC WORKS**, Councilman DeSalvo provided a monthly report for the Department which was on file at the Borough Clerk's Office.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the following Resolution, seconded by Councilman Sasso with all members present voting aye:

WHEREAS, the Borough of Rutherford has established an annual road improvement program to improve the condition of roads within the municipality and;

WHEREAS, the New Jersey Department of Transportation (NJDOT) awards grants to municipalities to perform road improvements under its "State Aid to Municipalities" program, and,

WHEREAS, an application for Discretionary Aid must be submitted to the NJDOT in order to qualify for these grants, and,

WHEREAS, **Ridge Road** is a roadway within the municipality that meet the requirements for State Aid applications, and the municipality wishes to improve the condition of its roadways, and,

WHEREAS, the Engineer has completed the Discretionary Aid Application and other required supporting information.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Rutherford that the Mayor and Borough Clerk are hereby authorized to sign the application forms for the NJDOT Discretionary Aid Application for Ridge Road.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the request from 55 Kip Center for the mini-bus on November 28 for the Holiday Festival, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to authorize the Borough Attorney to prepare documents to transfer Borough Property to owner of 311 Feronia Way, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the change order to the contract with AJM for \$13,625.00 from the Borough Engineer for the Darwin Avenue project for an additional of portion of W. Passaic Avenue between Carmita and Jackson Avenues to be re-paved, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the request from 55 Kip Center for the mini-bus on December 10th for Christmas Light Tour, seconded by Councilman Sasso with all members present voting aye.

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As Liaison to the **Downtown Partnership**, Councilman DeSalvo made a motion to not suspend parking meters for the Holiday Season, seconded by Councilwoman Birdsall.

Council discussion took place.

Motion was amended with parking meters being suspended from December 19th through December 25th with strict enforcement of the 2-hour limit. All members voted aye upon roll call.

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11/16 For **FIRE** and under the Consent Agenda, Councilwoman Inguanti moved to approve the request for permission for Engine No. 3 and Rescue No. 5 to take apparatus to Bergen County Fire Academy on November 21 for training, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the request for permission to the Department to attend Wallington's Annual Holiday Parade on November 28, seconded by Councilman Sasso with all members present voting aye.

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Under the Consent Agenda, Councilwoman Inguanti moved to approve the RFD apparatus to participate in the Rutherford Annual Holiday Parade on November 28, seconded by Councilman Sasso with all members present voting aye.

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President of the Council

Under the Consent Agenda, Councilwoman Inguanti moved to authorize a RICE notice to the Borough Administrator, seconded by Councilman Sasso with all members present voting aye.

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As Liaison to the **Health Department**, Councilwoman Inguanti moved to approve the following Resolution authorizing liens on certain premises for expenses incurred for rectifying property maintenance violations, seconded by Councilman DeSalvo with all members present voting aye:

WHEREAS, as a result of the failure of the owners of the following described property to comply with Section 89-85 et seq. of the Borough Code and maintain their property by removing all grass and weeds and refuse and underbrush within seven (7) days of receiving a notice from the Board of Health; and

WHEREAS, the Board of Health has incurred the expense described below; and therefore,

IT IS HEREBY RESOLVED, by the Mayor and Council of the Borough of Rutherford that the Tax Collector of the Borough of Rutherford is hereby directed, pursuant to Section 89-88 of the Code of the Borough of Rutherford, to place a lien on the premises described herein in the amount of the expense incurred; said lien to be recorded and collected in the same manner as taxes next to be assessed and levied upon said premises.

<u>Property Address</u>	<u>Block and Lot</u>	<u>Amt.Owed</u>	<u>Owner</u>
19 West Newell Ave	B 57, L 2.02	\$340.00	ATFH RLTY PROPTY LLC
68 Eastern Way	B 61, L 39	\$340.00	Sellers, Ernest & Annie
45 Feronia Way	B 169, L 8	\$340.00	Orrok, Timothy & Rotondi, J
11 W. Pierrepont Ave	B 27.01, L. 23.02	\$340.00	McKenzie, Trevor
70 Prospect Place	B 89, L 39	\$385.00	Ulan, Dean & Prince, Robert

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

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Right of way agreement with MCI was held to the December meeting.

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As Liaison to the **Williams Center**, Councilwoman Birdsall made a motion to authorize the Borough Engineer to advertise for bids for the William Carlos Williams Plaza Improvement Project, seconded by Councilman DeSalvo with all members present voting aye.

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As Liaison to the **West End Committee**, Councilwoman Birdsall wanted to publicly thank Maria Johnson for the wonderful job she had done with the Committee.

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As Liaison to the **Green Team**, Councilwoman Birdsall announced the Borough had received Sustainable New Jersey certification.

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For, **HUMAN RESOURCES**, Councilman Sasso stated that the monthly report would be on file at the Borough Clerk's Office and provided an overview of the fall sports.

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Under the Consent Agenda, Councilwoman Inguanti made a motion to approve the Rutherford Junior Football Lease agreement, seconded by Councilman Sasso with all members present voting aye.

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Councilman Sasso provided a report from the meeting with Board of Education for storage bins at Tryon Field.

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Councilman Sasso advised of a request from the Recreation Director for appointment of Sunday Custodial help for the school gyms. The Mayor will make these appointments under his agenda.

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Councilman Sasso moved the following Resolution, seconded by Councilwoman Birdsall:

WHEREAS, the Borough of Rutherford received bids for the Improvements to

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Memorial Field Walkway "Leisure Lane" project on November 12,2009; 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 Marini Brothers to construct the improvements for a price of \$122,916.75 (Base Bid, Alternate Bid A and Alternate Bid B) which is the lowest of the six (6) bids 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 **Marini Brothers Construction**, 9 Lafayette Place, Hackensack, NJ 07601 in the amount of **\$122,916.75** 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.

Council discussion took place. Mayor Hipp asked that the Borough Administrator invite Councilman DeSalvo and/or a member of the Recreation Committee be notified of the next meeting with Marini Brothers.

The Borough Clerk read the roll call with all members present voting aye.

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MAYOR'S AGENDA

Mayor Hipp spoke of the League of Municipalities Convention where he attended the Sustainable New Jersey awards luncheon and thanked those involved and alerted all that in the near future municipalities will be required to have a Qualified Purchasing Agent.

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Appointments

Michael Matthews – Board of Health

Councilwoman Inguanti moved confirmation of Michael Matthews, seconded by Councilman DeSalvo with all members present voting aye.

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Leslie Shenkler – Municipal Housing Liaison

Councilwoman Inguanti moved confirmation; No second.

Motion Failed

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Winter Seasonal Help for basketball/indoor soccer programs

Ed Arce

George Essbach

Juan Hernandez

Nancy Olender

Thomas Brundage

Moe Garcia

Mark Jannicelli

Eric Weeks

Bob Chinery

Daniel Garippa

Joe McTeague

Harry Western

Councilwoman Birdsall moved confirmation, seconded by Councilman Sasso with all members present voting aye.

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ORDINANCES ON 1ST READING

Councilwoman Inguanti introduced the Capital Bond Ordinance appropriating \$493,660 for various capital improvements.

The Borough Clerk read Ordinance by Title only: **CAPITAL BOND ORDINANCE TO APPROPRIATE THE SUM OF \$493,660.00 FOR VARIOUS CAPITAL IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY AND TO TRANSFER UNEXPENDED BOND ORDINANCE BALANCES AND REAPPROPRIATE SAME TO FINANCE SUCH APPROPRIATION.**

Councilwoman Inguanti made a motion 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; seeing none the discussion was closed.

The Borough Clerk read the roll call: with all members present voting aye.

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Councilwoman Inguanti introduced the refunding Bond Ordinance for funding of certain property tax repayment obligations for tax appeals.

The Borough Clerk read Ordinance by Title only: **A REFUNDING BOND ORDINANCE PROVIDING FOR THE FUNDING OF CERTAIN PROPERTY TAX REPAYMENT OBLIGATIONS OF THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF**

BERGEN, NEW JERSEY, IN SATISFACTION OF CERTAIN SUCCESSFUL PROPERTY TAX APPEALS, APPROPRIATING NOT TO EXCEED \$450,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$450,000 IN AGGREGATE PRINCIPAL AMOUNT OF REFUNDING BONDS FOR SUCH PURPOSE.

Councilwoman Inguanti 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; seeing none the discussion was closed.

The Borough Clerk read the roll call: with all members present voting aye.

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ORDINANCES ON 2nd READING

Councilwoman Inguanti introduced the Ordinance regarding public notice for wireless antennas to be in compliance with the State law requiring 200 feet.

The Borough Clerk read Ordinance by Title only: **AN ORDINANCE AMENDING ARTICLE 9A, SECTION 131-52.4J OF THE CODE OF THE BOROUGH OF RUTHERFORD MODIFYING THE PUBLIC NOTICE REQUIREMENTS FOR WIRELESS AND TENANT APPLICATIONS FROM 500 FEET TO 200 FEET, AS REQUIRED BY THE MUNICIPAL LAND USE ACT.**

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

Mayor Hipp opened the Ordinance for public discussion; seeing none discussion was closed.

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

The Borough Clerk read the roll call: with all members present voting aye.

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Councilwoman Inguanti introduced the Land Use Procedures amendment to planning fees and escrow requirements.

The Borough Clerk read Ordinance by Title only: **AN ORDINANCE AMENDING SECTION 51-29 OF THE CODE OF THE BOROUGH OF RUTHERFORD ESTABLISHING ZONING AND PLANNING FEES AND ESCROW REQUIREMENTS.**

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

Mayor Hipp opened the Ordinance for public discussion; seeing none discussion was closed.

Mayor Hipp opened the Ordinance for Council discussion; seeing none discussion was closed.

The Borough Clerk read the roll call: with all members present voting aye.

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NEW BUSINESS

Councilman DeSalvo made a motion to re-assign the Ford Hybrid from the Building Department to the Parking Enforcement Officer, seconded by Councilwoman Inguanti.

Mayor Hipp opened for Council discussion.

Councilwoman Birdsall stated that the Hybrid belongs to the Building Department and there would be cost savings in any Department with its usage and expressed appreciation for the employees of the Building Department.

Councilman DeSalvo stated that the Building Department didn't own the vehicle it was owned by the Borough and it would be better used at the Police Department.

Councilwoman Inguanti commented on the vehicle issue and it should have been brought before the Council before any decisions were made.

Councilman Sasso asked what the expenditures would there be if a transfer did take place. Councilman DeSalvo responded maybe a few hundred dollars.

Councilwoman Birdsall noted that all that information should be brought forward before any decisions are made and there are other ways to balance the budget and they need to be pro-active in finding ways to generate revenue.

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

Motion was defeated.

Mayor Hipp asked the Council to sit with the Bldg. and Police Departments to find out what the most appropriate use for the vehicle would be before they start making motions.

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Councilwoman Inguanti brought forward a discussion regarding Mayor Hipp's questioning Borough employees regarding private conversations and the possible violations of the law. She expressed her concern of putting the employees in such a position. Councilwoman Inguanti requested the Mayor refrain from that type of questioning.

Mayor Hipp stated for the record he interviewed several employees and told them in plain terms they were not the subject of any investigation or any disciplinary proceeding; the purpose of his interviewing was to ascertain information. As a result of a meeting last month where the first Rice Notice issued, Councilwoman Keyes made a public comment that she spoke to Dept. Heads, employees and Councilmembers concerning the job performance of Les Shenkler and what that was about was Mr. Shenkler's job performance. When Ms. Keyes went to Mr. Shenkler's office in July in a private conversation she went to him as Council President and asked him to resign. She said she spoke to every member of the Council with the exception of John Genovesi.

Councilman DeSalvo stated that Councilwoman Keyes had said in a past meeting that she did not talk with him or Councilman Genovesi. Mayor Hipp asked if he had spoken to Councilwoman Keyes prior to him going on vacation and Councilman DeSalvo responded no.

Mayor Hipp questioned Councilwoman Inguanti if she had spoken to Councilwoman Keyes before the Councilwoman had spoken to the Administrator in July.

Councilwoman Inguanti asked the Borough Attorney to intervene so that they didn't violate Mr. Shenkler's sensibilities and she asked that they follow the proper procedure as they had a Rice Notice in place for the next meeting. The Councilwoman asked the Mayor to defer further interviews until the Council had a chance to deliberate on December 8. The Borough Attorney noted that the Mayor could ask that question and Councilwoman Inguanti had the right to answer or not answer the question. Councilwoman Inguanti responded to the question stating that she didn't recall and didn't know what the point of the question was. Mayor Hipp stated he thought the Council had been very unfair to Mr. Shenkler and that will be discussed in closed as per the Rice Notice.

Mayor Hipp said he as Mayor has the responsibility to make sure the laws/ordinances are faithfully executed and he will continue to have interviews with employees until he obtained the information he required. Councilwoman Inguanti recommended to the Mayor that if he believed there were violations of the law she suggested going to the Bergen County Prosecutor's Office. Mayor Hipp said he would take any formal action he deemed necessary. Councilwoman Inguanti asked the Mayor what laws he felt were being violated. The Mayor responded that he would inform them at the appropriate time and it was his intention to continue questioning Borough employees and if they refuse to cooperate he has powers to compel their answering and he will take formal action if needed. Mayor Hipp said on the public record "the employees who have been

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involved in this are not the subject of a disciplinary proceeding and are not the target of any investigation; no action will be taken against them as a result of his interviews".

Councilwoman Inguanti asked if they chose not to participate in the interviews, what disciplinary action would be taken against them. Mayor Hipp responded that he would take formal action and he would delineate that once he had a refusal. The Borough Attorney stated he hadn't researched the issue of what the Mayor's appropriate action would be; he didn't think it was appropriate for him to provide legal advice to the employees on what they should do if questioned by the Mayor. The Borough Attorney responded that the Mayor has the right to question employees about Borough business and normally the Attorney would not be present during those questionings. Councilwoman Inguanti wanted clarification that the employees have no protection from corporation Counsel or Union representative. The Borough Attorney state that an employee could chose to have a representative with them and he didn't know if the Mayor would object to that.

Councilwoman Inguanti made a motion to authorize the employees to decline to participate in interviews conducted by the Mayor in which they are asked to reveal the content of private conversations or characterize private statements made by other employees or elected officials, seconded by Councilman DeSalvo.

Mayor Hipp warned Councilwoman Inguanti not to do that as his inquiry is in his powers. Councilwoman Inguanti responded she would tell him on December 8 what she said. Mayor Hipp said if she told him that night in open it would save a lot of trouble.

Councilman DeSalvo added that there may be issues they couldn't discuss in open regarding Mr. Shenkler and the Council should have the right to know what laws where begin broken. Mayor Hipp replied he wasn't going to do that because he didn't have to and he felt it inappropriate that the Council would not talk about it in open.

Councilwoman Birdsall asked for clarification of the motion. The Borough Attorney noted that the Council could adopt the resolution but the enforceability is another issue and the motion was just an expression of the Council's point of view and had no impact beyond that. Mayor Hipp asked for further clarification as to the employee's rights not to answer any question. The Borough Attorney stated that if the question is reasonable and they refuse to answer, then there may be consequences and there could be potential questions that would be inappropriate.

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

Councilwoman Birdsall stated for the record the reason she voted no was because there was no teeth to the resolution but for the record it was a perfect example of mismanagement and she expressed her disappointment in the occurrences that happened with the Mayor. She did support Councilwoman Inguanti, the rest of the Council, and the employees.

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Councilman Sasso expressed his displeasure with inconsistencies of picking and choosing what investigations be done because it might not be in someone's interest to pursue those. The Councilman noted that he knows the deal with the past Administrator Tim Stafford was made by the Mayor for the \$8,000 pay out; his point was how do they have an investigation in talking with employees but they let something else slide by for two years and they shouldn't be able to pick and choose what they investigate.

Councilman DeSalvo stated that he had to bring up recommendations that Mr. Shenkler was speaking about for three months regarding a vehicle that should have been reassigned when they received it and that came from Mr. Shenkler's mouth. The Councilman noted that the people who spoke in regards to Mr. Shenkler had not worked with him as the Council does.

Mayor Hipp responded to Councilman Sasso saying there was no deal, as he agreed to an \$8,000 payout subject to the approval of the Council which they never approved and Mr. Stafford received the money anyway. Mayor Hipp described the specifics of the occurrence and noted that the matter had been referred to the State Commission of Investigation. Mayor Hipp noted for the public that three of the members who voted in favor of the resolution are people who had discussions with Borough employees and Dept. Heads concerning Mr. Shenkler's job performance and there is an effort to keep him from finding out what was said. The Mayor said it is his obligation and authority to find out what happened because an employee of the Borough has rights and they do not decide someone's job performance by back room chatter, by complaining as an elected body their obligation under the law is to evaluate that Dept. Head appropriately which was not done in that case. Mayor Hipp said Councilwoman Inguanti violated laws last year in authorizing the CFO not to issue a check to the NJMC, what they did with Lane Biviano where she claimed she had the votes to remove him from office that's not how they treat appointed officials or employees as it violates laws. Mayor Hipp said what was happening now was to hide what was already occurring and being characterized by intimidating employees, they only felt that way when he attempted to find out what was happening and he suspected they had something to hide. The Mayor said in the case with Mary Kriston, her interview was recorded and he wondered if the Council heard the recording, he wasn't surprised if all had. Mayor Hipp said at no time was he discourtesy, threatening, inappropriate though she may not have liked the questions but they were appropriate questions to ask.

Councilman DeSalvo disagreed with the Mayor's statement stating he was willing to discuss the issue in public but was stopped and told he would be violating Rice Notice rules and he was willing to discuss the matter in public.

Councilwoman Inguanti said in reference to the check to the NJMC she did not instruct Ed to not pay the bill but asked that he hold the check until she brought it to the Council for their direction. The Councilwoman stated that at no time did she tell Mr. Biviano that she had the votes to get rid of him, she told him she could not support his re-appointment; she then described her conversations with Mr. Biviano. Councilwoman Inguanti believed that she didn't break the law and asked that the Mayor refrain from making that accusation based on his opinion about conversations he had with other people.

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Councilwoman Birdsall stated she was concerned the Mayor stated that a decision has been made as they were only in the beginning of the process for Rice Noticing and discussion.

Mayor Hipp responded it was specifically based upon a statement by Council President Keyes that she had spoken to the Council to seek Mr. Shenkler's resignation in July. The Mayor stated he believed the decision had been made and the question was whether or not they talked to each other in private.

Councilwoman Inguanti asked the Mayor that if he wanted to ask the Council questions, that he wait until December 8 and not to ask the employees what they said.

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Councilwoman Inguanti moved to adjourn at 10:35 p.m., seconded by Councilman DeSalvo with all members present voting aye.

Borough Clerk