

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, DECEMBER 16, 2008**

The meeting was called to order by Mayor Hipp at 8:30 p.m. with the following Councilmembers present:

Councilman Fecanin
Councilman Sommer
Councilwoman Keyes
Councilman Genovesi
Councilwoman Inguanti
Councilman Sasso

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Mayor Hipp asked those present to join him in a salute to the flag.

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Councilman Genovesi read the provisions of the Open Public Meetings Law.

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Mayor Hipp thanked Councilman Fecanin and Councilman Sommer for their service and hard efforts on behalf of Rutherford throughout their terms, especially Councilman Fecanin who served multiple years.

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12/9

Councilman Genovesi moved the following resolution for a closed session, seconded by Councilman Fecanin with all members present voting aye:

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

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford will hold a closed meeting on Tuesday, December 9, 2008 at 7:08 p.m. in the Committee of the Whole Room to discuss the following matter:

- Captain Retirement Agreement
- Chief Retirement Agreement
- Loizzi Matter

The meeting re-convened to open session at 10:10 pm.

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12/16

Councilwoman Inguanti moved the following resolution for a closed session, seconded by Councilman Genovesi and unanimously approved on roll call:

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

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford will hold a closed meeting on Tuesday, December 16, 2008 at 7:10 p.m. in the Committee of the Whole Room to discuss the following matter:

- Personnel-Borough Administrator
- PBA Negotiations
- Closed Minutes – May 20 through November 10, 2008

The meeting re-convened to open session at 7:50 pm.

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Mayor Hipp explained they will have a public hearing on the Planning Board's recommendation for the Affordable Housing Plan element; a hearing open to citizens in connection with the Rutherford Downtown Partnership budget; a hearing in regards to a bid protest and with the Council's consent they will move away from the agenda so they can take care of that first and then the general hearing of citizens.

The Council consented to move the agenda to allow for the bid protest.

Mayor Hipp said a bid has been awarded in connection with the ADA improvements to Borough Hall to SMAC and the second bidder was present and wished to explain to the Council why he believed the bid should not have been issued or authorized by the Governing Body.

Carmen Micciche representing CM General Contractor said he was protesting because SMAC Corporation is an electrician and his registration ID has two different names and all that should be the same and bids should be fully completed 100%. He said it should be awarded to CM the next low bidder and he had a letter from State of New Jersey and handed it to Mayor Hipp who stated it was the bid document submission list and he handed it to the Clerk. Mr. Micciche said the fact is that it was not complete it should be rejected. Mayor Hipp asked the Borough Engineer to comment. The Borough Engineer explained that they received bids on Friday, Dec. 12 for the Barrier Free Improvements to the Borough Hall; Mr. Micciche brought the question up of the electrical sub-contractor's name and the name on the electrician's license being different from what

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was shown on the electrician's business registration certificate. He said based on that they contacted Dept. of Community Affairs to confirm the license status and DCA informed them that the name on the business registration certificate was the corporate name for the same gentlemen who had the electrician's license submitted in the bid. The Borough Engineer said the corporate bid and the address of the electrician were the same and DCA stated that the President of the Company was the same as the licensed electrician submitted in the bid. He continued to say based on that it is the feeling of his office and their sub-consultant that the bid was conforming and that the business name while different than the electrician it is the same person based on information from DCA.

Mr. Micciche responded that the packet wasn't completed and it should have been and it should be rejected and he was qualified and he was the next low bidder.

The Borough Attorney stated that he concurs with the Borough Engineer he was satisfied that the documents presented were adequate and the bid could be approved which it was.

Mayor Hipp said for the record the Council approved the bid in the work session and unless he sees a member of the Council who wishes to make a motion to rescind, then they will deem that the Council approve the bid of SMAC to proceed.

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Mayor's Commendation

John Latham – Rutherford resident wounded in World War I awarded posthumously

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Mayor Hipp opened the hearing of citizens.

Bonnie Corcoran, 390 Montross Avenue said her comments were directed toward the Mayor. She said he told them at the beginning of the year and he continues to say that he will have an open and honest government being open to all and as a taxpayer she respectfully request that he be honest and forthcoming with the answers to her questions. Ms. Corcoran asked if the reason behind the delay of the white collar union contracts being settled, is it because it is easier to layoff or furlough the expired workers than on a more active contract. Ms. Corcoran asked if it was true the reason behind the delay of the PBA contracts for the same reason. Police Director Thompson isn't done with his assessment such as a manpower study of the police force and she quoted the Mayor "our ordinance requires us to have 43 police and we currently have 40 including the three we hired back but as Mayor I can change that ordinance. I don't believe with a town this size and density in population they can get down to 25 police officers but its worth looking into." Ms. Corcoran said she took that from the audio of the Citizens Finance Committee from May 1st as she used to be on the Committee, she taped all the meetings she had and she does have copies of the CDs if they would like. She said she brought that up because

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at that meeting he handed one of the chair-people the rules and regulations of how to deal with layoffs and furloughs and he stated that he couldn't do it in the current year due to the fact they wouldn't have time to get it all done and work through the 2008 budget but it's worth looking into for the 2009 budget to layoff some of the workers. Ms. Corcoran said he also brought up the decision of the option to "pay as you throw", where they basically as a citizen they throw out their garbage in prepaid garbage bags doing away with some of the DPW workers. He indicated to them that it would save approximately \$2 million. She asked if it was his plan to reduce the DPW staff via layoffs by implementing that plan and make up the budget shortfall with the savings. Ms. Corcoran said she realized that Councilwoman Inguanti is the liaison but that night she also had a conflicting meeting and she only attended the first 20 minutes and was not at any of that part of the meeting.

Charles Burrhus, 267 Mortimer Avenue said Mr. Mayor was to be complimented, he knows he doesn't get that very much but to veto two ordinances that the whole Council approved. Mayor Hipp confirmed that Councilman Fecanin did not vote for one of the vetoes. Mr. Burrhus said he is a lifetime Rutherford resident and he doesn't remember in his lifetime a Mayor in his situation vetoing two ordinances especially in a time of a big recession; he is to be commended. He said the people that voted for those ordinances, Mr. Mayor has given them the chance to dodge the bullet and he realizes sometimes it is tough to eat crow but if they want any type of political career in Rutherford they dodge the bullet. Mr. Burrhus said the people in the town are in trouble, this town is in trouble, all he is saying is think sharp.

Fran McCarthy, 364 Orient Way said there seems to be a consistent issue with not starting the meetings on time and the message sent to her as a citizen is that their time is not really valuable and she disagrees with that. Ms. McCarthy said it is important that the meetings start on time and finish in a reasonable amount of time, people work and have families and obligations outside as do they and she believes they would like to get home a little earlier and start things on time. She hopes they can get that and she wonders about the legality of posting a start time and not meeting it as it is a consistent problem and she looked back over last years' start time and she doesn't think they had any starting at 8:00.

Ms. McCarthy said speaking about the veto she doesn't disagree with his stance about not spending that money but she thinks the veto was the wrong way to go about it, it was an end-run around his own Council and frankly to read about it in the paper is not the way she wants to hear about the business in her town, it is like airing the dirty laundry out for everyone to hear. She said she is embarrassed when she reads about other towns where Councilmembers and Mayors and other members of the municipal government are in-fighting, they have always been able to hold their heads up high. Ms. McCarthy said one of the advantages of having a bi-partisan Council, she would hope, is to be open to what others think and the point is they want to hear differing opinions and they need to have discussion as the speaker before her had some very good points; it is difficult to make cuts at a time and for things they need but the bottom line is as a homeowner and someone who works hard for a living sometimes they want things but it

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may not be the year. She said those are the hard cold facts and they need to take that into consideration, she wished it had been done differently.

Susan Muller, 29 Feronia Way said to Councilwoman Keyes at the last meeting regarding the ambulance squad that did not go to the podiatry office on Orient Way and she would like to find out the update on that because it was a little disconcerting. Ms. Muller said at the last meeting after she expressed about the leaf problem on Park Avenue in front of Female Fitness and Board of Health the leaves are still there, Mr. Shenkler that was directed to him, with no noticeable difference and now along with the leaves there is garbage on the sidewalks. Ms. Muller said they want the residents to be happy yet the simple jobs around town have fallen to the wayside no one takes pride in the town the way they used to as it once was that was her feeling. She said the Station Square Circle bricks, Mr. Seidler mentioned that earlier in the year and mentioned that it was a simple fix and they are still shifting and to her recollection nothing has been done; it looks horrible and she reflects back in the days when she was young and she used to go up to the Station and it's just hideous and everyone she talks to just can't believe what they did to the circle. Ms. Muller said she understands that things won't be the way they once were when she was a kid but she has such strong feelings about her town and she wants to go up and down the avenue and feel proud of her town, she doesn't feel that way at all. She said the Kip Center- Mr. Letsche asked about two parking spaces in front of the Center and if there was approval and he didn't get an answer at the last meeting so she was following-up because she would like to know. Ms. Muller said she knows there were ordinances put in at the first reading on November 25 for two handicap spots and she thinks they were approved so she would just like a simply answer to know if the spaces will be approved. Ms. Muller said at the work session on 12/9, she heard the entire audio on-line and she was absolutely flabbergasted and it leads to her question, which she stated at two previous Council Meetings and she doesn't understand why they all can't get along. She said she knows Councilwoman Keyes is going to be answering that question and respectfully she knows what her answer is going to be but that was not directed at her, please, it wasn't directed at her. Ms. Muller said she was stating it aloud not only for her but the Mayor and Council peers; it is apparent that they don't get along and maybe that is a wrong choice of words but anyone who was listening to that audio and that was there present, it just was very disturbing, it doesn't seem they are playing fair; announcements come up last minute and she doesn't like to read about things in the paper either the way she heard at that meeting. Ms. Muller said two last things she takes the 190 Bus at Station Square and she knows that there are cigarette butt holders downstairs in Borough Hall, there were hundreds of cigarettes butts and can they get one of those at the Station because its horrible, they are everywhere there is not garbage for smokers. She said her last question is that she lives on Feronia Way near East Passaic and last year she fell at the corner and she didn't sue the town but she will tell them now if she falls again it is going to be a big problem because she walks down that hill at night off the bus. Ms. Muller said she knows it is a United Water problem but still nothing has changed and there was ice there a few days ago and they salted but now that the snow is there it is going to be even icier, so she would like an answer when United Water will fix that problem; they have been out there numerous times, each year since she moved back four years now and nothing has changed the only things that changed was the asphalt

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going down the hill which she is happy about but is sure it is going to get ripped up in a matter of time.

Pat Kinzler, 105 Vreeland Avenue said when he saw the Council vote 4-0, 4-0 approve all the spending items a few weeks ago it really got him thinking about the bigger issues about the budget and the issues he doesn't hear being discussed. Mr. Kinzler said when they look at the spending the biggest thing is labor and payroll, benefits, medical what have they; so he went and visited with Ed Cortright and look at their medical insurance and they have 191 plan participants in the Borough's medical insurance plan and Ed shared with him how many are single, parent/child, employee and spouse, family. He said they are spending \$2.5 million a year on medical insurance premiums and that doesn't include dental and vision, it just focused on the medical and as everyone knows the employees do not pay anything toward medical insurance. Mr. Kinzler said he happened to take care of the insurance program for his company, they had 116 participants, smaller population but none the less he thought it would make a good comparison so he took the Borough's participant population and put into his company's plan and as the Borough is paying \$2.5 million his company is paying a total cost of \$2.27 for a savings of \$475,000. He said of course being a private company they have the employees pay towards medical paying 30% of the premium that's again if he puts the Borough employees in the plan that would be a \$608,000 contribution by the employees toward the premium so if the Borough employees were in his company's plan, the total cost to the taxpayer would be \$1.4 million whereas the Borough spends 2.5. Mr. Kinzler said he anticipates they will say it is just not fair to compare a Government plan to a private company plan and by the way they use Oxford and on a side note, their 2009 premiums which is what he used, and he used the Borough's 2008 premiums by comparison their premiums went up 6% for 2009 with no change in the benefit plan. He said again 1.1 million, he anticipates that someone will say well Government versus private plan he can't do that so he went to the Board of Education and asked for their plans and as a side note he believes the Borough has about eight or nine different medical insurance plans for the different unions. He was sure there was some economies of scale to be realized somewhere and anyway the Board of Education has two plans, PPO plan that is really for the employees who have been there a while and one is a POS plan and he thinks seven years ago they negotiated with the union and they said going forward all new hires will be in the PSO plan. Mr. Kinzler said so they are grandfathered in the existing plan employees in the better plan no better but richer more expensive and as they retire they will be replaced by new employees with the other plan. He said it is now where 162 participants of school are in the new plan so again a population that is not to dissimilar to the Borough. Mr. Kinzler said if they are in the new plan after a certain number of years they can go over to the higher plan but they must pay the difference in premium and Bob Brown informed him that after years of doing that only one employee has opted to do so which shows what can be done. He said if they take the POS plan of 162 plan and they take the Borough's 191 and lift them up and put them in the school plan again taking that population of single, parent/child, employee/spouse, family the annual premium regardless of who is paying it is \$1,678,000 that is \$822,000 cheaper than what the Borough is spending without the employees co-payment. He said the school employees also do not pay for their premium so imagine if they used the school plan and the employees paid a contribution, what they could do for the taxpayers in the

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town. Mr. Kinzler said right now they aren't doing either and its really hard to sit there as a taxpayer and say wait a minute, his tax dollar is paying for eight or nine plans over there and paying for those plans over there and someone in the town figured out how to do it and someone in the town hasn't figured it out yet so he offers that because he knows they are negotiating the contracts, they are still open and he sits there and dreads what his next tax bill will be and he would like to offer his spreadsheet to the Clerk for record. He hopes that when they negotiate the contracts somebody is thinking of the taxpayer, somebody has told him that a couple of years ago the State was considering paying 75% of the premium for retired police officers, if that plan exists are they taking advantage of it? Mr. Kinzler said he doesn't know but what he is seeing upwards of 1.1 million savings through better negotiation.

Chris McCarthy, 364 Orient Way said first comment is related to the Sunday paper about Sen. Sarlo sponsoring a bill to let Xanadu/Giants & Jets forego \$90 million in payments and at the same time letting East Rutherford off the hook to build affordable housing. Mr. McCarthy said the logic behind it is that East Rutherford does not have an oversight on what happens at the Meadowlands Sport Complex and therefore should not have a COAH requirement for action at the Sports Complex. He believes it should also able the NJMC territory including Rutherford and the neighboring towns since they don't have the ability to choose what they want in the Meadowlands; one of his questions were did Sen. Sarlo contact anybody there regarding the bill and to add NJMC on top of that? Mr. McCarthy said the paper went onto say that Sarlo was doing it for the benefit of East Rutherford and not for the benefit of Xanadu/Giants & Jets; he doesn't know if anyone there believes that but its similar to what he did with Encap when he sponsored a bill specifically for Encap which they all know what happened with that. He said the town's position on COAH, it seems to him that of the 560 towns in the State of New Jersey over 200 suing through the League of Municipalities; he would like to suggest the town organize with the other towns and put on some type of protest maybe going down to Trenton. Mr. McCarthy believes Mr. Ceberio made the comment when someone asked him what could they do and he said he couldn't say then but later on he made a side comment that he would organize and he thinks that is pretty good advice.

He said something was brought up in one of the Finance Committees, he is on that Committee, first of all he would like to see some good productive meetings come back. Mr. McCarthy said one of the comments brought forward was that he knows that the Board of Education is not under the Town's authority but as a town he is looking for leadership that there are certain costs that the Board of Ed has, certain costs that they have that are similar, pension, medical, wages and hours work; for example the PBA contract currently – the average police worked 37 hours a week and he would really love to see them working 40 hours a week included in that 37 hours a week is 7 seven hours of breaks and lunch. Mr. McCarthy said in most private industries they work 40 with a half hour lunch or maybe a break, they could cut 10% of the police force by working a full week that is just one example of how they could all get on the same page because when the police go to arbitration which he would love to get rid of arbitration, but when they go they say the Board of Ed gave 4%; the town gave 4% so they deserve 4%. He said right now in the climate nobody deserves anything because that is what they can afford, most of them are paying for a percentage of their medical, most of pension, and now they are

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paying for all the town's employees medical. Mr. McCarthy said they are in hard times a recession depression and he would really like everyone at the Town, the Mayor sit down with the Board of Ed and have some real important discussion for a long term strategy.

Dennis Letsche, 228 Prospect Place said he noticed on the agenda on the bonding with the \$932,000 they didn't get full answers on that but he believes it is going to be answered there but just as a reminder. Mr. Letsche asked if the town, Governing Body ever go out and look for grants and grant writers for help when they need money and funding and if they have done that or not, why the Governing Body wouldn't take a lead on that. He said also on the agenda there is going to be a RFQ out for Risk Manger/Consultant as well as a Producer Consultant and he questions what the reason for it and what does the Governing Body want to accomplish with it?

Frank Wilson, 171 Montross Avenue said as the Mayor said to Mr. Fecanin and Mr. Sommer from the citizens, as he knows it takes a lot of time up there and it has taken a lot of hours out of their time so he just wanted to thank both of them for the years of service and wish them luck and the endeavors after and as a citizen he thanked them. Mr. Wilson said the question is from his understanding the Council passed it as for meetings the citizens go up there ask the question and sit back down again and they take it upon themselves to answer them; he would like to go back to the way it was previously under the other administration that they ask a question and they get an answer; if they have a follow-up question they ask again instead of having to wait until the end of the meeting and then ask it again four-six hours later. He said he would like them to go back to the way it was if there was a question he gets an immediate response instead of maybe not getting a response so please take that into consideration and go back to the way it used to be.

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

Councilwoman Keyes said to Ms. Muller that she wouldn't bore her with the same answer she has given her a few times, but she has a question to her to say they aren't getting along is she referring to the Council or to the Mayor and Council or to the Mayor because she is beside herself with that comment because she does feel they work well together unless she has the rose-colored glasses on again and they do work well together but that is the last time she is going to comment on that. Councilwoman Keyes said she will be giving a report on the Ambulance issue in her liaison report. She added that she too would like to respond to peoples questions as they give them because they may forget some of them and/or they might not be fast enough so that is why she would like to go back to that format.

Councilwoman Inguanti thanked Mr. Kinzler for his diligence and they appreciate it and she knows he understands with the different bargaining units, but she thinks that is the way the world is going and she suspects there will be changes and she also suspects they will be incremental. She said earlier in the year she spent quite a bit of time on the phone with Mr. Brown and she was very satisfied with the changes he made to the contracts as regards to the teacher's health plans but she is interested in looking over Mr. Kinzler's report and reviewing it with him in a meeting perhaps with the Borough

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Administrator and the CFO. Councilwoman Inguanti said in regards to Mr. McCarthy she saw that article in the Sunday Record in regards to Sen. Sarlo's plan and she spent an inordinate amount of time on the phone yesterday and today to try to figure out what the heck was going on with it because the planners are present and they probably spent hours on the phone with other municipalities trying to make sense of what Trenton is doing. She said she spoke with the Planning Board Attorney just a few hours ago and Sen. Sarlo had reached out to East Rutherford in regards to the whole Xanadu issue because it obviously directly affects them. Councilwoman Inguanti said as of 9:12 of that day Sen. Sarlo has withdrawn the original proposal, the one he introduced with another Senator they are reintroducing a bill that not only deals with the developer fee but also asks that the COAH obligation be removed, its not available in writing yet because she believed it only got introduced that day. She said Sen. Lesnyiak had introduced a separate legislative change that was going to remove the 2.5 developers fee for all projects for a certain period of time and it was her understanding that they are combining the bills but she truly doesn't think it is available in written form yet, Sen. Sarlo told the Planning Board Attorney that he would be forwarding it to them in the next couple of days. Inaudible from the audience. Councilwoman Inguanti responded that she understands that the appeals case about a year ago was about and the NJMC was asking for just that because they too are a State agency, they shouldn't have to do it but they lost so she doesn't know was the remedy will be in the legislature and she doesn't know what will happen in the courts. Inaudible from the audience. Councilwoman Inguanti responded to Mr. McCarthy and she apologizes for the start time of the meetings, its been difficult and they have been trying to do some of the closed session issues during the work session so that they are not there discussing closed session items sometimes 1:00 a.m. because it gets hard for them too. She said to Mr. Letsche yes they instructed their Borough Administrator to pursue grants for them and that is something he is actually working on presently and she believes the bond ordinance will be discussed later in the agenda. Councilwoman Inguanti said in terms of a Manager Consultant the reason they asked for them for reasons of the fair and open process for appointment of Borough Professionals but also she is perfectly willing to look at it in terms of a comparison of services rendered and to make the best decision for the town.

Councilman Genovesi said to a certain degree he concurs with Councilwoman Keyes, he feels the relationship amongst the Council itself is very strong, a very good working environment amongst themselves considering that somebody brought up the bi-partisan issue and truly it being split 3-3 amongst the Council. He said to answer Ms. Corcoran's concerns he didn't know if it was a general statement only for the Mayor or if she was asking the Council for their opinion but as the Police Dept. Liaison he has no knowledge of any manpower studies being done by Director Thompson. Councilman Genovesi said to Mr. Burrhus that the last meeting he tried to answer the questions as directly as possible, again for the first veto for the first ordinance it actually represents a 22.5% decrease in costs to the taxpayer for that specific line item for that employee; he said they want to be very careful about what they say about ordinances in specific, but the truth in the matter is it represents 22.5% decrease in that line item cost. He said the second one is again under the capital issue, no new spending on any new debt in the form of new bonds have been issued, they have to be very careful about that as well, it is rather redistribution of bonds that occurred over the past few years. He said he directed

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his opposition to the \$221,000 that was being proposed to be redirected towards surplus that is fine but with all due respect his statement was a little bit wide and not specific enough to answer in a direct manner; there are bonds as old as five years old and Mr. Cortright had been asked by the Auditor to clean that up and that is what they are trying to do is reorganize them to get capital projects done in town. Councilman Genovesi said any opposition to the bonds themselves would have yielded a far greater result years ago when the town was going out for them; so he just wanted to try to answer his questions as honestly as he could at all times and he appreciates his comments and he would stick around or visit his home to explain why the way he feels about the ordinance because he had no problem sitting down with Mr. Burrhus and explaining his position a little further. Inaudible.

Councilman Genovesi said the total cost of the former employee for the year 2007, the total cost to the Borough, the taxpayer incurred was \$174,169. Inaudible. Councilman Genovesi responded they have changed the ordinance, its law at that point because they are not circumventing the ordinance. Inaudible. Mayor Hipp said the difficulty with cross comments and things of that nature is that it turns into a one-on-one debate, with no disrespect with people in the public who wish to participate.

Mayor Hipp asked Mr. Burrhus that they discuss it after the meeting with Mr. Genovesi and he confirmed.

Councilman Sommer said to Mr. Kinzler that he appreciates the work he did, they've been working and thinking about those issues of the disparities between the public and private sectors especially with medical benefits for at least for two years and now there is an opportunity to try to do something about it and there is action in place to try to work that as Councilwoman Inguanti said with the forces of nature are there and they are moving in the right direction. He said to Mr. Wilson, now that he will have an abundance of free time, one of his goals is there is this other body that has been referenced a couple times and he is not unfamiliar with it nor is he unfamiliar with several of the members, some of them being close friends, it is called the Board of Education. Councilman Sommer said 67% of the tax dollars go to the education, all of his children had been educated in a fantastic school system but none the less the reports that he has gotten out of the meetings from the Board of Ed worry him so he is going to be spending some time there and trying to understand where 67% of their dollars, he wished they had more control of the dollars in town but they don't. He said Ms. Muller's comment about the Council getting along, Councilman Fecanin could probably speak better but in the three years he has been there, the current year's spirit of decision and the knowledge that went back and forth in the positions and the reasons given by the Members, he felt was fantastic. Councilman Sommer said not saying it wasn't in prior years, because it certainly was in prior years there were occasions but what he witness this year even though it was a 3-3 split, he didn't see a 3-3 split on many issues; he saw a group of individuals who came with individual thoughts and actions and he thought the voting record bares that out when they have a 6-0 unanimous override of some recent ordinances. He said they kind of think things through together; it's like listening to a movie but not looking at the movie just listening to a sound track of the movie and trying to imagine what is happening on a movie screen. He said while he appreciates the Ms.

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Corcoran tapes the sessions, he doesn't know if they came and saw the interplay between the people and the non-verbal which is 80% of communication, he thinks they would see an incredibly health regard and healthy display of interaction and work amongst the members on the Council; he is absolutely delighted by it. Councilwoman Keyes said that was so eloquent and that probably was her problem, she didn't explain it correctly.

Councilman Sasso said Mr. McCarthy made a statement about the start time for the meetings for the open session, he doesn't think anyone up there wouldn't agree with him that they need to do a better job of starting the meetings on time, it's an obligation they have not only to the residents and people in the audience and to each of them; maybe it was something he learned in college but you give people a couple of minutes grace period and try to stick to the agenda and move forward expeditiously as best they can. He said obviously there is time for dialogue and what not, but try to stay within the parameters of the time. He said they need to do a better job of managing that time an expectation for everybody. Councilman Sasso said to Ms. Muller and he thinks everyone touched on it about them working together, when he first came on January 1st, it is funny how things change they get a different perspective being there for 12 months it's 3-3, its been referred to as Republican/Democrat but one thing he has seen from the Council people is that each one of them is a resident for the town and each one of them cares. He said he doesn't think anyone of them would be up there if they truly didn't care but in working with George, Joe, John, Rose, Maura and the people around Borough Hall it is certainly something he sees in people and it's nice to have a dialogue back and forth; in the beginning of January 1st he was sitting between basically two veteran's in Councilman Sommer and Councilman Fecanin and they took time out of there way during the sessions explain things to him, why they voted on a certain position even though they didn't agree and a lot of time he would ask them questions like what does a person mean about something or what happens in a certain type of vote so it's been an education being there with actually four veterans. Councilman Sasso said it is one that he has gotten to appreciate working with the people and he does believe though that they all need and it's not referring to the Council or anything up there collectively as a whole, he thinks they need to have honest open dialogue. He said if there is something to ask for on January 1st, that is something he would like to see consistent across the Governing Body is that it is open honest dialogue.

Mayor Hipp said with respect to Ms. Corcoran who asked if there is a plan for layoffs and the answer is no, but he would like to comment on a couple of things; during the course of the year members of the Citizens Finance Committee wanted to discuss the idea of layoffs and as a matter of information they were provided by him with a copy of the personnel regulations concerning the layoff procedure and how actually draconian it is. Mayor Hipp said they have a serious problem with the budget in the town in his opinion and he doesn't think he is alone and they ought to be open to discussion by residents and members of the Committee as to any means of providing relief that held true during the year and believes it will hold even more true in 2009 and so he will not take anything off the table including actions with respect to personnel. The Mayor said if the Country goes into a deep recession or worse, they should never try to foreclose what necessary relief they have to provide because that's their job and so he can't tell them what will happen because he doesn't have a crystal ball but he will say it was not part of

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the plan; it is something they have to work on. Mayor Hipp said he believes other residents of the town may want to discuss in full detail as the budget process becomes more clear which will be sometime next month.

Mayor Hipp said to Mr. McCarthy he echoes what was said before and apologizes for the lateness of the meetings, something came up that evening that needed to be handled in closed and it will be revealed further in the open meeting and that caused a delay; normally what they like to do is have the work session start at 7:00 and continue with the Regular Meeting at 8:00. The Mayor said he believes they made that target a couple of times that year and they will endeavor to do better in 2009 because it is about the public at the end of the day.

Mayor Hipp said that led him to his other comments with respect to some of the other observations that members have made, he thinks that the present year what they saw was a Governing Body that engaged in debate on a lot of issues some of which were controversial; Police Director vs. Police Chief and there are others. Mayor Hipp said people have to know one thing, the Mayor's Office is not another member of the Council, it's not a Councilman so it is a little more difficult but everything they do has to be done in front of the public and to the extent that people don't like reading about that in the papers, the press is what represents the public in many ways and access to information policy making, deliberations and decision making on the part of the Governing Body must occur in full view of all of them. The Mayor said they cannot be behind closed doors, they cannot make secret deals, they have to do it and unfortunately the press is now with the ability to instantaneously put something on the website, but what they have tried to do for example with the agenda is they want the agenda available to the public the same time it's available to everyone else and as much detail contained in that agenda as possible because they want the public to be able to go there and comment on those issues and the only way they are going to do that is if they have information and they have adequate notice. Mayor Hipp said the idea of debate and discussion is not to him something that is wrong with the Governing Body he thinks that's what democracy is, that is what they are supposed to be about, they could have a wonderful situation and everyone sits there and just agrees, nobody says anything with stuff getting done in record time but there are tough issues they have to face. The Mayor said affordable housing which will be coming up later, a very difficult issue that needs to be addressed by the town with respect to specifically Sen. Sarlo's bill; the problem is he is trying to help East Rutherford out of an obligation which may be imposed on them and what the bill does not do is unfortunately is relieve the burden at all. Mayor Hipp said the issue there with respect to affordable housing, Mr. McCarthy is actually going to be more than East Rutherford it is 115,000 new units in New Jersey through 2018 and in the Meadowlands Region it's going to be a very difficult road because if East Rutherford doesn't have obligation because the Sports Expedition Authority it doesn't mean it is not going to happen. Mayor Hipp said it means the Meadowlands Region is going to have that problem and/or Region 1 and nobody knows that yet and Sen. Sarlo's bill is attempting to preclude East Rutherford from having the full burden which he thinks is a good idea but he doesn't address what he thinks is the core issue what about everyone else. Mayor Hipp said he does think more needs to be done with respect to organizing and he thinks they are beginning to see it and what they are hearing from Trenton is that Speaker Roberts is

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looking to make changes to the legislation that was passed in the summer and Sen. Lesnyak and others are beginning to look carefully, they are in the process of which they are going to have to play a part, they are one of the 250 municipalities that actually joined in the lawsuit challenging the COAH regulations and they cooperate with the sister municipalities in an effort to making the changes so they do not have to face what it looks like they are facing currently.

The Mayor said to Mr. Kinzler he believes his analysis is spot on and it is difficult at the current point and he hopes he appreciates that, they are not really permitted to comment on detail about ongoing negotiations but he thinks all of them are well aware of the issue confronting the town with respect to medical benefits and the contributions by the employees and unfortunately it is a process, they were served with a notice of arbitration by the PBA on January 2, they had one day in order to settle in before the PBA decided to arbitrate the issue of its agreement. The Mayor said right now hearings are schedule in January and there has been effort which he cannot go into detail and they can not simply impose it; in the case of the PBA there is binding arbitration and if the arbitrator does not agree with them they are stuck and they are sensitive to it.

Mayor Hipp said in respect to Dennis and the RFQ for the Producer they did it last year as he recalls and they are doing it earlier this year because they were able to, they obviously invite any request for quotation from any qualified person on the issue of Producer and Provider. The Mayor said he or anybody else may submit if they are qualified, the idea is to give notice so that is why they are doing it.

* * *

Borough Administrator's Report was added to the agenda:

The Administrator stated they have received a \$100,000 grant from the Meadowlands Authority for the purchase of police vehicles and new curb and sidewalk repair; he is also in the process of preparing a grant for energy audit for several buildings in the Municipality with the Hall being one of them and that grant won't be until sometime in early 2009 but it will set the pace for what has to be done. He said it is a good time for that issue because it is a hot button in Trenton at this point, they're not only giving grants for finding out what is wrong with the building but they are also giving grants to repair and fix. The Administrator said on the agenda for the Council's guidance is a resolution asking them to go forward with that particular grant.

* * *

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

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Under the Consent Agenda, Councilman Genovesi moved to approve the Minutes of the Special Meeting of November 10, 2008, seconded by Councilwoman Keyes and unanimously approved on roll call.

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Councilman Genovesi moved to approve the Minutes of the Closed Meetings of: May 20, 27; June 24a, 24b; July 15, 22; August 5, 19a, 19b, 26a, 26b; Sept. 16a, 16b, 23; October 21; November 10, 2008, seconded by Councilwoman Keyes and unanimously approved on roll call.

*

12/9

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

RESOLVED: That bills in the amount of \$669,694.12 payable from the Current Account all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

*

12/9

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

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

1. In the amount of \$200.00 payable to Creative Kids Sound – payment for special event 12/6.
2. In the amount of \$350.00 payable to Joe Fischer – payment for special event 12/6.
3. In the amount of \$1,200.00 payable to The Center Circle – payment for U10 Boys Soccer League.
4. In the amount of \$325.00 payable to Stretch The Silly Man – payment for Preschool show.
5. In the amount of \$60.00 payable to Robert Lederman – refund wrestling.
6. In the amount of \$60.00 payable to Cici Nunez – refund wrestling.

*

12/9

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

WHEREAS the Borough of Rutherford has received overpayments of 2009 taxes on the following properties and;

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WHEREAS these overpayments will be credited to 2009 taxes for the same parcels;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a check made payable to the Borough of Rutherford in the amount of \$5660.53 and charge same to 2008 taxes overpaid.

BLOCK	LOT	NAME & ADDRESS	AMOUNT
3	19	Janardan & Kirtida Bhatt 374 Carmita Avenue	\$2295.23
8	22	Alan & Cynthia Hastie 259 Washington Avenue	\$ 128.38
28	23	Karen Ross 59 Vreeland Avenue	\$ 196.10
33	34	Melinda Fucci 75 Donaldson Avenue	\$ 189.47
43	48	Jose & Mireya Garganta 9 Sidney Avenue	\$ 282.01
48	14	Yogendra & Vilas Patel 121 Wood Street	\$ 78.17
73	7	Eloy Martinez 137 Chestnut Street	\$ 85.99
101	7	Keith & Kerry Greenwood 397 Park Avenue	\$ 88.28
101	29	Patrick & Mary Lou Petrozelli 2 E. Gouverneur Avenue	\$ 125.62
103	1.01 Qual. C0001	William & Mary Rottino 29 Woodland Avenue	\$ 868.72
105	3	C. Conti & K. Campbell 77 Daniel Avenue	\$ 71.45
107	2	Jeanne Lee 98 Woodland Avenue	\$ 90.01

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BLOCK	LOT	NAME & ADDRESS	AMOUNT
135.01	5	Michael & Jane Scott 195 Sylvan Street	\$ 170.81
157.01	28.01	James & Deborah Polito 71 Crane Avenue	\$ 77.70
163	1	Helen DeGenio 72 Crane Avenue	\$ 46.08
165.02	9.02	J. & D. Calcagno 197 Eastern Way	\$ 51.56
203	31	Helen & James Fox 462 Union Avenue	\$ 78.14
205	5.01	Tracey & Joseph Pangaro 87 Wingra Avenue	\$ 494.80
221	1	GFM Development 17 Meadow Road	\$ 184.00
222	10	D.C. Squared, LLC 39 Meadow Road	\$ 58.01

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12/9

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

WHEREAS there is an overpayment of 2008 fourth quarter taxes on the following properties, and;

WHEREAS it has been determined that the parties listed are entitled to a refund of this overpayment;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue warrants totaling \$2395.73 and charge same to 2008 taxes overpaid.

BLOCK	LOT	NAME & ADDRESS	AMOUNT
104.01	83	Craig & Marie Erickson 176 Wheaton Place	\$ 154.10

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BLOCK	LOT	NAME & ADDRESS	AMOUNT
137	13	Titleserv, Inc Re: 118 Mountain Way	\$2241.63

*

12/9

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

RESOLVED: by the Mayor and Council of the Borough of Rutherford that the Chief Financial Officer is hereby authorized and directed to issue a check in the amount of \$500.00 made payable to Maria Calabria for expenses incurred for the costs associated with the annual dinner for the Rutherford Auxiliary Police Department; and

BE IT FURTHER RESOLVED, that Ms. Calabria provide the Finance Officer with receipts and invoices and other supporting documentation for this event.

*

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

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

In the amount of \$1,000.00 payable to the retired Police employees listed below for medical benefits compensation as per contract for the period of July – December, 2008:

Joseph Frey	\$500
Jack Romain	\$500

*

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

RESOLVED: That bills in the amount of \$692,934.88 payable from the Current Account, \$9,604.34 from the Capital Fund, and \$6,515.79 from the Trust Fund, all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

*

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

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

1. In the amount of \$650.00 payable to Wayne PAL – payment two traveling basketball tournaments.

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Councilwoman Inguanti stated as previously discussed they will suspend the Finance agenda and go forward to the **PLANNING BOARD AGENDA**. Consent was given from the Council.

Councilwoman Inguanti introduced Susan Gruel and Fred Heyer from Heyer and Gruel Associates, also present was the Planning Board Chairman David Porter. She said the Planning Board approved the housing element of the Master Plan and changes to the Fair Share Plan last Thursday and what that has provided for is the opportunity for it to go before the Council for approval to be sent to Trenton prior to the December 31st date as required. She said it is for the protection it affords the Borough from a Builder's Remedy Lawsuit until 2018; which is when a Builder sues the Borough for the right to develop and uses the COAH obligation as a way to extract his right to develop which usually results in a couple of cases where it has happened most notably in East Rutherford and Carlstadt it can result in revocation of zoning rights of the Borough and tremendously increase the density requirements as could be imposed by a judge. Councilwoman Inguanti said it is certainly very disruptive to a Borough's ability to provide for its planning and zoning requirements and certainly the character and quality of the town that the Governing Body want to protect.

Susan Gruel said she would give a brief summary of what is in the planning document that all of the members of Council have and has been on file for the public to review. She said there are three components of every municipality's housing obligation and that is a rehabilitation share, a prior round obligation and then a growth share obligation. Ms. Gruel said in the case of Rutherford the numbers are laid out in the plan, 96 units of rehab, 95 units prior round and a net of 65 units of growth share; note that there are specific strategies associated with what they attempted to do in the plan which was to look at the number of existing affordable unit credits that they could take within the plan and take certain bonus credits based upon certain types of development that would occur and within the COAH regulations as to how that is defined. She noted that at the meeting on the other evening they noted that to a certain extent providing the affordable housing obligation in the manner in which it is; it is like doing the tax return to a certain extent; they look at various ways which is extremely complicated to do; they also have provided for required certain new development that would accommodate certain affordable units and that includes the Maples and Shop Rite sites for additional development with affordable housing within it; an accessory apartment program and a market to affordable program where market units are brought down and deed restricted for affordable housing. Ms. Gruel said by necessity they have had to include the Highland Cross Property and attempted to minimize the extent of new development both in terms

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of market units associated with that and at the same time look at the non-residential development that would be generated based on that project; that non-residential development in fact assists financing, internally financing not only the development of affordable units but also it assists in providing financing for the other portions of the plan. She added one of the key considerations in formulating the plan was to assure that their residential neighborhoods were preserved and the development that occurred in terms of addressing affordable housing obligation were not going to under-mind or negatively affect the very strong residential neighborhoods and the attempt was to make sure that no incompatible residential development was placed in the established residential neighborhoods. She said that is an overall summary of what was in the plan.

Councilman Genovesi said he attended the meeting in regards to the plan but was there ever a clarification on the issue that indeed a Rutherford resident who is in need of affordable housing may not even qualify under the plan to live in the same town they have lived in. Ms. Gruel said that actually, interestingly enough that subsequent to that meeting, that apparently one of the bills for consideration may in fact suggest that there be a residency consideration, however she noted that there had been previous litigation regarding that issue; the original COAH regulations did permit a residency preference up to 50% of the obligation which was litigated and thrown out. She said it is still unclear but it is being discussed in some manner. Councilman Genovesi, restating what he said the other night, thinks it is extremely unfair for individuals in a community who are in difficult times now, to be sold a song and a dance by a developer which is affordable housing and to hope that they could continue living in the community where they grew up in and for that not to be true, he hopes they be honest and alert people to that. He said they may have some people who support Trenton's agenda thinking that it would actually benefit them, but it won't.

Councilwoman Keyes said when they mention the Highland Cross Property Ms. Gruel stated that a non-resident portion could finance other portions of the plan, would they be referring to rehab at that point? Ms. Gruel said yes, it could be rehab and it could be the accessory apartment program and one of the reasons if the municipality that is under COAH jurisdiction files a housing plan by December 31st, it is obviously because of Builder Remedy Lawsuit potential but also if they do file a plan as a municipality can keep the 2.5% non-residential development fee and if they don't that money immediately goes to Trenton and then it is distributed through Trenton. Councilwoman Keyes confirmed that is if they don't file the plan. Ms. Gruel said yes by December 31 and if they do they maintain that non-residential development fee.

Councilwoman Inguanti wanted to clarify if Mr. Porter wanted to affirm it, they're desire to redevelop the Shop Rite site it's not simply to tear-down the Shop Rite and build an apartment building and a mixed-use which hopefully she would obviously prefer a grocery store there but for the public she wanted it understood that they are looking to take these sites and radically alter their use especially the Shop Rite site. She said that is something that people in the West End are very sensitive to, they are looking to do a mixed development that would hopefully greatly improve the shopping options in town but also the aesthetics of that portion of town and that would be obviously for future discussion with the Planning Board and Developer and she wanted to make clear to the

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public what the Board attempted to do in the plan was try to preserve the neighborhoods that exist as they are presently constituted, they are trying to really lower the impact of what their affordable housing obligation is in the traditional neighborhoods. Councilwoman Inguanti said if they try to fulfill their obligation exclusively on this side of 17 it would require a significant change to several of the sites being considered for redevelopment and it would require height requirements and density requirements that she thinks the Borough doesn't want. She said they are trying to get the numbers and the way they put it together in a way that is least painful and no one on the Planning Board is nutty about the change to the Master Plan and the zoning allowing for the residential east of 17; their options are very limited, what is the lesser of two evils. She also knows that East Rutherford is also considering residences east of 17, Lyndhurst is anticipating significant residential development in the Meadowlands as is Secaucus, so in many respects that horse is out of the barn. Councilwoman Inguanti said this plan represents trying to rein the horse in to keep the horse at least corralled in some way where they have the control in conjunction with the NJMC who has most of the zoning authority out there. She wanted to make it clear that they are not looking to tear down the Shop Rite and make it giant apartment buildings because she could see that could get misinterpreted.

Councilman Genovesi said Councilwoman Inguanti used one key phrase; about what Rutherford's Planning Board deciding to do something on Union Avenue with Shop Rite; East Rutherford deciding to do something, Carlstadt deciding to do something that is much different than State bureaucrats telling them what to do and that is what the COAH plan represents is the State telling them what to do and no longer giving the residents the choice of what to do.

Mayor Hipp opened the public hearing.

Frank Wilson, 179 Montross Avenue said he sat in on the Board of Adjustment and NJMC meetings and basically what they put together is not a plan; the reason is that regardless of what they say and Shop Rite and The Maples and maybe Felician parking lot and everything else is that the bottom line comes down to and it was not said that the NJMC can go there and they said it and put 300 houses of low impact housing on that area. Mr. Wilson said they haven't said it and nobody there has said it and they keep saying it is their plan, it is not their plan, their plan no matter what they give them, NJMC can come around and say they are sorry they can't find anything in East Rutherford, Wallington, Carlstadt, they have to get 200 more houses. He said lets stop the tap dancing about what they're going to say and what their going to produce and give to Trenton because they're not doing it, the Meadowlands Commission is doing it so whether they vote yes or no the only thing that seems to cost them is that developers fee or whatever they get to retain that's it so if they have a yes or no vote it is basically down to a little bit of money is in their control the rest of it is irrelevant it doesn't matter. He continued to say four of the sitting Councilmembers there have voted consistently no for Highland Cross, Councilmen Fecanin, Sommer and Genovesi and Councilwoman Keyes voted no. Councilman Genovesi responded he wasn't on the Council at that time. Mr. Wilson said well than three voted no and it hasn't changed; whether they vote yes or no later on the Meadowlands Commission comes in and says here's your houses have a nice

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day. He said what they reportedly wanted to do was with a family of four times 2 kids that is 600 kids and the schools can't handle more than 135 kids; where are they going to put the rest of them. Mr. Wilson said they just spent \$28 million not too long ago to update the schools, where are they going to fit 500 kids; so instead of doing it right now maybe they should get a commitment from the Meadowlands Commission, they won't touch that and then they have a plan and then they can move forward and until they have that this is irrelevant.

Fran McCarthy, 364 Orient Way asked what is the accessory apartment program. Ms. Gruel said accessory apartment program are apartments that are in existing homes or carriage houses they are apartments that would be deed restricted and there are ten units that are proposed within the plan; there are a cap on the number that COAH would accept and there is a certain minimum amount that the municipality must provide in order to make the unit affordable. Ms. McCarthy asked if the plan layouts the number units and where they would actually be. Ms. Gruel responded no. Ms. McCarthy said when they are submitting the plan to the State, aren't they looking for actual numbers and where they would plan to put the housing? Ms. Gruel said they do to the extent that they have to under COAH regulation, they don't with respect to the exact location of the accessory apartments, they have a number to comply but it would be a matter of advertising and have the people come and ask for permission to provide accessory apartments; like the Shop Rite yes that is actually. Ms. McCarthy said that is what she was asking, how many are they looking at the Shop Rite site. Ms. Gruel said 18. Ms. McCarthy asked are they talking condos, townhouses, what are they talking about. Ms. Gruel said it has not necessarily been determined. Ms. McCarthy said so it is 18 units, they have no idea what that means?; when they are submitting this plan and they are saying they are going to place affordable housing or possibly at the sites; they don't have to tell them what they plan on those units being? Ms. Gruel said what they propose on the Shop Rite site specifically is 25% of the units being for family sale units, within the COAH regulations there are certain requirements as to the age restricted housing, the maximum and minimum number of rental units and then the for sale and such. She continued that they tried to do in the plan was to address those obligations and in this instance what they proposed was family for sale as well as on the Maples site that will also be a family for sale. Ms. McCarthy asked what she meant by family for sale. Ms. Gruel said it would be family housing but for sale rather than rental. Ms. McCarthy said ok and for Highland Cross, what were the numbers for there? Ms. Gruel said they were looking at a 21 family rental and 79 for affordable the entire with the market as well would be 555. Ms. McCarthy asked what she meant by the market as well. Ms. Gruel said for what is called an (inaudible) development where it is a mix of market units and affordable units. Ms. McCarthy asked if COAH requires them to build market units as well as affordable. Ms. Gruel responded yes. Ms. McCarthy said then the developer will do it. Ms. Gruel said yes the concept is that the market units will subsidize the affordable units. Ms. McCarthy asked even if they submit the plan the Meadowlands Commission can add to their plan, her own son can't afford to buy a house in Rutherford and he won't be eligible for affordable housing either so she is frustrated. She continued to say the issue of affordable housing for her is not really that big of an issue, she gets the point of it but the Government couldn't do a worse job to screw it up, she has said it before at the meeting with Mr. Ceberio, she has to believe that there is corruption involved because they can't

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tell her that anyone with half of brain could actually think any of that makes sense to anyone. Ms. McCarthy said what is there protection from the NJMC or do they have any because her other concern is Sen. Sarlo in his wisdom and kindness to the Giants and Jets and developer's he really doesn't care about East Rutherford, doesn't mind dumping their obligation on the rest of them, she has a problem with that so what is it that they can do to protect themselves and her frustration is that she wants to hear from them what they are doing. She said they have to organize and be more vocal, she can't say all she wanted to say because she feels no one is looking out for them, the average person takes on everyone's responsibility and they work hard in Rutherford to have what they have and to have it pulled away from them. Ms. McCarthy said the developer gets to have market units so he can recoup costs but the cost to the town continues to go on, the services that these families require do not come for free and the State offers no help to provide those services so for her in the medical world it is like they don't get funding for Medicaid reimbursement but they have to take all comers. She said it is hard to have hands tied behind the back and do the right thing.

Kim Birdsall, 44 Summit Cross said for the record, if the plan is submitted it may be amended as discussed last week. Ms. Gruel said yes that is correct as every municipality has the opportunity to amend a housing plan after it has been filed. Ms. Birdsall said she is only one person but her vision of the West End would include more of an anchor for the community over there such as a community center or something to honor a particular resident. She said she goes back to the numbers as they spoke last week, is where she sees a potential for challenge, how those numbers came to be, she had mentioned that the rehab obligation was a combination of three different towns going along with the census and Rutherford was basically assigned 96 units so to her that says that is a door that is opened there to challenge that number as well as the next number being 95 that the accounting when back from 2004 to 2008 when the rules didn't change until 2008 so it is essentially retroactive and she wonders if that is an area that can be challenged. Ms. Birdsall said the third part of the number was 65 and that was based on the growth share so if they don't grow they don't have to do the COAH, so to her if those numbers are smaller that perhaps that frees them up a bit to maybe incorporate within the compounds of the community, is there someone who is challenging those numbers, how can they be challenged and who would be the appropriate group to do that?

Mayor Hipp said basically the challenge to the numbers is being conducted by the 250 municipalities in the current appeal case and that briefing scheduled to take place sometime next month and he does not anticipate a decision from the appellate court, probably until the summer of 2009. The Mayor said with a question on whether it goes to the Supreme Court or not because there will be losers and he doesn't expect any of that to settle before at least that decision is rendered so the answer is they are battling it in the arena opened to the communities which is right now in the courts. Mayor Hipp asked if that answered her question. Ms. Birdsall said she thinks it helps the public understand the key is the numbers, but if they are shown to be smaller on a consistent basis it helps with the Meadowlands issue, so she was happy to hear the challenge is there and that Rutherford is a part of that challenge.

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Arie Muller, 80 Montross Avenue asked if there was a deadline for the units to come on-line? Mayor Hipp responded 2018.

David Porter spoke as Chairman of the Planning Board (PB), saying the PB has been struggling with the plan for the last couple of months, numerous bills that were passed by the legislation over the summer as late as October 22 changed the game plan. Mr. Porter said prior to the plan that was approved by the Council two years ago 2005, satisfied the regulations there and there were plans for some housing in up-land Rutherford and 96 units down at the Encap site. He said the current plan calls for 101 units on the other side of Route 17, namely the Highland Cross Project as well as the balance up-land Rutherford, there are considerably tougher regulations now both in the rules and total number of units that they have to provide and it keeps changing. Mr. Porter said what they were seeking that evening was to get substantive certification and get the plan down to COAH and the State before the end of the month and in doing so they protect themselves to a certain degree namely from lawsuits and from an even larger choice. He said although Mr. Wilson says otherwise, this is the plan, the planners would not have put it forward if it was not an adequate plan to satisfy the current regulations. Mr. Porter said current regulations change every two minutes, he found no less than seven bills proposed in the past week in the Assembly and the Senate including the home area things, including the cancellation of the COAH regulations, he doesn't think that bill is going anywhere but it is a real hot issue down in Trenton and how it is going to settle out in the next few months remains to be seen but if they don't get it down there they are at risk. He said the risk is that what the NJMC please the developer Lincoln Equities will sue for developers resolution against it so what they attempted to with the hot button, the Highland Cross area, he doesn't think anyone wants residential over there however it is a property that has been remediated to residential standards and the NJMC has a gun to their head to satisfy the regulations (that is figurative gun not literal). Mr. Porter continued and in the process there is a petition in front of them to change the project from what it was indicated in 1999 as two office towers with parking decks and a hotel to residential retail etc. He said what they proposed in the plan is a reduction from their suggestion of 800 residential units down to 505 roughly a 37% decrease and it also cuts the retail projection from 500,000 square feet down to 250,000; they have proposed two floors of retail, they are saying it is more reasonable with one floor. Mr. Porter said with the hotel, they are great because they generate tax revenue for the municipality so while it is not necessarily developed on a clean sheet of paper they would like, it is being developed within the regulations of what the COAH rules are at 10:21 in the evening that is why no one can figure out what is going on and what the exact rules are at any minute and it is making it very difficult and the only people that are happy are the planners that are generating hourly billings for all of that. Mr. Porter said earlier that evening he was in East Rutherford where Mayor Casella spoke out against the COAH plan they put forward, but encouraged his people to vote and they passed and theirs is probably already in the mail heading to Trenton. He urged them to allow them to move forward with it, approve it so in doing so there is still the opportunity to make changes as the rules changes or as the game plan changes for Rutherford.

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Councilman Fecanin said as a general comment, for the public he has been around eight years with the COAH and it is nothing new it dates back to the Supreme Court decision back in 1979, it didn't happen over night, it has been going on for years.

Councilman Genovesi said his position is that though the hour is late it is an important issue that Rutherford is either going to reap the benefits from or unfortunately in his opinion suffer in the next few years. He said he remains against any form of high density housing within the confines of the Borough, he understands the ramifications of not approving the plan but he cannot support a plan that would open the gates to developers having free reign within the Borough. Councilman Genovesi said it is a case of they are damned if they do and damned if they don't and he understands there is a need to provide individuals with affordable housing, but Governor Corzine shouldn't be allowed the right to make current homeowners taxes unaffordable while providing benefits to others under the cloak of affordable housing. He said that is completely unfair, what they are doing it causing disadvantage to the people who live here already by providing advantage to those who don't, taxes will inevitably go up and the Mayor has been a proponent of that view point and he knows he would agree with him; taxes will inevitably go up from over development. Councilman Genovesi said they have to provide far greater services and as Mr. Wilson said at a previous meeting, the benefit from the taxation on those homes is far less than a single family house, there is no benefit from this for the people in town, they know it and he knows it. He said they can all sit there and say they are being forced into it but he doesn't have a gun to his head now and he is going to say no on it and he could care less what Jon Corzine or anyone else from Trenton says and that is not to put the taxpayers of Rutherford at risk, he understands the ramifications but as the Mayor says they are going to have to fight it out anyway. Councilman Genovesi said if they want to fight it out then let's fight it out.

Councilwoman Inguanti said she appreciates Councilman Genovesi's points and to Ms. McCarthy what she said in the meeting with Mr. Ceberio, she was standing behind her and she was cheering her on because she so appreciates the passion with which she spoke and also Mr. Frank Ferrio spoke very passionately and one of the great frustrations she has as an elected person is that she has to sometimes muzzle herself to keep her disposition in appropriate to fitting her station as an elected person she can't always say what she wants to say and that is truly frustrating. She said one of the things she thinks voting for the plan allows for is that it means that they are operating in good faith if the rules are what they say the rules are they aren't supposed to destroy an existing community to provide for COAH. Councilwoman Inguanti said it has been her understanding and what she has seen is that if they try to force the issue there are members of the judiciary who seem to have a certain penchant for destroying communities for just the purposes of being vindictive. She said by putting the plan forward and sending it down to Trenton they are saying they are operating in good faith as what the plan is and what the law is right now and as Mr. Porter said they are operating in good faith, they are trying to do it as Mayor Hipp has made this point repeatedly Rutherford for years and years going back to its inception always allowed for different housing stocks, differing zoning things that could appeal to people of all different income levels and that is one of the strengths and beauty of Rutherford and that is what the plan is trying to preserve. Councilwoman Inguanti said they have apartments on

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Union Avenue, Park Avenue, single family homes, two family homes, they all work together pretty well and radically altering that would be wrong and she thinks that is something the NJMC appreciates and her for one is finally Trenton is starting to wake up, she thinks they are seeing the poll numbers on this at it is an election year in 2009 and she thinks that is why they are seeing the movement they are seeing. She said the plan can be amended, the law is changing, it is very fluid, the PB allowed for the ability to revisit the plan if there were substantial changes to the law which there appears there is going to be and she would ask the Council to do the same thing that they reserve the right to revisit the plan, it would most likely be with the new Council in 2009. Councilwoman Inguanti said they need to work together and she jokes about pitch forks and torches but she is somewhat limited in being able to do that but you go girl, she was serious, they do need to fight and call their representative and they need to say they don't think it is right; their town is operating in good faith, they have provided numerous housing stock over the years for different income levels and the town should be rewarded and encouraged to do that in a way that makes sense for their community and certainly given the economic climate they need to make sure they are providing for increased economic growth and a reduction in the tax burden. Councilwoman Inguanti said they can't do that when Trenton says this is what they must do, unfortunately the Governing Body must operate in the frame work that has been given to them and it is truly, as her husband could tell them, it is probably the single hardest thing she has faced in the year as she is sure it was with the Council.

Councilwoman Keyes said she had no comment other than she was positive they have to file the plan by December 31st and she concurs with the Chairman and Councilwoman Inguanti that it is important for them to do it for the protection of the town.

Councilman Sommer said he is not convinced and maybe there are things he doesn't understand which is possible, if it is bad law he doesn't have faith, trust that there will be change that there will be time to rescue a community. He said what he does recall, as Councilwoman Inguanti referred to gathering pitch forks and so on, in those Chambers a two years in a slow but growing emotional sense, an overflowing sense they had three meetings from what was then called the Highland Cross Plan which they started with almost no knowledge, which turned out to be an unbelievable amount of knowledge that it was going to be 800 units and part of it was on the Meadowlands, part on Linque's property and the 800 units turned out to be from one bedroom up to three bedrooms with only 100 kids and nothing against kids. He said the issue was schooling, there were no fields over there for recreation, no facilities for fire, police and he realizes it is COAH and there is a bearing they have to live within the constraints of it, he supposes that there is some protection afforded to them by saying they are not happy with the law and yes they can amend it but he is taking that on good faith that they could amend it. Councilman Sommer said but yes they will get it in by the end of the year and be good citizens, he just sees the City of Rutherford changing because it becomes a city if they add 800 units that is almost a third the size of the Borough it will be adding 900 people or more if 800 units of three bedroom apartments, they are not all going to have dogs and cats. He said he has a concern about it and it is his fault for not having more details on the pros and

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cons but there is something in his gut and that is what he has to go with; that he can't support it.

As no other Councilmembers wished to speak, Mayor Hipp thanked all for being present and he commended everyone for a spirited discussion about an issue which touches local concern in ways that they can't described in a few words or less. The Mayor said he believes they are in a battle for the preservation of the local character of the community, the battle embraces the changes that took place the past summer in the COAH regulations and the statute that was passed which imposed incredible burdens on communities like Rutherford. Mayor Hipp said seven months ago they could have taken care of most of the obligation by entering into "Regional Credit Agreements- RCA" with host communities; A500 which was legislation passed in July took that out of their hands and now each community is required to provide for its housing within its borders and may not enter into the regional credit agreements, that is just one of the big changes that took place in the last few months. The Mayor said that is one of the things they are fighting in the lawsuit, they want them back, they want more reasonable assessments of what developed communities like Rutherford can actually really handle because they are the first Borough in Bergen County, they are basically built out with the exception of certain land area under the jurisdiction of the Meadowlands, they have developed over 100 years a community primarily residential which has a mix of housing types. Mayor Hipp said for the wealthy and the not so wealthy and these burdens being placed on Rutherford and most recently in the last seven months have been nothing short of incredible and add to that the ridiculous deadline that was imposed of December 31 to come up with a plan to which they requested extensions going back to the summer as well as the League of Municipalities. The Mayor said the legislatures in the last three weeks are requesting the extensions but it is basically too late, so what he believes they have is a situation where if they take no action or simply try to fight it and lose all control of what happens. Mayor Hipp said to look at it as a process, as opposed to a fait accompli, he thinks could begin to appreciate that a lot has to happen and will happen before housing is built in this town. The Mayor said any type of housing that requires that they meet affordable requirements and in fighting the battle they have to protect themselves so they have to act defensively as well as offensively and the plan is protecting them against a builder's remedy because they can file the lawsuit tomorrow as the Appellate Division isn't coming down with a decision to probably summer and with appeals they don't know where they are going to be. Mayor Hipp said in the mean time they will be in court under whatever the existing plans are and he said they have no defense; and if they don't believe that look what happened in East Rutherford and Carlstadt not only were they forced to built something they didn't want to build but also they lost the power to zone and the power to plan which is on the hands of someone they have to pay an hourly rate to and he doesn't want to see that happen in Rutherford. Mayor Hipp said though he doesn't want to reveal strategy at a public meeting, he wanted to be blunt, the strategy is to protect the flank; submitting a plan which will pass the laugh test, which will be reasonable enough that the Council on Affordable Housing will take a good look at it and fair housing groups won't just knock it out as being blatantly unacceptable. The Mayor said under the current rules they have to provide reasonable opportunities and they don't actually have to build the homes and maybe that is where some of the confusion is, they may not know what is going to happen at Shop Rite because that is privately owned land and a private developer could

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go in and make an application but if all they end up doing by the way is building a super market that is going to generate an additional affordable housing obligation on the community and they will have to find somewhere else to put it. Mayor Hipp said that a developer or the town will have to come up with that obligation, so it is a difficult concept for all of them to have to grasp and try to understand and appreciate but he thinks people need to understand and they have to trust they are all on the same page. The Mayor said protesting is already working, the municipalities and he has already talked to their legislatures about it and other people have too and they are beginning to see changes in the legislature and he cannot tell them that right how that will play out but the good news for him is that the changes that are being proposed with some exceptions tend to ameliorate some of the harsher aspects of the legislation that was recently passed and the courts decisions that were recently rendered so that communities like Rutherford are not going to be cut with the oppressive housing obligations that have to take place but he does urge the Council to pass the plan because it is a plan subject to approval that is subject to change but if they pass the plan they are still in the game. Mayor Hipp said that to him is still a more important part than not being in the game and not having any weapons to fight with so he asked the Council to support the plan.

Councilwoman Inguanti made a motion to approve the following Resolution, seconded by Councilwoman Keyes with all members present voting aye with the exception of Councilman Genovesi who voted nay:

WHEREAS, the Planning Board of the Borough of Rutherford, State of New Jersey, adopted the Housing Element of the Master Plan on December 11, 2008 and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Housing Element is attached pursuant to N.J.A.C. 5:96-2.2(a)2; and

WHEREAS, the Planning Board adopted the Fair Share Plan on December 11, 2008; and

WHEREAS, a true copy of the resolution of the Planning Board adopting the Fair Share Plan is attached pursuant to N.J.A.C. 5:96-2.2(a)2.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Rutherford, County of Bergen, State of New Jersey, hereby endorses the Housing Element and Fair Share Plan as adopted by the Rutherford Planning Board; and

BE IT FURTHER RESOLVED that the Governing Body of the Borough of Rutherford, pursuant to the provisions of N.J.S.A. 52:27D-301 et seq. and N.J.A.C. 5:96-3.2(a), submits this petition for substantive certification of the Housing Element and Fair Share Plan to the Council on Affordable Housing for review and certification; and

BE IT FURTHER RESOLVED that a list of names and addresses for all owners of sites in the Housing Element and Fair Share Plan has been included with the petition; and

BE IT FURTHER RESOLVED that notice of this petition for substantive certification shall be published in a newspaper of countywide circulation pursuant to N.J.A.C. 5:96-3.5 within seven days of issuance of the notification letter from the Council on Affordable Housing's Executive Director indicating that the submission is complete and that a copy of this resolution, the adopted Housing Element and Fair Share Plan and all supporting documentation shall be made available for public inspection at the Rutherford municipal clerk's office located at 176 Park Avenue, Rutherford, NJ , during the hours of 8:30 am to 4:30 pm on Monday through Friday for a period of 45 days following the date of publication of the legal notice pursuant to N.J.A.C. 5:96-3.5.

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Councilwoman Inguanti made a motion to approve the following Resolution, seconded by Councilwoman Keyes with all members present voting aye with the exception of Councilman Genovesi who voted nay:

WHEREAS, the Governing Body of the Borough of Rutherford petitioned the Council on Affordable Housing (COAH) for substantive certification on December 16, 2008; and

WHEREAS, the Borough of Rutherford is requesting approval of its development fee ordinance; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;

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6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing; and
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period;
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Borough of Rutherford has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c.46.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Rutherford requests that COAH review and approve the Borough of Rutherford's spending plan.

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Councilwoman Inguanti announced a notice of public hearing on the adoption of Housing Element of the Master Plan and Fair Share Plan for the Town of Secaucus.

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Councilman Fecanin excused himself from the meeting at 10:45 p.m. due to work a commitment.

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For, **FINANCE**, Councilwoman Inguanti reported as they are at the end of the year, it has been a difficult year in many respects but there have been some successes that she wanted to go through briefly. Councilwoman Inguanti said coming into the year, the DPW has been operating with 13 fewer laborers than they had in 2006 and they did not replace any and as a result there has been significant continued savings that was enjoyed by the previous Council but also they have been managing to provide the services and in some respects have improved them. She said the leaf collection has been somewhat controversial but she pointed out the weather that evening and the fact it is much safer for the residents considering there aren't giant leaf piles on the streets. Councilwoman

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Inguanti said another significant change they instituted was the use of estimated tax payments, which allowed the residents to better deal with their finances in regards to tax payments and also for the Borough to better control its cash flow. She said it will also save the expense of a tax anticipation note in 2009 which would be in excess of \$225,000 if not more.

They've also experienced, through the hard work of the Borough Dept. Heads, a reduction in police overtime for 2008 of \$80,000 less than the amount expended in 2007 which allowed them to cover the costs of rehiring the police officers without experiencing an emergency appropriate which would have given them debt in 2009. Councilwoman Inguanti said they have reduced their legal expenses by about \$100,000; they have reduced engineering expenses by approximately \$87,000; thanks to the Mayor's memo they requested an elimination of overtime expenses and it has resulted in approximately a \$20,000 savings; there was a purchasing freeze instituted in October which has recovered about \$100,000 which can be applied to overruns in other areas; again they are finding ways to work with what they have to make the most with the money they have.

She said they are trying to provide for capital improvements in the Borough utilizing already appropriated debt, they are not looking to bond new money for the current year, the next year and maybe even into 2010 if they plan it right. Councilwoman Inguanti said the saving of not incurring new debt is substantial in terms of the interest that would be paid and the fees to attorneys and such to do the bond issues. They have also received \$393,000 in grants and that is the work of the Borough Engineer, CFO and Borough Administrator. She just wanted to make it clear that there are steps being taken, some different things being done than in the past and some of the same things that were done in the past it is a long process; this was just handed to her that day and she personally is relieved that back in March/April Sen. Sarlo went to the Council and asked what they needed help with and had the legislative report and one of the things she asked was could they establish a legal defense fund, the Encap issues are really hurting the town. Councilwoman Inguanti continued that Sen. Sarlo and Assemblymen Scalera and Schaer have sent a letter to the Commissioner of Dept. of Community Affairs and she read the pertinent paragraph:

"The Borough of Rutherford is experiencing a revenue shortfall due to the fact that the owners of the Encap Project have not paid their property taxes to the Borough and that there were no bidders willing to purchase the resulting tax lien. Obviously the Borough could not have foreseen but the failure to pay its taxes and the inability to sell the lien. We would like to meet with you as soon as possible to continue discussing the possibility of assisting these communities (referencing also North Arlington). Through any and all means such as extraordinary aid and grants. Please contact Sen. Sarlo's office as soon as possible to schedule such a meeting."

Councilwoman Inguanti said she was somewhat heartened and again she thinks it is the result of people beginning to voice their concern, calling the legislatures offices and saying enough, they need to start helping and so she is heartened to see that there is some movement to help the community as a result of the Encap issues. She said to underscore a lot of what was said previously true tax relief is very difficult for the seven

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members to achieve; as Councilman Sommer indicated 67% of the tax burden is the result of the schools and though her kids are in the schools, she is not saying anything against the schools, they operate under the same problems that they do, unfunded mandates, enormous amounts of money being taken in the form of their New Jersey income tax in the form of the sales tax; all of the money which is supposed to go towards wholesale tax relief of all the residents of New Jersey is being unfairly in her opinion, distributed to only urban areas. Councilwoman Inguanti said communities like Rutherford are most seriously damaged by that because they have such a diverse population in terms of income; she remembers Councilwoman Keyes in the past talking about an organization called Dollars and Sense when she was finance chair. She said there are groups out there that are looking to make changes where change will really matter and that would be in Trenton and she strongly encourages members of the community to really focus their attention, the scrutiny, bring it on she loves it but the real energy needs to shift towards the people who make the rules and laws under which they, as a Governing Body are forced to operate. Councilwoman Inguanti once again encouraged the residents to take some time and understand the Borough Dept. Heads, Professionals, Governing Body are trying their best but they need their help to achieve the changes that will really directly affect the property tax bill.

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Under the Consent Agenda, Councilman Genovesi moved to accept the following Resolution, seconded by Councilwoman Keyes and unanimously approved on roll call:

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

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

FROM		TO	
Boro Clerk – Election Exp	\$ 15,000	Legal Fees	\$20,000
Planning Board - Legal	8,000	Board of Adjustment – Legal	8,000
Building Insp - Elevator Ins.	8,000	Recreation Other Exp.	500
Other Misc. Insurance	2,000	Fire Hydrant Service	12,000
Group Insurance	31,600	Municipal Court – Equipment	1,000
Buildings & Grds _ Other Exp	10,000	Finance Admin – Bank Charges	33,100
TOTALS	\$ 74,600		\$ 74,600

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Under the Consent Agenda, Councilman Genovesi moved to authorize issuance of the RFQ for Risk Manager Consultant and Producer/Consultant, seconded by Councilwoman Keyes and unanimously approved on roll call.

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12/09

Councilman Genovesi moved authorization to override Mayor's veto on \$932,072 capital ordinance approved 5-1 vote, seconded by Councilwoman Keyes with all members present voting aye with the exception of Councilman Fecanin who voted nay.

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12/09

Councilwoman Keyes moved authorization to override Mayor's veto on the Borough Administrator's salary ordinance approved, seconded by Councilman Fecanin and unanimously approved on roll call.

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Under the Consent Agenda, Councilman Genovesi moved to authorize issuance of the RFQ for Borough Attorney, seconded by Councilwoman Keyes and unanimously approved on roll call.

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

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 be cancelled;

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 canceled:

PROJECT DESCRIPTION	AMOUNT CANCELLED	
	FUNDED	UNFUNDED
Ord # 3028-03 10/21/03		
Police Department Console	12,140	
Stand Pipe	6,616	
DPW Phone	19,776	
Tryon Field Imp	16,824	
Lincoln Park Imp	24,122	
Tree Removal	10,215	

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Total Ord # 3028-03	89,693
Ord # 3012-02 8/12/02 Tax Map	12,692
Ord # 3055-04 11/23/04 Kip Center Fire Safety Improvements	112
Grand Total	102,497

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ENVIRONMENTAL IMPACT AND RECYCLING COMMITTEE, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Keyes with all members present voting aye:

WHEREAS, the New Jersey Board of Public Utilities (BPU) has authorized an incentive program to subsidize a portion of the cost to New Jersey's local governmental agencies for completing an energy audit of their eligible facilities, and

WHEREAS, municipal participants in the Local Energy Audit Program are also eligible for incentives toward the cost implementing specific energy improvements recommended in the energy audit, and

WHEREAS, applications are accepted on a first-come, first-served basis subject to funding availability,

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer, Borough Administrator and Purchasing Agent are hereby authorized and directed to immediately submit an application for an energy audit to:

New Jersey's Clean Energy Program
c/o TRC Energy Services
900 Route 9 North, Suite 104
Woodbridge, NJ 07095

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For **POLICE**, Councilman Genovesi stated due to the late hour his report will be on file with the Borough Clerk and he wished everyone a happy and safe holiday; he congratulated Councilman Fecanin who has left the building and to Councilman Sommer he has respected him a great deal as a colleague and he feels he has provided a lot of wisdom and insight as a Councilmember and he respects him a great deal and wished him the best in his future endeavors.

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Under the Consent Agenda, Councilman Genovesi moved to authorize the Borough Attorney to discuss holiday changes for certain Borough employee groups with bargaining units, seconded by Councilwoman Keyes with all members present voting aye.

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For **PUBLIC WORKS**, Councilman Sommer said he was speechless after such kind words from Councilman Genovesi as he appreciates them; going back to a comment that was made earlier that evening from one of the residents it gives evidence to the really great rapport that went on in the Blue Room as they chugged through and banged heads and really got to the core of the issues. That is the way a Council should operate and he believes that is the way they did and many of the things Councilman Sasso said they are citizens first and they care about the community. Councilman Sommer said for the years that Councilman Genovesi and before he was elected, he was always out there trying to see what was the best thing for the community and he did notice it through many of the parades they were standing at and seeing things.

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Councilman Sommer as Liaison to the **NERIED BOAT CLUB**, mentioned that there are \$18,000 in curb paving funds that are available and he said the Nereid Boat Club has a ten year plan to put in a waterfront park for Rutherford, it is coming towards fruition. He said there are now 3-4 sources of funding and last Friday they got another \$150,000 and in connection with that he would like to see them consider a ten foot length of a curb which would act as a barrier to the hill that every time it rains it pours and the water goes across the crown of the road and goes to the left of the boat house and is eroding that end. Councilman Sommer said the bulk heading disintegrated years ago and there is a storm drain 16' to the left on that curb but the water doesn't get there because there is a driveway cutout that was put in there years ago and the water just goes straight in as there is no barrier. He asked that this be considered by the Council next year.

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As Liaison for the **DOWNTOWN PARTNERSHIP**, Councilman Sommer said in regards to the budget for the RDP, he has reviewed it, he was at the RDP when the budget was brought up and he thinks what is important to note is that they do manage items very carefully. He said if they look at 2008 the budget was \$196,000, they came in at \$190,000 as an actual so they came in at under \$6,000; in 2009 while as 2003 which is a \$13,000 increase he fully expects especially with the understanding that they heard many times that night, the environment they will manage the budget back to the 2008 or even below the 2008 budget.

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Councilman Sommer moved to adopt the 2009 Rutherford Downtown Partnership budget, seconded by Councilman Sasso.

Mayor Hipp opened the hearing to the public, as no one wished to be heard the hearing was closed. No member of the Council wished to be heard.

The budget was approved with all members present voting aye.

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For **FIRE**, Councilwoman Keyes stated that her report is on file with the Borough Clerk; the new Fire Chiefs have been elected with the installation being held Saturday, January 3rd at the Elks Club.

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Under the Consent Agenda, Councilman Genovesi moved to approve the request to add 1974 American LaFrance Fire Vehicle to insurance, seconded by Councilwoman Keyes and unanimously approved on roll call.

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Under the Consent Agenda, Councilman Genovesi moved to approve the request to borrow a spare engine from East Rutherford while #56 Engine 2 is out of service for repair, seconded by Councilwoman Keyes and unanimously approved on roll call.

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Under the Consent Agenda, Councilman Genovesi moved to approve the request for use the mini bus for a luncheon in East Rutherford on December 30th, seconded by Councilwoman Keyes and unanimously approved on roll call.

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As Liaison to the **HEALTH DEPT.** she had a response for Ms. Muller in response to the ambulance issue that was raised at the last Council Meeting and the lack of response from the Ambulance Corp. for which Brian O'Keefe has asked she read into the record his response to the resident and addressed to Dr. Obiedzinski dated December 1st:

"Thank you for bringing your concerns to my attention on Wednesday, November 26, 2008.

I have reviewed the police reports for the ambulance dispatches you had concerns about and the police reports do reveal that the calls were handled by mutual aid.

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As you know, the Rutherford First Aid Ambulance Corps, Inc., is a volunteer ambulance corps. We are dispatched to approximately 1,300 calls per year and our dedicated volunteers take the time out of their lives to commit to a schedule so we can respond when an emergency occurs. That said, there are certainly times when we, as an organization, are unable to respond to calls. For example, there are times when multiple emergencies occur simultaneously and exhaust our available resources. In those cases, we rely on mutual aid agreements that we have with the surrounding towns who can cover us. By the same token, we also provide mutual aid to our neighboring towns when they are unable to cover their calls. By way of example, for the calendar year 2007, we handled 89 calls for adjacent towns. An equal number of requests to assist our organization were initiated to the surrounding towns for calls that we could not cover.

While we certainly endeavor to cover all of the calls in our town, the reality is that we, like all of the other emergency services, rely on the support of our adjacent emergency service providers to provide assistance when we are unable to do so. Even paid EMS providers rely on mutual aid assistance. In a recent article in The Record dated November 24, 2008 that appeared on the editorial page noting that the City of Hackensack, a daytime paid EMS provider, had to rely on mutual aid to cover ambulance calls in their city on 543 occasions in the year 2007.

We are fortunate to live in a community where the Police Department responds to the scene of all requests for EMS assistance with police officers who are also trained as First Responders, certified in CPR/AED. All of the police patrol cars carry defibrillators, along with oxygen and an assortment of other emergency medical equipment. This service does not exist in all communities. I can tell you from first hand experience that their response time is almost always measured in seconds and their care and professionalism is without reproach. In addition, calls that are classified as life threatening emergencies also receive the simultaneous dispatch of the paramedics. The paramedics are able to provide advanced life support care to a patient at the scene of an EMS call, prior to transport to a medical facility.

Both myself and our Squad Captain have met in the past few months with the Police Department to review the mutual aid procedures that have been in place for years to ensure that our residents' EMS needs are met when we are unavailable. While we endeavor to cover every call, we have also done our due diligence to make sure we have an effective process for dispatching mutual aid assistance when needed.

Whether the EMS provider to the Borough is a volunteer ambulance corps or a paid EMS service, mutual aid will continue to be an important integral part of the overall emergency services network.

We are an organization that has been in existence since 1949 and have a 59 year commitment of providing free ambulance service to our residents by highly trained dedicated volunteers. While it is unfortunate that we could not respond to the calls you noted, I am glad to see that the mutual aid system we have in place was there when it was needed.

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Please feel free to reach out to me.

Very truly yours,
Brian M. O'Keefe
Corporation President"

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For **BUILDINGS & PUBLIC UTILITIES**, Councilman Genovesi stated that the report will be on file in the Borough Clerk's office.

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12/09

Councilman Fecanin moved authorization to allow the retirement settlements for the Former Police Chief and Former Police Captain to be spread over five years, seconded by Councilwoman Keyes. Councilman Fecanin, Councilwoman Keyes, Councilman Sommer and Councilwoman Inguanti voted aye; Councilman Sasso and Councilman Genovesi voted nay.

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Under the Consent Agenda, Councilman Genovesi moved the recommendation to award the bid for the ADA Improvements to Borough Hall to SMAC Corp. \$109,876 with a NJMC Grant, seconded by Councilwoman Keyes and unanimously approved on roll call.

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For **HUMAN RESOURCES**, Councilman Sasso said due to the hour the monthly report is on file in the Borough Clerk's Office.

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MAYOR'S COMMITTEE REPORT

Mayor Hipp deferred to Councilwoman Inguanti for a resolution for a current fund appropriation for unexpended balances.

Councilwoman Inguanti said the Resolution is to move certain overages that have been created in the budget and they need to cancel the balances so that they could be credited to surplus; building department; elevator maintenance, misc. insurance, social services salary, Bd. Of Health nurses salary, FICA payments, BCA principal, BCA interest on principal, and altogether the most significant savings on solid waste collection salary is a savings of \$20,000, shade tree salary is a savings of \$30,000, all adding up to \$120,839.06. She asked that they move the balances to surplus.

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

WHEREAS, the following Current Fund Budget appropriations have unexpended balances at December 31, 2008:

Building Dept – Elevator Maint	\$ 8,000.00
Miscell Insurance	900.00
Social Services Salary	800.00
Board of Health Nurses Salary	10,000.00
FICA	8,000.00
BCIA Principal	2,433.65
BCIA Interest on Principal	3,805.43
Interest on Bonds	18,260.42
Interest on Notes	18,639.56
Solid Waste Collection Salary	20,000.00
Shade Tree Salary	30,000.00
	120,839.06

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be credited to surplus;

NOW THEREFOR BE IT RESOLVED, by the Mayor and Council of the Borough of Rutherford, that the above listed unexpended balances of the Current Fund be cancelled to Current Fund Surplus.

Approved on roll call with all members present voting aye.

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Mayor Hipp wanted it known for the record the NJMC awarded the full \$100,000 in the map grant so that they will receive that in 2009.

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Mayor Hipp stated that the Borough Administrator will be losing his health care benefits with the Borough of Allendale of January 1, 2009 and rather than he go without benefits he ask the Council pass a resolution which will put him onto the benefit plan with the understanding that the Borough of Allendale will provide 50% of the cost of the benefits through 2009 in the neighborhood of \$10,000-\$12,000 of contributions from the Borough of Allendale. The Mayor said he authorized the Borough Attorney to enter into a written agreement with the Borough of Allendale to allow for the payment of that portion on a quarterly basis.

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Councilwoman Keyes moved to approve payment of half of premium for health benefits for the Borough Administrator, seconded by Councilman Genovesi.

Mayor Hipp opened the resolution for discussion.

Councilman Genovesi asked the Mayor to elaborate more in-depth if possible of the circumstances surrounding if possible. Mayor Hipp said he doesn't have a problem doing that but the difficulty is that it was in closed session under RICE so he doesn't know what kind of leeway other than what he said. Councilman Genovesi asked the Borough Attorney for his opinion because he thinks it is unfair to leave it out there that they are paying for his health benefits, obviously without getting into the specifics he thinks one would be able to say that certain circumstances have led to that moment, it was not that they just showed up that night and decided to pay for health benefits. Mayor Hipp said the Borough of Allendale has notified the Borough Administrator that as of January 1 he does not have benefits, he sort of feels handcuffed in terms of going into a discussion. Councilman Genovesi said he wanted the general public to have no misunderstandings and it seems to be a situation that is unavoidable and quite frankly is unfortunate but it is what it is. Mayor Hipp said on advice of Counsel what he could add to give comfort to Councilman Genovesi that it is their understanding that the plan that was offered by the Borough of Allendale which did cover him has changed and as a result he no longer qualifies and the Borough of Allendale is willing to enter into a settlement agreement with the Borough of Rutherford or settlement of the problem of not providing.

The Borough Clerk read the roll call and motion was approved by all members present.

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ORDINANCES – 1st READING

Councilwoman Inguanti said the Ordinance is appropriating \$644,567 of unexpended bond proceeds from 2003, 2005, 2006 and 2007 for various capital purchases and improvements. She said the Ordinance would be lieu of the \$932,000 that was passed on second reading on Nov. 25 and approved on a veto override last week. Councilwoman Inguanti said the Borough Dept. Heads have worked with the Administrator in working down the numbers but there are other considerations to put forward for the Council. She said the numbers from the CFO are in addition to the \$102,497 that they approved to cancel from capital balances, that would be moved into capital surplus which can then be utilized in 2009 for tax relief; they approved the \$120,839 from the budget 2008 they will also achieve at the end of the year and the CFO assured her it will happen automatically which doesn't require actions of the Council. Councilwoman Inguanti said he also anticipates \$125,000 from the 2007 budget will be cancelled, the final two numbers are miscellaneous unanticipated revenue approximately \$100,000 and the joint insurance fund dividend which is approximately \$100,000. She said the first set of numbers she is looking at \$120,839, \$125,000, \$100,000, \$100,000 gives them a total of \$445,839 and when they add to that the \$102,497 from the cancelled capital balance that

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gives them a total of \$548,536 to move into surplus and that money would be used for tax relief of the Borough residents. Councilwoman Inguanti said that number of \$548,000 is approximately two tax points as they are currently constituted, a tax point in Rutherford is \$286,000 so in saving a little under two tax points. She said the Ordinance appropriating \$644,567 cancels the capital surplus to \$287,000 is the number.

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

The Clerk read the ordinance by title only as follows: **CAPITAL ORDINANCE TO APPROPRIATE THE SUM OF \$644,567 FOR VARIOUS CAPITAL IMPROVEMENTS IN, BY AND FOR THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY AND TO TRANSFER UNEXPENDED BOND ORDINANCE BALANCES AND REAPPROPRIATE SAME TO FINANCE SUCH APPROPRIATION.**

Councilwoman Inguanti moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilwoman Keyes.

Mayor Hipp opened the Ordinance for Council discussion.

Councilman Genovesi asked the CFO if the \$644,567 being discussed in the Ordinance that amount is coming out of an Ordinance that the Council passed for \$932,000? The CFO said that was correct, they were reducing it from \$932,000 to \$644,567 and he thinks the confusion is on the \$287,000 is not being canceled to surplus, that is being held in reserve to be used sometime in 2009. Councilman Genovesi said the figure of \$221,000 that is being transferred to surplus, what is that? The CFO said that \$221,000 is not being transferred to surplus. Councilman Genovesi said it says balances to be canceled to surplus then it says additional of 2008 capital ordinance reduced to \$221,118. The CFO said it was his understanding that the \$221,000 would not be cancelled to surplus at that time; they are holding those funds in reserve. Councilman Genovesi said the \$932,000 they were subtracting \$644,000 that leaves the balance of \$287,000 and if that balance were to be carried throughout 2009 and not used and rather at the end of 2009 the Council decides that the \$287,000 can be used at that point for either tax relief in 2010 or paying down their debt, is that an advisable situation? The CFO said they would have the authority, the ability to use a total of \$221,000 to transfer or cancel to capital surplus or they could use \$287,000 and use that for other projects or they could reduce the Borough's debt service, there are all kinds of choices.

Councilman Genovesi said the CFO just said cancelled out \$221,000 and if they were to cancel out \$221,000 and they ordinated out \$644,000 that would leave them with no wiggle room in 2009. The CFO said that is if they use the entire \$932,000, they would not have the wiggle room that he referred to. Councilman Genovesi said so if there were an emergency and they need to replace that \$221,000 they would have to bond for that money. The CFO said they would have to either issue that debt or they would have to add it to the Borough's 2009 budget and the tax levy. Councilman Genovesi said so a fair percentage is 3.5% for a bond? The CFO said 3.5% would be about right. Councilman Genovesi said on that amount of money it would be about \$30,000-40,000 of

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interest. The CFO said he worked it out to \$42,000 as interest on some \$300,000. Councilman Genovesi asked why would they cancel an amount out just to have to potentially replace it and cost taxpayers \$42,000 extra to do it? The CFO said well the \$221,000 that would be canceled to surplus would only be a savings to the taxpayers of about \$38 on a \$500,000 home. Councilman Genovesi said so for \$38 a year savings they cancelled out \$221,000 and if they do have an emergency to replace the \$221,000 in new bonds they have to pay \$42,000 extra, he doesn't understand the logic in that. The CFO said that \$38 would buy them the things Councilman Genovesi just suggested. Councilman Genovesi said so his position on it is that they run a huge risk in 2009 by not covering themselves if they extract \$221,000 out of it and apply it to surplus in 2009, they run the risk of not being covered for an emergency capital project. He asked the CFO for his advice, isn't it better to leave the \$287,505 the way it is, carry it over throughout 2009 and basically what Councilwoman Inguanti has done is provide a blueprint of what to do and what not to do, they have ordinance out for \$932,000 is that correct? The CFO said that is correct. Councilman Genovesi said then they have a spending plan for that of \$644,567; so as long as they keep that as a blueprint or as a guide and don't exceed that amount, they should at the end of 2009 have \$287,505 left in that fund. The CFO said yes, which they would have alternatives for. Councilman Genovesi said given the economic forecast in 2009 which 2010 could be equally at rough, wouldn't in his financial opinion make more sense to hold on rather than transfer to surplus cover themselves through 2009, have money available to either pay down debt in 2010 or convert it to surplus and use it at that point in the operating budget? The CFO said his feelings are that even if they kept the \$287,000 in tact for 2009, in other words not cancel any bit of it to capital surplus they still have a sum total of over \$500,000 which is going into surplus which Rose eluded to which is going to offset any kind of potential deficit that they may have on December 31, they might say they're having their cake and eating some of it too. Councilman Genovesi said he would say that exactly so if the Council agree to the \$500,000 and didn't transfer the \$221,000 to surplus in 2009 it would be most advantageous for the Borough. The CFO said they still have a substantial sum which is going into surplus to help offset a potential deficit at December 31st. Councilman Genovesi thanked the CFO.

Mayor Hipp asked the CFO if the anticipated debt at the year 2008 is 1.1 million, is that correct? The CFO said the deficit, yes approximately that is correct, approximately. The Mayor asked if it was safe to say that with the additional \$221,000 added to the \$548,000 would come closer to offsetting that debt that they are facing in two weeks. The CFO said it would add another \$221,000 to the capital surplus and that would help to offset another \$221,000 of that potential deficit. Mayor Hipp said that is correct, so it would lower the deficit that the Borough is facing. The CFO said yes. Mayor Hipp thanked the CFO.

As no further discussion was requested the Borough Clerk read the roll call: Councilman Sommer, Councilwoman Keyes and Councilman Sasso voting aye; Councilman Genovesi and Councilwoman Inguanti voting nay.

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ORDINANCES – 2nd READING

Councilwoman Inguanti stated that the following Ordinance is a salary ordinance for the Chief Financial Officer for 2008, 2009, 2010

The Clerk read the ordinance by title only as follows: **AN ORDINANCE REGULATING THE EMPLOYMENT, TENURE AND DISCHARGE OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF RUTHERFORD, UNDER THE PROVISIONS OF THE CIVIL SERVICE ACT (TITLE 11, NJ REV STAT) OF NEW JERSEY, NO 3151-08 ADOPTED ON MARCH 25, 2008**

Councilwoman Inguanti moved this Ordinance be passed on second reading and advertised according to law, seconded by Councilman Sasso.

Mayor Hipp opened the Ordinance for public discussion. As no citizens wished to be heard, Mayor Hipp closed the hearing of citizens.

Councilwoman Inguanti asked the Mayor to open for discussion among the Council; as no Council wished to be heard the Mayor closed the discussion.

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

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Councilman Genovesi said the following Ordinance on second reading for Vehicles and Traffic for a 15 minute space on Highland Cross and Park Avenue; handicap space on Hastings Ave and Grand Avenue and a second on Van Riper and Orient Way. He said these are recommendations made by the Police Dept. and he asked for the Council's continued support.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 126, ENTITLED VEHICLES AND TRAFFIC.**

Councilman Genovesi moved this Ordinance be passed on second reading and advertised according to law, seconded by Councilman Sommer.

Mayor Hipp opened the Ordinance for public discussion. As no citizens wished to be heard, Mayor Hipp closed the hearing of citizens.

Councilman Genovesi asked the Mayor to open for discussion among the Council; as no Council wished to be heard the Mayor closed the discussion.

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

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Councilwoman Keyes said the Ordinance is regarding rent control.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH, CHAPTER 83A, ENTITLED RENT CONTROL.**

Councilwoman Keyes moved this Ordinance be passed on second reading and advertised according to law, seconded by Councilman Sommer.

Mayor Hipp opened the Ordinance for public discussion. As no citizens wished to be heard, Mayor Hipp closed the hearing of citizens.

Councilwoman Keyes asked the Mayor to open for discussion among the Council; as no Council wished to be heard the Mayor closed the discussion.

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

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Councilwoman Keyes said the Ordinance on second reading for the implementing of the emergency services, the LOSAP awards.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 51A-1, ENTITLED LENGTH OF SERVICE AWARD PROGRAM.**

Councilwoman Keyes moved this Ordinance be passed on second reading and advertised according to law, seconded by Councilwoman Inguanti.

Mayor Hipp opened the Ordinance for public discussion. As no citizens wished to be heard, Mayor Hipp closed the hearing of citizens.

Councilwoman Keyes asked the Mayor to open for discussion among the Council; as no Council wished to be heard the Mayor closed the discussion.

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

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Mayor Hipp opened the second hearing of citizens.

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Arie Muller, 80 Montross Avenue said some of them know that he has a little project where he puts up the audio of the Council Meetings, they have about 300 people listening to the audio so he requested and it would be helpful if he could get the official CD from the Town because it is a better quality than he could get. Mr. Muller asked if a link could be put on the website because as the Mayor said information is important for the public, the address is Rutherford.podbean.com.

Bonnie Corcoran, 390 Montross Avenue said to Councilman Genovesi that he stated he didn't know about any studies with the Police Dept., maybe the Mayor is treating him like he did Councilwoman Keyes with the debacle of the firemen's rally or the rally at the firehouse where the liaison knew nothing, but the Mayor and his buddies did. Ms. Corcoran said to the Mayor that she is still flabbergasted at the way he treats the Council and at some of his actions where he literally blames others to cover his own butt and he stated that it was up to citizens to layoff people when she was a member of that Committee. She said she dropped off when his agenda came loud and clear that he was going to break his campaign promises of not laying people off and this was done in May so they didn't even hit the financial problems they are having now. She said in May he talked about layoffs and the most of the audio was the Mayor's voice, she tried to get a word in edge wise but she couldn't. Ms. Corcoran said she had a lot of notes but she was speechless so as a citizen she is asking the Borough Clerk, if available, through an OPRA statement the rules, procedures and any other information on election recall, recall of an elected official, she would like to OPRA that and she would like to know if the Clerk has that information available to the citizens of Rutherford.

Dennis Letsche, 228 Prospect Place thanked them for the information on the bonding but one question he has is on the \$287,000 that is left what is the advantage to canceling it as compared to keeping it in place or using it against the budget? Mr. Letsche said the question about the RFQ which was a two part question; first why they did it and secondly what did they hope to accomplish by it and he appreciates part of an honest answer which was it was obligatory because he knows that was the reason it was done last year as well as this year. He said the second part was what they plan to accomplish from it and the reason he asked that question was the definition of insanity is doing the same thing over and over again and expecting a different result and it is not a request for quotation, Mayor, he has to contest that, it is a request for qualifications because they can not quote that. Mr. Letsche said like he said back in March if those folks wanted to move that thing and they really wanted to get a real look at it, real quotations and take a look at what other venues would do for them, it had to be done 90 days in advance. He said he knows approximately two weeks ago he gave every member of the Council again a recap of what he did and a recap of what he said and he said at that point, number one if they have done that and they were going to be soliciting bids he could go out and do that. Mr. Letsche said if they were not doing that he would still like to have an opportunity to be considered for the Risk Manager and the Producer; the problem he has is he has no idea what they are looking and what they expect to accomplish by it; are they putting it out for the sake of seeing how many people will do it he is not going to follow the definition of insanity. He said if they want to have a new set of eyes looking at something they have been doing the same for the last 20 years, the only professional service in the town that has not been changing in 20 years, is the JIF and the Risk

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Manager. Mr. Letsche said they talk about the nice benefits they get back in dividends, and he will once again say dividends to him mean overpayment, they get back \$100,000 in dividend you should have gotten back 2 or 3; were the dividends predetermined, is there a formula for it or is it an arbitrary number. He said although he thinks there is a lot of good to be had when people have a lot of information under and know the JIF, he thinks at the same time there is a little bit of negligent duty he thinks by not having a new set of eyes look at it every once in a while. Mr. Letsche said if you think a new set of eyes look at it every once a while that is all that he is asking to do, it will not cost him one penny more because the JIF pays for all of that, they will have a new set of eyes and at the end of the year if the JIF is the right place to be they will be in the JIF and if the JIF is not the right place to be, he makes a recommendation but he told them that this town has not had a competitive bid or quote in quite some time and he knows that because he has sat on the JIF and he also sat as the Commissioner of Insurance for the town. Mr. Letsche said he knows for a fact and when he recommended to do that in the past it wasn't done, he strongly recommended that the Council, whether it be him or some else bring somebody in and it is no disparity to the people that are there because they are good people, he just thinks that after a while they can't see the flowers through the trees when they are in there too long. He said he would like the Mayor and Council to get back to him and let him know if he should waste his time and put it back together again or should he just leave the same paperwork he left last time because it is going to be exactly the same.

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

Mayor Hipp asked the Council for their comments.

Councilwoman Inguanti said for Mr. Letsche that one of her concerns with putting all of the money from bond into capital surplus, not all of the money but the \$287,000 and if they utilize the \$221,000 next year for operating expenses in addition to the surplus that they have already achieved in the regular budget; her concern is that it does leave them somewhat exposed in her opinion in the capital budget because their intention is to spend the \$644,000 for very necessary projects. Councilwoman Inguanti said the tax relief it provides, the \$221,000 provides any tax relief is good but they always have to weigh the option if there is a sewer collapse, things of that nature do they have the adequate funding in the capital budget for those unforeseen things. She said the other aspect that she has concerns about is that if they use all of it in 2009 they have a whole going into 2010 because they've utilized, cancelled capital ordinances, cancelled items that they can't go back and do it again at the end of 2009 going into 2010 and she anticipates that they will have continued shortfalls because she doesn't think the economy is going to get better until the end of 2010 based on the information she has gathered from financial people and such. Councilwoman Inguanti said concerns in regards to that and the other aspect to that if they choose to have things in surplus and not utilize them in the 2009 that can affect the way there are viewed for extraordinary aid so there are things to consider and they will consider it on second reading more fully and look at the numbers more closely, there is just strategic issues to consider. She said having given, now with the new Administrator, having had the opportunity to go through with the Dept. Heads that the \$644,000 is a totally appropriate and good spending plan but there are

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strategic considerations to canceling further to capital surplus to utilize in 2009. Councilwoman Inguanti said they can discuss that as a Council in more detail later.

Councilman Genovesi, in response to Mr. Letsche said he should have clarified when he was going back and forth with Mr. Cortright and it is actually not \$287,000 being canceled to surplus its been proposed at \$221,000 canceled to surplus. He said he agrees with Councilwoman Inguanti that is why he raised the concern is that once they spend it it's gone and if they put it into surplus and it goes into "property tax relief" which equates to about \$38 per household, it is going to cost far more than that if they have to bond for that in 2009 to get that money back. He said as a businessman Mr. Letsche the Borough is essentially a \$27 million business and there is no business that is still operating today that operates on fumes, they always have reserves, they always have backups and in fact the companies that are still afloat today are the companies that took those precautions. He said he would not put the Borough at risk to not have funds available above and beyond; when Rose was talking about \$644,000 it is that they are trying to set aside out of the \$932,000 that they over-rode the veto on that is going to be used for projects. Councilman Genovesi said the balance between the two is the number \$287,000 that they are talking about, it is his opinion looking at it like they are running a company, a service industry and an intelligent company would never run without something behind them, they wouldn't run as risk, they wouldn't take all their capital and expend it and then figure it out the year after. He said 2009 is going to be rough, 2010 is going to be equally as rough, he would rather have \$287,000 in unexpended funds available going into 2010 sure if the sewer collapses, street repairs need to be done and they can't secure other sources of revenue to bring in extra money to fix things then they have it on hand because at that point they only have two choices either bond for it or raise it in the budget. Councilman Genovesi said neither of those things are advantageous for taxpayers going into 2010.

Councilman Genovesi said he thinks the advantage, in his opinion, is not to cancel it and to keep it in the unexpended funds there so they have it available going into 2010 to either reduce the debt or have it on hand to use.

Mayor Hipp closed the discussion.

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Councilwoman Inguanti moved that the meeting be adjourned at 11:50 pm, seconded by Councilman Genovesi with all members present voting aye.

Borough Clerk