

**MINUTES OF A SPECIAL MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, MARCH 5, 2009**

The meeting was called to order by Mayor Hipp at 7:14 p.m. with the following Councilmembers present:

Councilwoman Keyes
Councilman Genovesi
Councilwoman Inguanti
Councilwoman Birdsall
Councilman DeSalvo
Councilman Sasso – arrived at 7:50 p.m.

*

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

*

The Borough Clerk read the provisions of the Open Public Meetings Law and confirmed that proper notice of the Special Meeting was posted.

Mayor Hipp stated that the meeting was the second of a series of meetings which started on Tuesday, March 3 concerning the 2009 Municipal Budget focusing on the revenue side of the budget.

*

Mayor Hipp introduced the new Borough Attorney William Smith and asked him to join them on the dais.

*

*

*

CFO Edward Cortright reviewed with the governing body the revenue portion of the proposed 2009 municipal budget. Mr. Cortright explained each line item presented to the Council. The Council discussed numerous points during this presentation from the CFO from permits and fees collected, to extraordinary aid, grants, shared services, utility cost savings, ENCAP and assumptions that might have to be made for budget introduction.

*

*

*

Frank Covelli, PIA said the Joint Insurance Fund had given them a dividend every year since they were members and the JIF provides them the option of taking the dividend as a credit or as a check and what Mr. Cortright explained to them was that as one year they took it as a credit meaning the dividend was issued in 2007 and therefore they did not take the money in 2007 as a revenue but applied it as a credit to the 2008 assessment. Mr. Covelli said that makes the line item lower because the credit taken in the 2008 line item; in 2008 for 2009 the

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

JIF issued the dividend in 2008 which was higher than in 2007, the Borough opted to take that as a check so they took it as revenue in 2008 so when they faced the 2009 JIF assessment they had the whole assessment there without the benefit of a credit against it because they took it in 2008.

The CFO explained that the same principle applies to the worker's compensation account in 2008 the amount budgeted for worker's comp reflected a credit of \$58,000 but in 2009 the credit was used to help offset the budget deficit. He said if they receive the same credit to offset the 2009 worker's comp insurance bill then the amount budgeted for workman's comp would only be 6.78% higher than in 2008. The CFO said so even though it looks higher on the expenditure side, they have it as revenue on the other side.

Frank Covelli said the JIF assessment of 3.44% between 2008-2009 that represented \$32,939 and of that the property assessment went down by \$3,933 or 3.7% over 2008 the general liability assessment went up \$2,327 representing .98%; worker's comp was an increase of 6.01% that went up \$31,821; environmental liability coverage went up \$695 or 3%; public officials liability and employment practices liability went up \$2,229 or 4.8% so the total increase was \$32,939 or 3.44%. He said those numbers came from the 2009 JIF bill and the 2008 JIF bill.

Mr. Covelli said the worker's comp represents a little more than half of the assessment which is consistent with all the municipalities in the JIF, in fact worker's comp represents about half the costs of the entire fund, the budget for the fund is about \$11 million. He said the municipality had 11 lost time accident cases last year where the fund is paying both the medical payments in terms of healing the employee as well as the lost cases and the lost ratio is meaning the amount of dollars paid into the JIF versus how much the JIF had paid out which is 1.6112 for worker's comp over the last year. Mr. Covelli said for every dollar paid into JIF for worker's comp they paid out a \$1.61; as 11 lost time accidents over 100 employees for last year they are actually had the second worst lost time accident from the Fund. Mr. Covelli said there was good news behind it is the fact that their lost time accident frequency had been dropping for the last three years so they are moving in the right direction but they are not there yet. He reminded them that there are cycles that all municipalities go through and he wanted to paint a positive picture in that they are moving in the right direction.

Councilman Genovesi asked who makes the recommendations on risk management to the department heads. Mr. Covelli said they had multiple sources of recommendations, their office is active with the safety committee which meets on a quarterly basis and makes recommendations; the JIF also has as a safety director who on an annual basis inspects all of the physical assets of the municipality and completes a written report and there is also a professional individual for environmental exposure standpoint so there are a number of eyes and hands assisting the Borough on an annual basis in terms of looking at the exposures, making recommendations for improvement and accident reduction. He said in conducting the physical assets inventory assessment there was also an assessment made of the worker's in performing their duties and evaluate which are not done on a scheduled basis either when he was in the Borough or just going through Rutherford and observes then writes a report on what he observed. Councilman Genovesi commented that with all those professionals assisting, Rutherford is still the second worst with all that money being thrown into it. Mr. Covelli said yes but they must be mindful that the Borough has a much larger exposure than many other

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

municipalities in that they collect garbage; three municipalities out of the 22 in the South Bergen JIF collect garbage as sanitary is the most hazardous job in a municipality. He said the collection of garbage is a driving force not only in what JIF is paying out on their behalf but in their assessment because it is the highest rated worker's comp class. Councilman Genovesi asked what percentage of claims is from that type of work for the Borough. Mr. Covelli said he didn't have the specifics but DPW is easily over 55% of the claims, maybe 60% and of that the majority is sanitation. Councilman Genovesi asked if they make pickups once a week would they lower their rates for claims and injury. Mr. Covelli said from a statistical standpoint, the argument could be made that they may increase it because they pickup in excess of 21 tons of garbage at one time so in a five hour period they could think about the repetitive motion of them picking up cans and dumping the cans and putting them down again to the tune of how many tons of garbage they pick up; he suggested that they would increase the volume of garbage in one time to pick up and how much time they have to pick that up would be something for the Borough to decide. Councilman Genovesi said of the 55% coming from DPW of the other 45% did he have an idea of where that came from. Mr. Covelli said traditionally in the Borough the Police had been pretty good in terms of not having claims to the degree that Dept. actually runs below the average in terms of police depts. having worker's comp accidents and the DPW has had very high rate of claims but they have improved. He said the lost time accident frequency 2008 was 3.91 accidents for 100 employees; 2007 was 3.99 accidents; 2006 was 5.74 accidents, the Borough has historically run as high as 7% or 8% hence his statement they have improved as it is a work in progress.

Councilman Sasso asked if they are doing a good job on improving, then why the increase. Mr. Covelli said the way the JIF develops each members assessment is that the process actually starts with the first thing they do is gather claim data and their office along with the municipality, identifies all the exposures, they go through the process and identify every vehicle, property, values, contents, etc. for example property values increased \$.5 million from 36 million to 36.5 million between 2008 and 2009. He said though property assessment went down because the MEL-the state wide insurance fund-was able to negotiate very favorable property rates that reflected in a decrease for every member in the State. Mr. Covelli said the lost funds are created and the assessments are derived based on the lost experience of the municipality, the exposures the difference is that when the budget is struck the Commissioner's of the JIF decide if the assessment will be equalized or unequalized, will there be a subsidy or not, are they going to get the increase strictly on the exposures and lost experience or is it going to be capped. Mr. Covelli said the JIF has historically capped that so no members go up beyond a certain percent, Rutherford had been capped and if not they would have gone up 18% instead of 3.5% based on the lost experience and exposure. He said going back to worker's comp that is the driving force of the fund in addition to the fact that the two driving factors of worker's comp are medical and lost wages and the wages part of the equation is set by the State each year and that has gone up higher than the cost of living. Mr. Covelli said the medical inflation has run over the last 8 years 36% so what used to cost about \$1,500 per unit cost of worker's comp is now \$2,600; the driving factor behind worker's comp are medical and indemnity and they don't control either one of those to the degree that they had contracts in place to purchase health care at the lowest cost possible.

Councilman Sasso said even though they received a dividend last year, he sees it as almost a 30% increase. Mr. Covelli said the overall increase between 2008 and 2009 was 3.44%. Councilman Sasso asked if the potential for a dividend exist in 2009. Mr. Covelli

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

responded yes. Councilman Sasso asked what constitutes them getting the dividend or not? Mr. Covelli said the way a dividend emerges is that the actuary sets the lost funds that need to be collected and he is looking at the historical data of the fund and he is conservative because they don't want to go back to the municipality for an additional assessments if the expectations was insufficient. He said the actuary wants to make sure they are collecting enough money to pay claims; it depends on a multitude of reasons for slips and falls, weather, sometimes luck is in their favor in terms of how many worker's comp claims there are and when the weather is severe it causes more cost. Mr. Covelli said if those dollars are not utilized, those dollars are returned to the members in the form of dividends they cannot be returned until after the close of three years; so if 2009 is a good year they are not going to see that money dividend back until the end of 2012. He said the reason he was confident they would get a dividend that year is because the fund has been running extremely well, worker's comp overall had been down and the fact that the fund is starting to generate some good investment income which is a portion of what had been given back. Mr. Covelli said the fund is making money it collects and it is making money in terms of how many dollars are not being paid out for claims.

Councilman Sasso said then the money the town would get back is it the money potentially that the town would get back as a dividend in 2009 is that based on insurance claims for 2009 or 2006. Mr. Covelli said that was based on insurance claims that could go back as far as 1999, 1996 but it was not based on claims for 2009. Councilman Sasso then stated wouldn't he know what that money is then and Mr. Covelli responded no because the Executive Committee had to declare a dividend and they had to decide how much they would want to declare it and what years they want to take it from because there are reserves on certain years that they may decide for example, 2007 was a negative year and the closed account which is where the money is sitting, is in the positive they may say reduce the amount of dividend because at some point they might make a transfer such that there will be a dividend that will not actually go back to the municipality but will move from the closed year to the deficit year to wipe out the deficit. Mr. Covelli said those are issues that go into play as they look to see, the Fund has had negative years in their 20 year history but not now. Councilman Sasso asked how that was in proportion based back to the town, was it in equal distribution, was it based on how much they cost the insurance, what is the percentage they get back as a dividend. Mr. Covelli said the way a dividend is distributed is based on their percentage of ownership for the years which the money was coming from; for example Rutherford is about 9% owner of the Fund in those years they received 9% of the dividend. Councilman Sasso asked is there anything that could possibly happen with the workman's comp and liability insurance to make the number not an increase to 3.44%. Mr. Covelli responded they must be mindful of the fact that the unequalized increase was at 18% and that was driven by experience and the exposure; the only way for them not to have an increase would be for the claims to come down. Councilman Sasso said if the property that the Borough owns is \$39 million dollars worth, was that a true reflection of what the inventory was currently or based on inventory a while back. Mr. Covelli said that was done on an annual basis; one of the things the fund is doing is based on their mutual assessment of the exposure, the Fund will be within the next two years, will be sending out for appraisals which there will be no cost to the Borough it comes from a rebate. Councilman Sasso said if the assessment was \$39 million but they come up with a figure of \$35 million what happens. Mr. Covelli said people who have done it in other Funds, they are finding the values are slightly high so then the values drop but as everyone values drop, the rates will go up because they need to collect so much based on the number of claims but they will have a more accurate picture of the value of the principal claim. Councilman Sasso said so it wouldn't be a decrease but possibly an

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

increase. Mr. Covelli said no they are going to level out everyone in the Fund but at the end of the day the actuary is still going to say they need "x" amount of dollars to pay claims and it depends on Rutherford's percentage.

Councilwoman Birdsall asked based on his experience would he say the improvement with workman's comp claims that they are seeing in Rutherford had any coalilation with any past practices, for example did they have more cases when they had once a week garbage pickup versus twice a week or any other past practices. Mr. Covelli said to the contrary, once a week pick up means they are picking up the same amount of garbage in one day so some might say that affects worker's comp. Mr. Covelli said he thinks there were a lot of things that contributed to that reduction, a lot has happened such as the DPW moving from a cramped facility to a more modern facility, switched the type of vehicles with respect to loading and unloading, there were retirements in departments, change in management of departments which have all been positive impacts also more training and he couldn't say which one is the specific reason. Councilwoman Birdsall said there were two line items for JIF on the previous handout but on the one she was looking at that night there is an additional line item for other insurance and it seems to be that some of the money was pulled out of the first liability insurance and put down into other insurance and she asked for clarification? The CFO responded that what they did was in the first version he included various kinds of insurance that weren't part of the JIF such as police accident and health insurance, it includes things as the accident and health insurance for the Recreation Dept. and the OEM and the accident and health insurance for the special police. He said it includes the money they set aside unbeknownst to Mr. Covelli to the tune of about \$15,000 they call deductibles; years ago when the JIF raised its deductible as they should, the Borough felt they should have a line item, a provision, for the fact that the JIF wouldn't quite be paying as much for a vehicle being damaged as they used to in the past. The CFO said so they put money in there for those particular items; it also includes the bonds of officials that the Borough pays independently of the JIF; monies set aside for the blood borne pathogen program covering hepatitis for the first aid safety squad, money in there for sewer continguousies in case there is a sewer back up. He wanted to break it out so the Mayor and Council could see that it is not under JIF, it is paid separate and he will explain that at the next session and see if they could get the percentage down a few thousand dollars. Councilwoman Birdsall asked Mr. Covelli if there were any other recommendations to the Borough to make more decreases in the workman's comp. Mr. Covelli said they made a recommendation to the Borough on numerous occasions in the fact that the Borough should introduce a transitional duty policy but they need to review the collective bargaining agreements for that. He said transitional duty had been proven to reduce the length of time an employee is out of work.

Mr. Covelli said in regard to Councilman Sasso's question about the cost of JIF, they are a public entity; it is not a commercial insurance company they are providing them with worker's comp coverage which in the commercial market the rates are dictated by the State and they pay the premium. He said the JIF generally is giving comp coverage for about 40% less than commercial. Mr. Covelli said with respect to the balance of the coverage, the coverage is broader in that program than any commercial program out there and because it is a public entity there is no taxes, the insurance company has to pay the State, commercial insurances have to contribute to secondary funds, and as a public entity JIF has no profit, any excess funds are owned by the membership and returned to the membership in the form of dividends or in the fact that any surplus obtained is earmarked for their percentage of ownership. He said the JIF is

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

the most successful example of shared service in the State of New Jersey's history and has saved the taxpayers, from 1985 when JIF was formed to current \$795,000,000.

*

*

*

Mayor Hipp called for a Special Meeting to continue the budget sessions to be held on March 11 at 7:00 p.m. in the Borough Hall.

*

*

*

Councilman DeSalvo asked a question in regards to something he was working on for a few weeks and he found some savings in the amount \$250,000-300,000 and he had asked for a closed session, was that what they were going into closed that night for? Mayor Hipp replied no, they were going into closed for the purpose of receiving legal advice on the Dept. of Personnel rules and regulations. Councilman DeSalvo said he was told the other night that they would go into closed to discuss his issues, aren't we going to do that? Mayor Hipp said unfortunately he mentioned at the last meeting that it might be a good idea for closed but if it is savings. Councilman DeSalvo said he wasn't sure if it was for closed. Mayor Hipp said they were going to focus basically on policies and procedures.

Borough Administrator Mr. Shenkler said if they could slow the payments of the costs to vendors like utility companies that are almost like a revenue enhancement because they are not paying out dollars for services. The Administrator spoke of hybrid vehicles, bio-diesel vehicles, energy audit, fuel cost savings, sharing cost with other communities, reduced energy grants.

Councilman Genovesi wanted to thank the CFO and the Administrator for their help. He continued to say that Les Shenkler is a tremendous asset to the Borough, he worked with him in great extent with regards to the green vehicles and the Administrator convinced him of the fuel savings. Councilman Genovesi said he is a big proponent of commercial business and looking toward the future once they get out of the dark period he questions their ability to create commerce that is good for the Borough, he thinks the Borough is capable of offering good incentives to corporations to come to the Borough once the economy bounces back. He said they do have a problem with COAH and anything they want to do, they have the State with hooks in them and they have to build housing to go along with it which is not fair. Councilman Genovesi said they need Mr. Smith's experience with COAH because they are going to need it; also if the CFO has any solutions to that he would spend time with him because he feels that is the only thing that is going to drive the community out. He said they need to create economic engines within the Borough and not just depend on extraordinary aid and over the next three years that government has to figure a way to turn what others had done in the Meadowlands around and turn it into a positive for the town if not he doesn't see how revenues will exceed expenditures. Councilman Genovesi said if they could shift the load of dependency on commercial properties instead of residential.

Councilwoman Birdsall asked what if they didn't apply for extraordinary aid, the point of the meetings are to put numbers and submit to say they need extraordinary aid but what would it buy them if they didn't apply. The CFO said using last year as a gauge, they did get \$200,000 and one of the reasons they received it was because the on-going problems to Encap and

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

unbeknownst to them they had been read the riot act by DLGS in Trenton when they found out that the police settlements in the past exceeded \$500,000 and certain members of the Police Dept. were given a 29% raise in one year. He said the Director of DLGS called him and said to him to not even think of applying for extraordinary aid because they had no business using revenues for that purpose and yet they did receive \$200,000 in 2008 because of the case the Mayor and Council but forth with Encap. The CFO said there is a good chance they might obtain another \$200,000 and there is a possibility that the Council might face criticism from their constituency saying why didn't they apply for extraordinary aid. He said on the plus side by not applying for it they will be giving themselves more time to fine tune the budget without rushing into it next week; so it is a hard decision for them to make.

* * *

Mayor Hipp opened the hearing to the citizens.

Margaret Schak, 78 Orient Way said she gives them credit for going into so much detail but the thing she worries about is for them not to count on the Encap money as the Borough received so much from them in the process over six years, they were getting millions of dollars and no one complained at that time. Ms. Schak thinks that Cherokee is going to take that further into the courts and follow through on it. She said that nobody talks about the tax sharing and the influence on the town, Mr. Listican a professor at Rutgers had been assigned a task to come up with a new tax sharing plan so they will see if that will straighten things out. Ms. Schak said she remembers when the Rutherford Taxpayers Assoc. did question that even if they did what Encap wanted that they weren't going to make any money out of it because of the tax sharing. She said that she felt she did have experience in that over the years that they made such a fuss over the Encap money which is a small amount compared to what they took from them. Ms. Schak said she thought it was great the way they were researching everything and they had no choice, they happened to be in office at the wrong time, they did budgets but it was never as complicated as it was in the current economy and she wished them luck.

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

* * *

Councilwoman Keyes 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 Thursday, March 5, 2009 at 9:50 p.m. in the Committee of the Whole Room to discuss the following matter:

- Discussion of NJDOP Layoff procedures

MINUTES OF SPECIAL MEETING HELD MARCH 5, 2009

*

The meeting re-convened to open session 11:05 p.m.

*

*

*

Councilman Genovesi moved that Mr. Cortright be authorized to conduct an analysis of how much it costs to run each building and costs on vehicles. There was no second and the motion failed.

*

*

*

There being no further business, Councilwoman Keyes moved to adjourn at 11:10 pm, seconded by Councilwoman Inguanti and unanimously approved on roll call.

Borough Clerk