



# New Jersey Libertarian Party

## Open Government Advocacy Project

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January 12, 2009

Hon. John F. Hipp, Mayor, and  
Members of the Rutherford Borough Council  
176 Park Ave  
Rutherford, NJ 07070

(via email only to [MKriston@rutherford-nj.com](mailto:MKriston@rutherford-nj.com))

Dear Mayor Hipp and Council Members:

I write, both individually and in my capacity as Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project concerning the Borough Council's bylaws. For the Council's and the public's convenience, I have placed this letter, my recommended form of closed session resolution, as well as the current bylaws (with some proposed amendments<sup>1</sup> offered by the Council) on the Internet at <http://www.lpcnj.org/OGTF/RutherfordBylaws.pdf>

In addition to the amendments proposed by the Council, I offer the following recommendations and comments and ask that the Council consider them at special meeting scheduled for January 14, 2009.

### 1. **Should the bylaws be codified in the Borough's Ordinances?**

N.J.S.A. 40A:60-7(b) states that

*The borough council may, **by ordinance**, adopt an administrative code. The administrative code shall restate the major provisions of the borough's charter and the general law supplementing the charter. The administrative code shall set forth the manner in which the council shall perform its duties. If the council organizes itself into standing committees or if the council members serve as heads of departments with administrative control over said departments, the administrative code shall specify the powers and duties of such committees or department heads and the manner in which they are appointed. The administrative code shall set forth the titles of the principal municipal officers, how the officers are appointed, how they are organized into departments, boards, commissions, and other agencies; whom they supervise, by whom they are supervised; what powers they have; and what procedure should be followed to carry on the activities of the borough government. The administrative code shall not grant any power or authority, nor authorize any procedure, unless such power,*

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<sup>1</sup> I have highlighted the amended portions in yellow and have underlined, thus, the proposed additions and struck out, ~~thus~~, the proposed deletions.

*authority or procedure is authorized implicitly by the wording of the statute or derived by reasonable implication therefrom. (Emphasis supplied)*

This suggests that the Legislature intended such things as how the Borough Council “organizes itself into standing committees” and the “powers and duties of such committees” to be set forth in an ordinance. The current version of the bylaws is not within the Borough’s ordinances, yet those bylaws contain provisions establishing Standing Committees and defining those Committees’ powers and duties.

The question is whether N.J.S.A. 40A:60-7(b) should be interpreted as

- a. While the decision of whether to have an administrative code is left to the Borough’s discretion, a Borough Council that chooses, for example, to “organize itself into standing committees” cannot do so except by establishing an administrative code by ordinance, or
- b. A Borough Council that wishes, for example, to “organize itself into standing committees” can do so by several methods, including establishing an administrative code by ordinance or by passing bylaws at each reorganization meeting.

I believe that (a) is the most sensible interpretation. The Legislature apparently wished for certain important decisions regarding a Borough’s structure (e.g. organizing its Council into standing committees, as the Rutherford Council has done) to be contained within an ordinance so that the Council cannot change its structure without amending that ordinance. Such would prevent a Council from altering important structures without first having to go through a formal process that provides the public with ample notice and opportunities to be heard.

Article Fourteen<sup>2</sup> of the current bylaws, however, allows the Council to amend its Committee structure by a two-thirds vote, without prior notice, at any Regular Meeting. This provides the public no real notice or opportunity to be heard. An ordinance amendment, however, requires a first reading, newspaper publication, a second reading, an opportunity for citizens to publicly ask question of the Council, etc., as provided for by N.J.S.A. 40:49-2.

Support for my belief can be found in the late Michael Pane’s writings on local government in the New Jersey Practice series. In § 6.11, he wrote that

*One important aspect of an administrative code in older form governments such as boroughs and townships is the extent to which the code sets forth the division of administrative responsibilities among governing body members. In these older municipalities, **the statutes require delegation of powers to be by ordinance**. As a result, this division of powers or responsibility among members should be part of the code if it is to have any substantial legal foundation. (Emphasis supplied).*

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<sup>2</sup> If the Council chooses to codify its present bylaws in an ordinance-based administrative code, Article Fourteen should be deleted.

So, in sum, does the Council agree with me that regardless of which amendments are ultimately made to the bylaws, that those “bylaws” ought to be formally adopted by way of ordinance as an administrative code?

**2. Should the bylaws or administrative code establish an “order of business” for the annual reorganization meeting?**

Article Six of the bylaws establish an “order of business” for both Regular and Committee of the Whole meetings. Yet, while Article Six requires an Annual Reorganization Meeting, it does not establish that meeting’s “order of business.”

If the Council chooses to establish an “order of business” for its Annual Reorganization Meeting within its bylaws, we wish to remind it that that meeting, like any other meeting, is required<sup>3</sup> to have a period for public comment.

**3. Closed session procedure**

Would the Council be willing to replace the second sentence of Article Six, Paragraph 5, which presently reads “Such Meeting shall be announced in public before being held.” with: “Before commencing a Closed Session, the Clerk and Council shall complete and enter a resolution in the form set forth in Exhibit A (attached)?” I designed Exhibit A to provide the public with as much information as possible about the topics the Council will privately discuss while not violating or undermining any legitimate privacy or confidentiality concern.

**4. Defining “effective majority”**

Would the Council be willing to supplement Article Four to define not only the term “quorum” but also the term “effective majority”? I believe that this is important to address the following concern expressed by Mayor Hipp, as reported in Susan C. Moeller's January 2, 2009 article entitled "Out of money and out of patience: Rutherford Council off to a rocky start":

*Anytime two members of the council meet to talk about borough business, they are violating the Open Public Meetings Act if they don't invite the other council members, Hipp continued.*

I believe that a precise definition of “effective majority” would help Council members understand exactly when they can and cannot discuss Borough business with one or more of their colleagues.

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<sup>3</sup> The Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-12(a) was amended in 2002 to include the following language: “a municipal governing body shall be required to set aside a portion of every meeting of the municipal governing body, the length of the portion to be determined by the municipal governing body, for public comment on any governmental issue that a member of the public feels may be of concern to the residents of the municipality.(Emphasis supplied).”

At first blush, it appears that the terms "quorum" and "effective majority" are synonymous. But, consider the following language from Riya Finnegan, LLC v. Township Council Of South Brunswick, 386 N.J.Super. 255, 260-61 (Law. Div. 2006):

At this point, this court feels compelled to address the Open Public Meetings Act. N.J.S.A. 10:4-6 to -21. Although raised at the trial in this matter, none of the parties felt that there was an issue and therefore there was no joinder.

The Board's subcommittee consists of three members of the Planning Board. The Board consists of nine members. N.J.S.A. 40:55D-23. "No action shall be taken at any meeting without a quorum being present." N.J.S.A. 40:55D-9. A quorum of a nine-member board is five members. "All action shall be taken by a majority vote of the members of the municipal agency present at the meeting." N.J.S.A. 40:55D-9. Therefore the "effective majority," the number of members needed to take action, is three. Any three members present at a meeting to consider the business of the Board would constitute an "effective majority" of the Board.

According to Finnegan, an "effective majority" of the Borough Council is three members. This is because a) the Council consists of seven members, b) a quorum of the Council consists of four members, and c) a voting majority of that quorum is three members.

Accordingly, we urge Rutherford's Council to establish that three members of the Council comprise an "effective majority." This will make it clear that if three members of the Council meet together with an intent to discuss official business, those three members are assembled as a "public body" that needs to abide by the Open Public Meetings Act. It will make it equally clear that if only two members gather together, that the gathering is not a "public body."

##### **5. Advance copies of resolutions and ordinances.**

Would the Council be willing to amend Article Three, ¶ 4 to require the Clerk to have items such as proposed ordinances and resolutions "available for inspection by the general public" at least one full business day before the Regular meeting, instead of "at the Regular meeting," as the bylaws presently require? If so, would the Council be willing to append a sentence to that Article directing the Clerk to make those items available both at the municipal offices and on the Borough's Internet site?

We urge this change for the same reasons expressed by Edison Township Council President AnnMarie Griffin-Ussak, as reported in a January 11, 2008 article in the Home News Tribune<sup>4</sup>:

*[Griffin-Ussak] stressed that the ability to access to resolutions before the meetings means residents can now become more informed. The ordinance requires that all meeting agendas be*

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<sup>4</sup> "Proposal to limit public comment talk of the town in Edison" by Lalita Aloor Amuthan, Staff Writer. See <http://www.mycentraljersey.com/article/20090111/NEWS/90111016/1005/NEWS0101>

*posted on the township Web site on the Friday prior to the Monday work session.*

*“If you come prepared, you can ask pointed questions in a succinct manner,” Griffin-Ussak said.*

It is very difficult for members of the public to develop cogent comments on matters before the Council when their first opportunity to see proposed ordinances and resolutions is at the very meeting at which those matters will be decided. We agree with the Edison Council President that both the Council and the public benefit when public comments can be prepared in advance of the meeting. Also, enabling citizens to be properly prepared for their presentations might shorten the duration of the public comment periods.

## **6. Proper retention of e-mails.**

On January 5, 2009, I submitted an OPRA request to the Clerk for any Borough policy “which addresses the requirements and recommendations set forth in DARM Circular Letter No. 03-10-ST.” This Circular Letter, which is available on-line at <http://www.njarchives.org/links/circular-letter-03-10-st.html> , requires the Borough to do such things as archive its official e-mails and ensure that its e-mail system is reliable enough to meet state and federal “Rules of Evidence” requirements, ensure that e-mails are “indexed in an organized and consistent pattern” and set forth “agency procedures” so that Borough employees can “understand and carry out their role in managing e-mail.”

Yet, in response to my request, Ms. Kriston provided me with the following policy:

### ***E-Mail, Voice Mail, Computer and Internet Usage Policy:***

*Borough. E-mail, voice mail and the Internet are for official business and use for non-business purposes is prohibited. All E-Mail, voice mail and Internet messages are official documents subject to the provisions of the Access to Public Records Act.*

*The Borough reserves the right to monitor, obtain, review and disclose all E-Mail messages, computer files, voice mail and Internet messages on the computer and communications systems of the Borough as deemed necessary and appropriate, By using Borough E-Mail, computer systems, voice mail and the Internet, each user agrees that the Borough has unrestricted access and the right to disclose all information communicated or stored on the E-Mail, computer systems, voice mail and the Internet for any security, health, employment or other legitimate business reasons, Legitimate reasons also include systems maintenance, message routing, retrieval of business information, trouble-shooting hardware and software problems, preventing system. misuse, protecting confidential proprietary information, insuring compliance with software license policies and complying with legal and regulatory requests for information. E-Mail shall not be used*

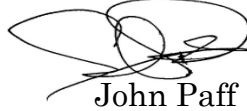
*to harass, torment or disparage another party. Offensive and harassing communications are unacceptable and prohibited.*

This policy doesn't meet the objectives of the DARM Circular Letter. For example, several of the present Council members list their personal (i.e. non-municipal) e-mail addresses on the Borough's Internet site. For example, Joseph Sommer , Rose Inguanti, John Sasso and Maura Keyes list their addresses, respectively, as SommerD2@yahoo.com , rmp.inguanti@verizon.net , johnsasso@hotmail.com and maura@keyesfamily.us .

Yet, the Borough's policy, set forth above, is silent as to what safeguards the Borough is taking to preserve, for example, Council member Keyes' emails in case she has a hard-drive crash on her personal computer. I don't believe that the policy needs to be overly complicated. Perhaps just requiring all Council members (and other Borough officials) to copy the Clerk on every email that pertains, in whole or part, to public business would meet the DARM requirements.

I appreciate your time and look forward to receiving your response.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Paff', with a large, stylized flourish above the name.

John Paff

**BOROUGH OF RUTHERFORD  
RESOLUTION NO. \_\_\_\_\_  
AUTHORIZING CLOSED SESSION**

**WHEREAS**, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Rutherford Borough Council to be held in public, N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Closed Session," i.e. without the public being permitted to attend, and

**WHEREAS**, the Rutherford Borough Council has determined that \_\_\_\_\_ (insert number) issues are permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance shall be discussed during a Closed Session to be held on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_ P.M, and

**WHEREAS**, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the number of issues to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

**“(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion.”** The legal citation to the provision(s) at issue is: \_\_\_\_\_ and the nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_;

**“(2) Any matter in which the release of information would impair a right to receive funds from the federal government.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_;

**“(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_;

**“(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body”** The collective bargaining contract(s) discussed are between the Borough and \_\_\_\_\_;

**“(5) Any matter involving the purchase lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_;

**“(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.”** The nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_;

“(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.” The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are \_\_\_\_\_

\_\_\_\_\_ and nature of the discussion, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_  
\_\_\_\_\_;

“(8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.” Subject to the balancing of the public’s interest and the employee’s privacy rights under South Jersey Publishing Co. v. New Jersey Expressway Authority, 124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality are \_\_\_\_\_

\_\_\_\_\_;

“(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is \_\_\_\_\_

\_\_\_\_\_;

**WHEREAS**, the length of the Closed Session is estimated to be \_\_\_\_\_ minutes after which the public meeting of the Borough Council shall reconvene;

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of Rutherford Borough will go into Closed Session for **only** the above stated reasons;

**BE IT FURTHER RESOLVED** that the Borough Council directs the Borough Clerk to make ten (10) photocopies of this resolution immediately after it passes and to distribute those photocopies to the public in attendance prior to the Closed Session commencing.

**BE IT FURTHER RESOLVED** that the Borough Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public’s interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

Subject of Discussion	Estimated Date	Necessary Occurrence

ATTEST:

BOROUGH OF RUTHERFORD

\_\_\_\_\_  
Rutherford Borough Clerk

\_\_\_\_\_  
Mayor



**BOROUGH OF RUTHERFORD  
COUNTY OF BERGEN  
STATE OF NEW JERSEY**

**BYLAWS OF THE  
GOVERNING BODY OF THE  
BOROUGH OF RUTHERFORD**

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**ARTICLE ONE**

**MAYOR**

1. The Mayor shall preside at all Regular Meetings of the Council.
2. He/She shall maintain peace and good order.
3. He/She shall recommend such measures as he/she may deem necessary or expedient for the welfare of the Borough,
4. He/She shall notify the President of the Council, in writing, of any intended absence from the Borough for more than three days at any one time.

**ARTICLE TWO**

**PRESIDENT AND VICE PRESIDENT  
OF THE COUNCIL**

1. The President of the Council shall preside at all Work Session (Committee of the Whole) Meetings and all Special Meetings of the Council. The Council President shall also preside at all Regular Meetings of the Council when the Mayor does not preside. In the absence of the Mayor and the President of the Council, the Vice President of the Council shall preside. In the absence of the Mayor, the President, and the Vice President, the Council Member with the greatest length of continuous service shall preside.
2. The President and the Vice President shall have the right to debate and vote on all questions before the Council.
3. The President and the Vice President shall be elected by the Council at the Annual Organizational Meeting.

## ARTICLE THREE

### BOROUGH CLERK

The Borough Clerk shall attend all Meetings of the Council, keep a correct record of all its proceedings, and perform such other duties as the Council may require or as may be directed by law.

## ARTICLE FOUR

### QUORUM

Three Council Members and the Mayor, and, in the absence of the Mayor, four Council Members, shall constitute a quorum for the transaction of business; but a smaller number may meet and adjourn from time to time.

## ARTICLE FIVE

### AGENDA

1. All matters requiring the attention of the Mayor and Council at any Meeting shall be filed with the Borough Clerk not later than noon on the Friday before the Meeting.
2. The Borough Clerk shall prepare a written agenda of all such matters to be brought before any Meeting of the Mayor and Council. The agenda shall include the following:
  - (a) A consent agenda consisting of routine and uncontroversial matters which may be approved collectively upon one motion duly made and seconded; provided, however, that the Mayor or any Member of the Council may remove a matter from the consent agenda for full discussion of such matter by the governing body;
  - (b) A list of bills presented for payment;
  - (c) A copy of any ordinance proposed to be introduced on first reading;
  - (d) A copy of any written resolution intended to be acted upon by the Mayor and Council; and
  - (e) Any other item requested to be included by the Mayor or a Council Member.
3. No item of business shall be introduced at a Council Meeting which does not appear on the agenda, except in an emergency or by the unanimous consent of 2/3rds of the Members of the Council present; provided however, that nothing herein shall be deemed to restrict the right of a citizen to bring a matter before the Council at a Work Session (Committee of the Whole) Meeting or at a Regular Meeting,
4. A copy of the list of bills, any ordinance proposed to be introduced on first reading, any written resolution intended to be acted upon by the Mayor and Council, and any other items

included on the agenda shall be made available for inspection by the general public at the Regular Meeting of the Mayor and Council.

## ARTICLE SIX

### MEETINGS

#### 1. Annual Organizational Meeting.

The Mayor and Council shall hold an Annual Meeting on January 1st, or during the next following week day not a legal holiday, and such other meetings, or adjourned meetings, at such time and place as they may by Resolution direct. All Regular Meetings shall be held within the Borough.

#### 2. Special Meetings.

The Mayor shall, when necessary, call Special Meetings of the Council. In case of his or her neglect or refusal to do so, any four Members of the Council may call such Special Meeting at such time and place in the Borough as they may direct, The Borough Clerk shall cause notice of any Special Meeting to be given to each Council Member, or left at his or her place of residence. Notice of any Special Meeting shall be posted on the public bulletin board in Borough Hall by the Borough Clerk immediately after receipt by him or her of a call for the same.

#### 3. ~~Work Session (Committee of the Whole) Meetings~~ Committee of the Whole (Work Session) Meetings.

The Council shall meet at a Committee of the Whole for a Work Session Meeting as a Committee of the Whole on the 3rd Tuesday of each month at 7:00 p.m. for the purpose of considering the business to come before the next Regular Meeting of the Council, matters which shall have been referred to the Committee of the Whole, and such other matters as may properly come before the Meeting.

#### 4. ~~Regular Meetings combined with Work Session Meetings.~~ Regular Meetings combined with A Committee of the Whole (Work Session) Meetings.

The Council shall meet at its Regular Meeting on the 4th Tuesday of each month at 8:00 p.m. Before each Regular Meeting, the Council shall hold a Committee of the Whole (Work Session (Committee of the Whole)) Meeting at 7:00 p.m. to review the agenda for the Regular Meeting.

#### 5. Closed Session Meetings,

The Council shall meet in Closed Session as necessary and when allowed by law. Such Meeting shall be announced in public before being held. The results of any Closed Session Meeting shall be revealed when and as required by law. No Member shall disclose to the public any discussions taking place during a Closed Session unless formally authorized by the Council.

6. Order of Business.

a. Unless otherwise provided by the Presiding Officer or the Council, the order of business at Work Session Meetings shall be as follows:

1. Roll Call
2. Salute to the Flag
3. Provisions of Open Public Meetings Act
4. Borough Engineer's Report (see Paragraph 6c herein)
5. Review of Changes to Proposed Agenda
6. Hearing of Citizens (see Paragraph 6c herein)
7. Review of Agenda, including approval of Minutes, communications and petitions, and payment of bills
8. Committee communications and petitions
9. Miscellaneous Business and General Discussion
10. Motion to Approve Agenda Items (see Paragraph 6C herein)
11. Adjournment.

b. Unless otherwise provided by the Presiding Officer or the Council, the order of business at Regular Meetings shall be as follows:

1. Roll Call
2. Salute to the Flag and Silent Prayer
3. Provisions of Open Public Meetings Act
4. Hearing of Citizens
5. Consent Agenda
6. Committee Reports
7. Ordinances on first reading
8. Ordinances on second reading, including Public Hearings on each

9. New and/or Unfinished Business
10. Miscellaneous Business
11. Hearing of Citizens
12. Adjournment.

c. The Borough Engineer's Report shall be received at the Work Session Meeting on the third Tuesday of the month, unless otherwise scheduled by the Council. There shall be no Hearing of Citizens or Motion to Approve Agenda Items at the Work Session Meeting that is held in combination with a Regular Meeting,

7. Rules of Order. The following rules of order shall be observed at all Council Meetings:

- a. No resolution or motion shall be put to a vote unless seconded.
- b. No Member shall occupy more than five minutes at a time without the unanimous consent of the Council present.
- c. No person shall speak more than twice on the same subject without unanimous consent of the Council present.
- d. While a Member is speaking, no Member shall entertain any private discourse,
- e. When a question has been put and decided, it shall be in order for any Member who voted with the majority to move for reconsideration thereof, provided the same shall be moved the same day, or at the next Regular Meeting.
- f. The deliberations of the Council shall be governed by Robert's Rules of Order as revised.
- g. No member of the public shall speak for more than five minutes on any subject without the approval of the Mayor or a majority of the Council present.
- h. A curfew of 11:00 PM will be observed for all Committee of the Whole or Regular meetings. It may be waived by 2/3<sup>rd</sup> vote of the council.

## ARTICLE SEVEN

### COMMITTEES

1. The Mayor shall appoint all Standing Committee Members and all Council Liaison Assignments to Borough boards and bodies. The Mayor or any member of the council may nominate, any council member to serve as a member or liaison to serve

on any council committee or as council liaison to any borough board or body. All such nominations are subject to council confirmation. Council Committee and liaison assignments can be modified by the council at any time.

2. The following Standing Committees, composed of two Members each, shall be appointed at the Organizational Meeting of the Council each year: Committees on Finance, Police, Fire, Public Works, Buildings and Utilities, and Human Resources.

3. Special Committees may be appointed for purposes other than those embraced in the duties of the Standing Committees. Special Committees may be created by the mayor or the council for purposes other than those embraced in the duties of the Standing Committees. Members shall be appointed according to the manner expressed in (article 7: Committees) of these bylaws.

4. All Committees, both Standing and Special, shall make oral reports of their activities at Regular Meetings during the year and an annual report in writing at the end of the year, Nothing in this rule shall prevent the presentation of divergent reports from the two Members of a Committee.

## **ARTICLE EIGHT**

### **DUTIES OF STANDING COMMITTEES**

1. The Committee on Finance shall examine and report on budget matters and from time to time shall report on the financial condition of the Borough.
2. The Committee on Police shall report on matters connected with the Police Department and the preservation of the peace and good order.
3. The Committee on Fire shall report on matters concerning the Bureau of Fire Safety and the Fire Department and its activities.
4. The Committee on Public Works shall report on matters concerning the Department of Public Works and its activities.
5. The Committee on Buildings and Utilities shall report on the activities of the Building Department and the condition of publicly-owned or operated buildings and utilities.
6. The Committee on Human Resources shall report on the activities of the Recreation Department
7. The Standing Committees shall consider and act upon all matters specifically referred to them by vote of the Council.

## **ARTICLE NINE**

### **ORDINANCES**

1. A copy of any proposed ordinance shall be presented to each Member of the Governing Body before it is presented for introduction.
2. All proposed ordinances shall generally be introduced by a Member of the Committee to which the subject matter has been assigned, The Member shall introduce the ordinance and briefly describe it on first reading or on second reading. The Clerk shall read and introduce the ordinance by title only, The Member shall then move that the ordinance be passed on first or second reading, which motion shall require a second,
3. After introduction and reading and motion and second for passage, the Mayor shall request that the Clerk take roll call as to each Member's aye or nay vote on passage of each ordinance, The Clerk shall take the roll call vote on passage or non-passage of each ordinance,
4. All ordinances, whether on first or second reading, shall be read by the Clerk by title only. Any Member may request that an ordinance be read in its entirety, at the time of its introduction on first reading or on second reading. Such request shall be honored upon the unanimous consent of all Council present.
5. An ordinance passed on first reading shall be published in the Borough's official newspaper in accordance with law. Following passage of an ordinance on second reading, the Clerk shall endorse on the ordinance the date of passage thereof and shall present the ordinance to the Mayor for his or her signature within five days from passage thereof,
6. Upon passage, every ordinance, or the title, together with a notice of the date of passage, shall be published at least once in the Borough's official newspaper. The ordinance shall take effect in accordance with law.
7. After the passage of an ordinance, it shall be properly numbered and recorded at length by the Borough Clerk in the Ordinance Book and proof of publication of the same shall be attached to the original ordinance.
8. The Borough Clerk shall enter only the title of any ordinance and reference to amendments into the Minutes of the Meetings.

## **ARTICLE TEN**

### **PURCHASES**

1. Prior to making final commitment for the purchase of any materials, supplies or equipment, a requisition, signed by the Department Head of the department requiring the same, shall be presented to the Borough Administrator,
2. The Administrator shall review the requisition to determine that the material is necessary and appropriate for purchase at that time and/or is a planned and budgeted expenditure, The Administrator may delegate the review and approval of requisitions for purchases costing less than \$500.00 to the Purchasing Agent. That delegation must be in a

writing filed with the Borough Clerk specifying the classes of requisitions over which authority is delegated.

3. If the requisition is approved by the Administrator or his or her delegate, the Chief Financial Officer shall certify the availability of funds.
4. Upon receipt of a certification of availability of funds, the requisition shall be filed in the Purchasing Office and shall be available for review by any Member of the Council.
5. The Members of the Standing Committee having jurisdiction over the using agency shall review the requisitions prior to the Work Session (Committee of the Whole) Meeting and note any objection, in writing, to any purchase. Any such objection shall be resolved at the next Work Session (Committee of the Whole) Meeting. The Standing Committee may specify in a writing filed with the Borough Administrator that certain classes of requisitions shall require its specific approval prior to purchasing the material. If so specified, the Member shall review all requisitions falling into that class prior to the next Meeting of the Committee of the Whole and either approve or object to such requisition before the Meeting. If the Standing Committee does not approve the requisition, and the Administrator or any Council Member believes that the purchase is in the best interests of the Borough, the Administrator or that Council Member may bring the matter to the Committee of the Whole for further action.
6. If no objections are noted, or if any noted objection is resolved, the Administrator may proceed to issue a purchase order as soon as expedient and purchase the material, If the cost of purchasing the material is below the bidding threshold established by state law, but over \$1,000.00, the Administrator or his or her delegate shall make reasonable effort to obtain at least three written quotes before entering into any contract, Whenever possible, verbal quotations shall be obtained for purchases between \$500.00 and \$1,000.00. The Administrator may delegate all or a specified portion of the actual purchasing activity to the Purchasing Agent.
7. If the cost of purchasing supplies and equipment is above the bidding threshold, written specifications shall be prepared for approval by the Council. Upon approval of the specifications, the Administrator or his or her delegate shall procure the materials pursuant to public bidding.
8. The Administrator is authorized, upon consultation with the Committee Chair, to approve requisitions for the emergency purchase of materials or provision of services before review by the Council, when the purchase is deemed necessary to maintain essential operations of the using agency,

## **ARTICLE ELEVEN**

### **PAYMENT OF CLAIMS AND BILLS**

1. All bills and claims against the Borough shall be fully itemized and submitted on the legal voucher provided by the Borough, The claimant shall certify the correctness of his or



her demand and shall present the same to the Borough Administrator or his or her delegate before it is presented for payment at a Council Meeting,

2. In order to determine the validity of bills and claims, prevent duplication of the same, and to establish their propriety, invoices shall be presented with the voucher. Where applicable, the Department Head shall execute the voucher certifying that the service had been rendered, or that the materials, supplies or equipment has been delivered. The Borough Administrator or his or her delegate shall approve all vouchers and evidence same with his or her signature,
3. All claims shall be audited by the Chief Financial Officer for compliance with law and with budgetary controls.
4. Upon approval of the Chief Financial Officer, the bill or claim and all supporting documentation shall be filed with the Purchasing Department and shall be available for review by the Council. The Chief Financial Officer shall prepare a list of all vouchers which he has approved for payment (the "bill list") and shall provide such list to the Borough Clerk for inclusion by the Clerk in the agenda materials of each Council Member.
5. The Members of the Council shall review the bill list at the Work Session or Regular Meeting, and shall note any objection to or question regarding any payment. Any objection or question shall be resolved before the Council approves any payment, If not resolved, the voucher shall be removed from the bill list at that Meeting.
6. If no objections are noted, or if any noted objection is resolved, the Council may proceed to authorize payment of the bill list in whole or in part on the consent agenda,
7. The Chief Financial Officer may then disburse payment of the claim in accordance with standard operating procedures.

## **ARTICLE TWELVE**

### **AYES AND NAYS**

1. Upon every vote of the Council on Resolutions and Motions the ayes and nays shall be taken and recorded. No Member shall be permitted to vote unless present when the Member's name is called in regular order. A voice vote may be taken at Work Session (Committee of the Whole) Meetings.
2. Each Member of the Council shall vote upon every question upon which a vote is taken, unless such Member is excused by unanimous vote of the Council, or the Member has a personal interest in a matter, or is otherwise prohibited by law from voting thereon.

## **ARTICLE THIRTEEN**

### **SEAL**

1. The seal of the Borough shall be circular in form and shall contain the following: "The Borough of Rutherford, Incorporated September 21, 1881", and may contain a device.
2. The seal shall be in the custody of the Borough Clerk and shall be affixed only by the Borough Clerk.

## **ARTICLE FOURTEEN**

### **AMENDMENTS TO BYLAWS**

These by-laws shall not be altered or amended except at a Regular Meeting of the Council by a two-thirds aye and nay vote, but any part thereof may be suspended temporarily by unanimous consent.