

MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL - CITY OF RAHWAY, NEW JERSEY
MAY 9, 2011
7 P.M.

1. Council President Brown called the meeting to order at 7:01 p.m. and asked for a Roll Call.

PRESENT: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

City Clerk Jean D. Kuc announced the meeting had been advertised and posted in accordance with the Open Public Meetings Act of the State of New Jersey.

This meeting of May 9, 2011 was included in a list of meetings notice sent to the *Star-Ledger*, *Home News Tribune*, *The Progress* and the *Rahway News-Record*, posted on the bulletin board in the Municipal Building on January 2, 2011 and has remained continuously posted as the required notices under the Statute. In addition, a copy of this notice is and has been available to the public and is on file in the office of the Municipal Clerk.

2. PLEDGE OF ALLEGIANCE

In the absence of a member of the Clergy, Councilmember Mione offered an invocation.

3. APPROVAL OF MINUTES

April 5, 2011	7 p.m.	Pre-Meeting Conference
April 11, 2011	7 p.m.	Regular Meeting

Motion was made by Councilmember Mione and seconded by Councilmember Cox to accept and approve the above listed minutes.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

4. PRESENTATIONS

Motion was made by Councilmember Mione and seconded by Councilmember Saliga to place O-18-11 on the Agenda.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council Vice President Cox declared the motion carried.

5. COMMUNICATIONS FROM MAYOR, REPORTS OF CITY OFFICERS AND LIST OF PAYMENT OF BILLS FOR APRIL

6. REPORTS OF COUNCIL COMMITTEES

Veterans Central Committee, Councilmember Mione: Reminded everyone about the Memorial Day Parade – Sunday, May 29 at 1:30 p.m.

7. HEARING OF CITIZENS Items on Agenda, Except Ordinances on Second Reading

With no one appearing, Council President Brown closed the Public Hearing.

8. CONSENT AGENDA

Motion made by Councilmember Wenson Maier seconded by Councilmember Baker to adopt the Consent Agenda, and was adopted by the following vote:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

9. ORDINANCES - First Reading

O-17-11 City Clerk Jean D. Kuc read AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 5, SECTION 77 “SPECIAL-DUTY JOBS, SALARY AND VEHICLE FEES” OF THE CODE OF THE CITY OF RAHWAY.

Motion to introduce the above Ordinance on first reading was made by Councilmember Saliga, seconded by Councilmember Scaturro and adopted by the following vote:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown: This Ordinance is declared adopted on first reading and the City Clerk is hereby authorized and directed to advertise said notice of its introduction and passage according to law. This Ordinance will come up for Public Hearing and further action at the Regular Meeting on Wednesday, June 15, 2011 at 7 p.m.

O-18-11 City Clerk Jean D. Kuc read AN ORDINANCE CONCERNING PERSONAL SERVICES USES IN THE B-4 SERVICE BUSINESS ZONE AND B-5 CENTRAL BUSINESS ZONE AND AMENDING SECTION 421-20 ENTITLED "B-4 SERVICE BUSINESS ZONE", SECTION 421-21 ENTITLED B-5 CENTRAL BUSINESS ZONE", SECTION 421-54 ENTITLED REQUIREMENTS FOR CONDITIONAL USES, AND SECTION 421-64.1 ENTITLED "PERSONAL SERVICES PROXIMITY LIMITATIONS" OF THE CITY LAND USE ORDINANCE.

Motion to introduce the above Ordinance on first reading was made by Councilmember Mione, seconded by Councilmember Saliga and adopted by the following vote:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown: This Ordinance is declared adopted on first reading and the City Clerk is hereby authorized and directed to advertise said notice of its introduction and passage according to law. This Ordinance will come up for Public Hearing and further action at the Regular Meeting on Wednesday, June 15, 2011 at 7 p.m.

10. RESOLUTIONS

***AR-114-11** Councilmember Wenson Maier presented and moved A RESOLUTION OF MUNICIPAL COUNCIL CONCERNING THE AUDIT REPORT FOR FISCAL YEAR 2010.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-115-11** Councilmember Brown presented and moved A RESOLUTION APPOINTING A COUNCILMEMBER TO THE RAHWAY ARTS DISTRICT, INC. BOARD (SAMSON STEINMAN).

The motion was seconded by Councilmember Scaturro.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-116-11** Councilmember Rachlin presented and moved A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RAHWAY TO AUTHORIZE A GRANT APPLICATION FOR A “HISTORY EDUCATION ARTS REACHING THOUSANDS” GRANT TO THE UNION COUNTY BOARD OF CHOSEN FREEHOLDERS.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-117-11** Councilmember Cox presented and moved A RESOLUTION PROVIDING FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE IN THE BUDGET OF THE CITY OF RAHWAY PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) NJ Division of Criminal Justice – Body Armor Replacement Fund Program- \$6,728.91.

The motion was seconded by Councilmember Wenson Maier.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-118-11** Councilmember Brown presented and moved A RESOLUTION PROVIDING FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE IN THE BUDGET OF THE CITY OF RAHWAY PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) Thomas F. Grahill Charitable Trust- \$40,000.

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-119-11** Councilmember Mione presented and moved A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL FISCAL YEAR 2011 TAXES DUE TO THE GRANTING OF A FULL TAX EXEMPTION ON PROPERTY OWNED BY A 100% PERMANENTLY AND TOTALLY DISABLED VETERAN.

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-120-11** Councilmember Wenson Maier presented and moved A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL OUTSTANDING STATE FISCAL YEAR 2011 REAL ESTATE TAXES.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-121-11** Councilmember Wenson Maier presented and moved A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL OUTSTANDING STATE FISCAL YEAR 2011 REAL ESTATE TAXES.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-122-11** Councilmember Wenson Maier presented and moved A RESOLUTION AUTHORIZING THE TAX COLLECTOR TO CANCEL OUTSTANDING STATE FISCAL YEAR 2011 REAL ESTATE TAXES.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-123-11** Councilmember Brown presented and moved A RESOLUTION AUTHORIZING REFUND OF OVERPAYMENT OF WATER BILLS.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-124-11** Councilmember Scaturo presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-125-11** Councilmember Scaturo presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

***AR-126-11** Councilmember Scaturo presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-127-11** Councilmember Brown presented and moved A RESOLUTION CONFIRMING THE MAYOR'S REAPPOINTMENT OF A MEMBER TO THE RAHWAY REDEVELOPMENT AGENCY (COURTNEY CLARKE).

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-128-11** Councilmember Mione presented and moved A RESOLUTION AUTHORIZING THE REFUND OF A BUILDING PERMIT FEE TO REGINALD HOPSON.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-129-11** Councilmember Brown presented and moved A RESOLUTION AUTHORIZING REFUND OF RECREATION CENTER FEES.

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-130-11** Councilmember Saliga presented and moved A RESOLUTION AUTHORIZING REFUND OF SENIOR SERVICES FEES.

The motion was seconded by Councilmember Wenson Maier.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-131-11** Councilmember Cox presented and moved A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE STATE OF NEW JERSEY FOR THE INSTALLATION OF A REDLIGHT PHOTO ENFORCEMENT SYSTEM AT ROUTES 1 & 9 AND EAST MILTON AVENUE.

The motion was seconded by Councilmember Wenson Maier.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-132-11** Councilmember Brown presented and moved A RESOLUTION SUPPORTING A-3412 SHARING THE BURDEN OF PROPERTY ASSESSMENT APPEAL REFUNDS.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-133-11** Councilmember Scaturro presented and moved A RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE RAHWAY CITY HALL WORKERS & COMMUNICATIONS OPERATORS LOCAL 32 OPEIU.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-134-11** Councilmember Brown presented and moved A RESOLUTION REQUESTING A CHANGE ORDER AUTHORIZATION FOR THE PROJECT ENTITLED "STREETSCAPE SECTION III A".

The motion was seconded by Councilmember Rachlin.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-135-11** Councilmember Wenson Maier presented and moved A RESOLUTION TO AWARD A PROFESSIONAL SERVICES CONTRACT TO WHITESTONE ASSOCIATES, INC. TO CONDUCT A LIMITED ASBESTOS CONTAINING MATERIALS EVALUATION AT THE DOCK STREET PUMP STATION.

The motion was seconded by Councilmember Saliga.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- *AR-136-11** Councilmember Brown presented and moved A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF AN ALTERNATE MEMBER TO THE ZONING BOARD OF ADJUSTMENT (PAULA BRAXTON).

The motion was seconded by Councilmember Mione.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier, Brown

Council President Brown declared the motion carried.

- AR-137-11** Councilmember Rachlin presented and moved A RESOLUTION CERTIFYING THE TAX LEVY FOR THE RAHWAY SCHOOL DISTRICT FOR THE 2011-2012 DISTRICT BUDGET.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturro, Steinman, Wenson Maier

ABSTAIN: Councilmember Brown

Council President Brown declared the motion carried.

11. Ordinances – Second Reading

- O-14-11** Council President Brown: The following Ordinance was adopted on first reading, advertised according to law, and is now before you for a public hearing and final adoption:

A REFUNDING BOND ORDINANCE PROVIDING FOR TAX REFUNDING PAYMENTS OF AMOUNTS OWING TO PROPERTY OWNERS IN THE CITY OF RAHWAY, AND APPROPRIATING \$1,650,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,650,000 REFUNDING BONDS OR NOTES OF THE CITY FOR FINANCING THE COST THEREOF IN AND BY THE CITY OF RAHWAY, IN THE COUNTY OF UNION, NEW JERSEY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RAHWAY, IN THE COUNTY OF UNION, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), AS FOLLOWS:

Section 1. The City of Rahway (the “City”), in the County of Union, State of New Jersey is hereby authorized to pay an aggregate amount, not exceeding \$1,650,000 for amounts owed by the City to the property owners listed in Section 3 herein. For the purposes of this refunding bond ordinance, there is hereby appropriated \$1,650,000, said sum being inclusive of all appropriations heretofore made therefor, amounting in the aggregate to \$1,650,000.

Section 2. For said purposes and to meet the part of said \$1,650,000 appropriation not otherwise provided for hereunder, negotiable tax refunding bonds of the City are hereby authorized to be issued in a principal amount not to exceed \$1,650,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds, negotiable tax refunding notes of the City in a principal amount not to exceed \$1,650,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Law. In the event that tax refunding bonds are issued pursuant to this ordinance, the aggregate amount of tax refunding notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the tax refunding bonds so issued. If the aggregate amount of outstanding tax refunding bonds and tax refunding notes issued pursuant to this ordinance shall at any time exceed \$1,650,000, the moneys raised by the issuance of said tax refunding bonds shall, to not less than the amount of such excess, be applied to the payment of such tax refunding notes then outstanding, at maturity. Each refunding bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within the limitations prescribed by the Local Bond Law. Each of said tax refunding notes shall be signed and shall be under the seal of said City and attested as permitted by law. The appropriate City officers are hereby authorized to execute said tax refunding notes and to issue said tax refunding notes in such form as they may

adopt in conformity with law. The power to determine all matters in connection with this ordinance and also the power to sell said tax refunding notes, is hereby delegated to the Chief Financial Officer of the City (the “Financial Officer”), who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law and the Financial Officer’s signature upon the tax refunding notes shall be conclusive evidence as to all such determinations. The Financial Officer is authorized and directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of tax refunding notes pursuant to this ordinance is made, such report to include the principal amount, description, interest rate and maturity of the tax refunding notes sold, the price obtained and the name of the purchaser.

Section 3. The City of Rahway, hereby authorizes tax refunding payments as follows:

<u>Block/Lot</u>	<u>Owner</u>	<u>Years</u>	<u>Amount</u>
Block 396, Lot 1	Merck & Co	2009	\$1,614,797
and			
Block 396, Lot 1.01			
Plus cost permitted by N.J.S.A. 40A:2-51(b)			\$35,203
TOTAL:			\$1,650,000

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) Amounts not exceeding \$35,203 in the aggregate for interest on said obligations, costs of issuing said obligations, engineering costs, legal fees and other items of expense listed and permitted under N.J.S.A. 40A:2-51(b) of the Local Bond Law may be included as part of the costs of said improvements and are included in the foregoing estimates thereof.

(b) A certified copy of this refunding bond ordinance as adopted on first reading has been filed with the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey prior to final adoption, together with a complete statement in the form prescribed by the Director and signed by the Financial Officer of the City as to the indebtedness to be financed by the issuance of the refunding bonds authorized herein.

Section 5. The City Council of the City of Rahway, hereby covenants on behalf of the City that to the extent any debt obligations are issued as tax-exempt debt obligations, the City shall take any action necessary or refrain from taking such action in order to preserve the tax-exempt status of the debt obligations authorized hereunder as is required under the Internal Revenue Code of 1986, as amended, and as the same may be amended from time to time, including, but not limited to, compliance with said Code with regard to the use, expenditure, investment, timely

reporting and the rebate of investment earnings as may be required thereunder.

Section 6. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this refunding bond ordinance. Said obligations shall be direct, unlimited obligations of the City, and, unless paid from other revenues of the City, the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of said obligations and interest thereon without limitation as to rate or amount.

Section 7. To the extent that any previous ordinance or resolution is inconsistent with or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 8. This refunding bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law, provided the consent of the Local Finance Board has been endorsed upon a certified copy of this ordinance as finally adopted.

Council President Brown opened the Public Hearing on this matter and asked if any citizen wished to be heard, to approach the rail, give his/her name and address and be heard.

With no one appearing, Council President Brown closed the Public Hearing.

Roll Call for O-14-11:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown: This Ordinance having been read on two separate days and having achieved the vote required by law is declared adopted. The City Clerk is directed to deliver same to the Mayor for his approval or disapproval.

O-15-11 Council President Brown: The following Ordinance was adopted on first reading, advertised according to law, and is now before you for a public hearing and final adoption:

**AN ORDINANCE AMENDING CHAPTER 401 OF THE CODE OF THE
CITY OF RAHWAY (VEHICLES AND TRAFFIC) - HANDICAPPED
PARKING**

**BE IT ORDAINED BY THE MAYOR AND THE MUNICIPAL COUNCIL
OF THE CITY OF RAHWAY, THE FOLLOWING CHAPTER BE
AMENDED AS FOLLOWS:**

401-79 Schedule XXI: Handicapped Parking

Add:

In front of 210 Remsen Ave

WestSide - beginning at a point 174 feet North of the intersection of Colonia Blvd extending to a point 22 feet North thereof.

In front of 1295 Stockton St

East Side - beginning at a point 129 feet North of the intersection of Randolph Rd extending to a point 22 feet East thereof.

**ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT
WITH THE PROVISIONS OF THIS ORDINANCE ARE HEREBY
REPEALED.**

**THIS ORDINANCE SHALL TAKE EFFECT UPON FINAL PASSAGE
AND PUBLICATION AS PROVIDED BY LAW.**

Council President Brown opened the Public Hearing on this matter and asked if any citizen wished to be heard, to approach the rail, give his/her name and address and be heard.

With no one appearing, Council President Brown closed the Public Hearing.

Roll Call for O-15-11:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown: This Ordinance having been read on two separate days and having achieved the vote required by law is declared adopted. The City Clerk is directed to deliver same to the Mayor for his approval or disapproval.

O-16-11 Council President Brown: The following Ordinance was adopted on first reading, advertised according to law, and is now before you for a public hearing and final adoption:

**AN ORDINANCE CREATING A NEW CHAPTER 346 ENTITLED
“SMOKING” OF THE CODE OF THE CITY OF RAHWAY IN ORDER
TO BAN SMOKING IN GOVERNMENT BUILDINGS, PUBLIC
FACILITIES AND RECREATIONAL AREAS THROUGHOUT THE
CITY OF RAHWAY**

WHEREAS, N.J.S.A. 26:3D-46 provides that the right of the non-smoker to breathe clean air should supersede the right of the smoker to smoke and seeks to protect the interest of nonsmokers in government buildings; and

WHEREAS, N.J.S.A. 26:3D-38 provides that the right of the non-smoker to breathe clean air should supersede the right of the smoker to smoke and seeks to control smoking in certain indoor public places; and

WHEREAS, N.J.S.A. 26:3D-15 provides that the right of the non-smoker to breathe clean air should supersede the right of the smoker to smoke and seeks to control smoking on the premises of schools, colleges, universities and professional training schools, except in designated areas; and

WHEREAS, N.J.S.A. 2C:33-13 provides that smoking may be prohibited by Municipal Ordinance in any public place, including, but not limited to, places of public accommodation, under the authority of N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2 and when adequate notice of such prohibition has been conspicuously posted; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the City of Rahway is authorized to adopt an Ordinance for the preservation of public health, safety and welfare; and

WHEREAS, the City Council of the City of Rahway has determined that it would serve a public purpose to prohibit smoking in and around governmental buildings, public facilities and recreational areas throughout the City for the public health, welfare and safety of the citizens of the City of Rahway.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Rahway, County of Union and State of New Jersey that the Code of the City of Rahway is hereby amended and supplemented by creating a new Chapter 346 entitled Smoking which shall read in its entirety as follows:

§ 346-1. Definitions.

GOVERNMENT BUILDINGS – shall mean a building or portion of a building owned or leased by a government entity.

INDOOR PUBLIC PLACE – shall mean a structurally enclosed area generally accessible to the public in theatres, gymnasiums, libraries, museums, concern halls, auditoriums, or other similar facilities which are neither owned or leased by a governmental entity or qualify as a health care facility or the waiting room of a person licensed to practice in the healing arts. Race track facilities, casinos licensed under the “Casino Control Act,” (N.J.S.A. 5:12-1 et seq.), facilities used

for the holding of boxing and wrestling exhibitions or performances, football, baseball and other sporting event facilities, bowling alleys, dance halls, ice and roller skating rinks and other establishments providing ambulatory recreation are excluded from this definition.

PARK OR PLAYGROUND - shall mean any tract of land designated and used by the public for active and passive recreation.

RECREATIONAL FACILITY – shall mean any place designed and equipped for the conduct of sports and leisure time activities.

SMOKING – means the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked.

§ 346-2. Smoking Prohibited.

In the best interests of the public health, safety and welfare, smoking shall be prohibited in all government buildings, indoor public places, parks and playgrounds and recreational facilities as defined in this Chapter. Smoking shall be prohibited in all municipal vehicles owned, leased or operated by the City of Rahway.

§ 346-3. 25 Foot Smoke Free Zone Around Municipal Buildings. There is hereby established, around all municipal buildings located within the City of Rahway a twenty five-foot (25') "smoke free zone", wherein the smoking of any form of tobacco product- a cigarette, cigar or pipe, is strictly prohibited. The "smoke free zone" shall include all areas within twenty-five (25) linear feet from any and all entrances and exits of any and all municipal buildings and public facilities.

§ 346-4. Signs. There shall be placed at all public entrances and exits of municipal buildings signs which shall be located so as to be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited within twenty-five feet (25') of the building, citing this ordinance. Such sign shall also indicate that any violators shall be subject to a fine.

§ 346-5. Enforcement. The Health Officer, or designee, and the Police Department are hereby charged with the enforcement of this ordinance. All members of the Health Department and the Police Department are hereby designated as enforcement officers for the purpose of enforcement of this ordinance.

§ 346-6. Violations and Penalties.

Any person violating or failing to comply with any of the provisions of this Chapter shall, upon conviction thereof for a first offense, be punishable by a fine of not more than \$50.00 or by community service of not more than two (2) days; for a second offense within the same calendar year, be punishable by a fine of not more than \$100.00 or by community service of not more than five (5) days; for a third offense within the same calendar year, be punishable by a fine of not less than ten (10) days or any combination of fine, imprisonment and community service as determined in the discretion of the Municipal Court Judge.

BE IT FURTHER ORDAINED, If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, Any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, This Ordinance shall take effect upon passage and publication in accordance with applicable law.

Council President Brown opened the Public Hearing on this matter and asked if any citizen wished to be heard, to approach the rail, give his/her name and address and be heard.

With no one appearing, Council President Brown closed the Public Hearing.

Roll Call for O-16-11:

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson Maier, Brown

Council President Brown: This Ordinance having been read on two separate days and having achieved the vote required by law is declared adopted. The City Clerk is directed to deliver same to the Mayor for his approval or disapproval.

***12. MISCELLANEOUS**

13. COMMUNICATIONS - Hearing of Citizens

Eddie B. Smith 1280 Clark Street
Commented on the incinerator, host community agreement and executive sessions at the UCUA.

Patrick Cassio 1971 Barnett Street
Spoke on Memorial Day; more flags need to be displayed and to remember why our servicemen are fighting.

With no one else appearing, Council President Brown closed the Public Hearing.

14. COUNCIL COMMENT

Mayor Proctor: Spoke on the Board of Education budget and future events in the City.

Councilmember Scaturo: Thanked Board of Education for attending the Meeting.

Councilmember Mione: Reminded everyone about the Memorial Day Parade.

Councilmember Baker: Congratulated the winners of the Board of Education election. Thanked Superintendent of Schools and staff for the great job they have done. Asked everyone to increase their recycling.

Councilmember Brown: Thanked everyone for participation. Commented on Utilities Authority questions. Thanked Board of Education.

ADJOURNMENT

Motion to adjourn the meeting at 7:45 p.m. was made by Councilmember Scaturo and seconded by Councilmember Cox.

YES: Councilmembers Baker, Cox, Mione, Rachlin, Saliga, Scaturo, Steinman, Wenson
 Maier, Brown

Council President Brown declared the motion carried.