

MINUTES
REGULAR MEETING
MUNICIPAL COUNCIL - CITY OF RAHWAY, NEW JERSEY
APRIL 11, 2016
7 P.M.

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

PRESENT: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

City Clerk Jeffrey J. Jotz 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 April 11, 2016 was included in a list of meetings notice sent to the *Star-Ledger*, *Home News Tribune* and the *Union County Local Source*, posted on the bulletin board in the Municipal Building on January 2, 2016 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, Council Vice President Wenson Maier offered an invocation.

3. **APPROVAL OF MINUTES**

March 8, 2016	7 p.m.	Pre-Meeting Conference
March 14, 2016	7 p.m.	Regular Meeting

Motion was made by Councilmember Bresenhan and seconded by Councilmember Giacobbe to accept and approve the above listed minutes.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

4. **PRESENTATIONS**

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

6. REPORTS OF COUNCIL COMMITTEES

Environmental Commission, Councilmember Wenson Maier – Reminded public that the annual Rahway River Cleanup is scheduled for April 23.

Councilmember Brown made a motion to place O-9-16 on the Agenda.

The motion was seconded by Councilmember Miles.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

Councilmember Miles made a motion to place AR-98-16 on the Agenda and the Consent Agenda.

The motion was seconded by Councilmember Giacobbe.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

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

With no one appearing, Council Vice President Wenson Maier closed the Public Hearing.

8. CONSENT AGENDA

Motion made by Councilmember Brown seconded by Councilmember Farrar to adopt the Consent Agenda, and was adopted by the following vote:

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

9. ORDINANCES - First Reading

O-8-16 City Clerk Jotz read AN ORDINANCE AMENDING CHAPTER 401 OF THE CODE OF THE CITY OF RAHWAY (VEHICLES AND TRAFFIC – STOP INTERSECTIONS).

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

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council President Baker: 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 a Council Meeting on May 9, at 7 p.m.

O-9-16 City Clerk Jotz read A BOND ORDINANCE PROVIDING FOR THE ENVIRONMENTAL REMEDIATION OF VARIOUS PROPERTIES, BY AND IN THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$225,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$214,285 BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF.

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

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council President Baker: 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 a Council Meeting on May 9 at 7 p.m.

10. RESOLUTIONS

***AR-80-16** Councilmember Miles presented and moved A RESOLUTION AUTHORIZING A PERSONNEL POLICY FOR MUNICIPAL EMPLOYEES.

The motion was seconded by Councilmember Wenson Maier.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-88-16** Councilmember Bresenhan presented and moved A RESOLUTION
AUTHORIZING REFUND OF OVERPAYMENT OF WATER BILLS.

The motion was seconded by Councilmember Miles.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-89-16** Councilmember Mojica presented and moved A RESOLUTION AUTHORIZING
REFUND OF PARKS & RECREATION FEES.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-90-16** Councilmember Wenson Maier presented and moved A RESOLUTION
AUTHORIZING REFUND OF POLICE ESCROW FEES.

The motion was seconded by Councilmember Miles.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

- *AR-91-16** Councilmember Farrar presented and moved A RESOLUTION AUTHORIZING THE RETURN OF PERFORMANCE BOND AND FINAL PAYMENT FOR THE “SINKHOLE REPAIR PROJECT” TO S. BROTHERS, INC.

The motion was seconded by Councilmember Brown.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

- *AR-92-16** Councilmember Giacobbe presented and moved A RESOLUTION AUTHORIZING A REDEMPTION IN INSTALLMENTS FOR MUNICIPAL TAX TITLE LIENS # 2011-0393, 2011-0394.

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

- *AR-93-16** Councilmember Wenson Maier presented and moved A RESOLUTION AUTHORIZING THE REFUND OF MONEY DUE TO THE REDEMPTION OF TAX SALE CERTIFICATES.

The motion was seconded by Councilmember Cox.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

- *AR-94-16** Councilmember Miles presented and moved A RESOLUTION AUTHORIZING THE REFUND OF OVERPAYMENT OF TAXES FOR THE 2015 CALENDAR YEAR.

The motion was seconded by Councilmember Farrar.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-95-16** Councilmember Cox presented and moved A RESOLUTION APPROVING A NO COST TIME EXTENSION FOR THE PROJECT ENTITLED "I & I PROJECT – PHASE III TESTING" FOR THE CITY OF RAHWAY .

The motion was seconded by Councilmember Brown.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-96-16** Councilmember Mojica presented and moved A RESOLUTION DECLARING THE CITY OF RAHWAY A "STIGMA FREE TOWN".

The motion was seconded by Councilmember Bresenhan.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-97-16** Councilmember Brown presented and moved A RESOLUTION TEMPORARILY SUSPENDING PROVISIONS OF 365-1 THROUGH 365-3 (SIDEWALK ENCUMBRANCES) AND 365-50 THROUGH 365-51 (CLOSING OF STREETS) OF THE CODE OF THE CITY OF RAHWAY (CULTURE CRAWL).

The motion was seconded by Councilmember Giacobbe.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica,
Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

***AR-98-16** Councilmember Miles presented and moved A RESOLUTION AUTHORIZING A TEMPORARY CAPITAL BUDGET.

The motion was seconded by Councilmember Giacobbe.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.

11. ORDINANCES – SECOND READING

O-5-16 Council President Baker: 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 OF THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY (THE “CITY”) PROVIDING FOR (i) THE REFUNDING OF CERTAIN OUTSTANDING GENERAL OBLIGATION REFUNDING BONDS OF THE CITY DATED JANUARY 25, 2007 TO PROVIDE DEBT SERVICE SAVINGS, AND (ii) AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$5,700,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION REFUNDING BONDS OF THE CITY TO EFFECT SUCH REFUNDING AND APPROPRIATING THE PROCEEDS THEREFOR

WHEREAS, pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the “Local Bond Law”), the City of Rahway, in the County of Union, State of New Jersey (the “City”), had previously issued \$7,945,000 aggregate principal amount of General Obligation Refunding Bonds on January 25, 2007 (the “Original Bonds”); and

WHEREAS, \$5,210,000 outstanding Original Bonds maturing in the years 2017 through 2026 (the “Refunded Bonds”) are currently subject to redemption, either in whole or in part, prior to their stated maturity; and

WHEREAS, the City Council has determined that the current tax-exempt interest rate environment would enable it to realize debt service savings for the City taxpayers by refunding all or a portion of the aforesaid Refunded Bonds through the issuance of its General Obligation Refunding Bonds in an aggregate principal amount not to exceed \$5,700,000 (the “Refunding Bonds”); and

WHEREAS, the City Council now desires to adopt this Refunding Bond Ordinance (the “Refunding Bond Ordinance”) authorizing the issuance of the Refunding Bonds in an aggregate principal amount not exceeding \$5,700,000, a portion of the sale proceeds of which shall be used to refund the Refunded Bonds.

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

SECTION 1. The refunding of all or a portion of the Refunded Bonds is hereby authorized.

SECTION 2. In order to refund the Refunded Bonds and to pay all related costs associated therewith, the City is hereby authorized to issue the Refunding Bonds in an aggregate principal amount not to exceed \$5,700,000, all in accordance with the requirements of N.J.S.A. 40A:2-51 et seq., and appropriate the proceeds of such Refunding Bonds to such purpose described in Section 3 hereof. Such Refunding Bonds shall be designated as “General Obligation Refunding Bonds” with such series designation as may be necessary to identify such bonds.

SECTION 3. The purpose of the issuance of the Refunding Bonds is to achieve debt service savings by refunding all or a portion of the Refunded Bonds.

SECTION 4. An aggregate amount not exceeding \$170,000 may be allocated from the aggregate principal amount of the Refunding Bonds to pay for items of expense listed and permitted under N.J.S.A. 40A:2-51(b), including, but not limited to, the aggregate allocated costs of issuance thereof, including underwriting, printing, credit enhancement or other insurance, advertising, accounting, financial, legal and other expenses in connection therewith.

SECTION 5. A certified copy of this Refunding Bond Ordinance has been filed with the Director of the Division of Local Government Services, in the New Jersey Department of Community Affairs prior to final adoption and enactment hereof.

SECTION 6. The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the City Clerk and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, in the New Jersey Department of Community Affairs, and such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided for in this Refunding Bond Ordinance and the said bonds and notes authorized by

this Refunding Bond Ordinance will be within all debt limitations prescribed by the Local Bond Law.

SECTION 7. The Chief Financial Officer of the City is hereby authorized and directed to determine all matters and terms in connection with the Refunding Bonds, all in consultation with the City bond counsel and the City auditor, and the manual or facsimile signature of the Chief Financial Officer of the City upon any documents shall be conclusive as to all such determinations. The Mayor, the Chief Financial Officer of the City, the City Clerk and any other City official, officer or professional, including but not limited to, the City bond counsel and the City auditor, are each hereby authorized and directed to execute and deliver such documents as are necessary to consummate the sale and closing of the Refunding Bonds, including the refunding report required to be filed pursuant to N.J.A.C 5:30-2.5, and to take such actions or refrain from such actions as are necessary for the issuance of the Refunding Bonds, in consultation with City bond counsel and the City auditor, and any and all actions taken heretofore with respect to the sale and issuance of the Refunding Bonds are hereby ratified and confirmed.

SECTION 8. This Refunding Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

Council Vice President Wenson Maier 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 Vice President Wenson Maier closed the Public Hearing.

Roll Call for O-5-16:

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council President Baker: 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-6-16 Council President Baker: 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 BOND ORDINANCE PROVIDING FOR SEWER UTILITY INFLOW AND INFILTRATION PROJECT (PHASE III), BY AND IN THE CITY OF RAHWAY, IN THE COUNTY OF UNION, STATE OF NEW JERSEY; APPROPRIATING \$425,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$425,000 IN BONDS OR NOTES TO FINANCE THE COST THEREOF

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

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the City of Rahway, in the County of Union, State of New Jersey (the “City”) as a general improvement. For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of \$425,000 from the Sewer Utility of the City, said sum being inclusive of all appropriations heretofore made therefor. Pursuant to the provisions of N.J.S.A. 40A:2-7(h) and 40A:2-11(c) of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., as amended and supplemented (the “Local Bond Law”), no down payment is required as the Sewer Utility of the City is self-liquidating.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the said \$425,000 appropriation, negotiable bonds of the Sewer Utility of the City are hereby authorized to be issued in the aggregate principal amount not exceeding \$425,000 pursuant to the Local Bond Law, N.J.S.A. 40A:2-1 et seq. (the “Local Bond Law”). In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the City in an aggregate principal amount not exceeding \$425,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

SECTION 3. The improvement hereby authorized and purposes for the financing of which said obligations are to be issued is the Sewer Utility Inflow and Infiltration Project (Phase III) which includes, but, is not limited to, the assessment of sewer inflow and infiltration processes at various locations throughout the City and associated capital repairs and improvements to the sewer systems associated therewith.

- (b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is \$425,000.
- (c) The aggregate estimated cost of said improvement or purpose is \$425,000.
- (d) The above improvement and purpose set forth in Section 3(a) is more particularly described in documents on file in the Office of the City Clerk and shall also include, but is not limited to, the following, as applicable, surveying, construction planning, engineering and design work, preparation

of plans and specifications, permits, bid documents, construction inspection and contract administration, environmental testing and remediation and also all work, materials, equipment, labor and appurtenances as necessary therefor or incidental thereto.

SECTION 4. In the event the United States of America, the State of New Jersey, the County of Union or a private entity make a contribution or grant in aid, as applicable, to the City for the improvement or purpose authorized hereby and the same shall be received by the City prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey and/or the County of Union. In the event, however, that any amount so contributed or granted, as applicable, by the United States of America, the State of New Jersey, the County of Union or a private entity, shall be received by the City after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose. This Section 4 shall not apply, however, with respect to any contribution or grant in aid received by the City as a result of using funds from this bond ordinance as “matching local funds” to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the City, provided that no note shall mature later than one (1) year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer of the City shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with the provisions of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The capital budget of the Sewer Utility of the City is hereby amended to conform with the provisions of this bond ordinance, and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital programs of the Sewer Utility as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, will be on file in the Office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

- (a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement or purpose which the City may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.
- (b) The average period of usefulness of said improvement or purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 5 years.
- (c) The supplemental debt statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the City and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and such statement shows that the gross debt of the City as defined in the Local Bond Law is increased by the authorization of the bonds or notes provided for in this bond ordinance by \$425,000 and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.
- (d) An aggregate amount not exceeding \$85,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the City are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the City, and the City shall be obligated to levy *ad valorem* taxes upon all the taxable property within the City for the payment of the obligations and the interest thereon without limitation as to rate or amount.

SECTION 9. The City hereby declares the intent of the City to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 9 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

SECTION 10. The City Chief Financial Officer is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the City and to execute such disclosure document on behalf of the City. The City Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the City pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and

beneficial owners of obligations of the City and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the City fails to comply with its undertaking, the City shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 11. The City covenants to maintain the exclusion from gross income under Section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 12. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

Council Vice President Wenson Maier 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 Vice President Wenson Maier closed the Public Hearing.

Roll Call for O-6-16:

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

Council President Baker: 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-7-16 Council President Baker: 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 TO AMEND AND SUPPLEMENT CHAPTER 5,
ADMINISTRATION OF GOVERNMENT, OF THE CODE OF THE CITY
OF RAHWAY**

WHEREAS, the City of Rahway desires to amend and supplement Chapter 5, Administration of Government, of the Code of the City of Rahway.

NOW, THEREFORE, be it ordained, by the City Council of the City of Rahway, County of Union, State of New Jersey, that Chapter 5 of the Code of the City of Rahway entitled "Administration of Government" is deleted in its entirety and revised to read as follows:

Article I. Organization of City Government

§ 5-1. Offices, departments.

The City government, under the Mayor-Council Plan of the Optional Municipal Charter Law, L. 1950, c. 210, as amended (N.J.S.A. 40:69A-1 et seq.), shall, in addition to the elected Municipal Council, consist of the following offices and departments:

A. Offices.

- (1) Office of the Mayor.
- (2) Office of the City Clerk.
- (3) Office of Emergency Management.

B. Departments.

- (1) Department of Law.
- (2) Department of Administration.
- (3) Department of Public Works.
- (4) Department of Revenue and Finance.
- (5) Department of Community Development.
- (6) Department of Police.
- (7) Department of Fire.
- (8) Department of Recreation and Senior Services

C. Such other legislative, judicial, advisory and independent agencies of local government as provided by the Charter or general law.

D. Such other appointive officers and employees as are provided by this Code or other ordinances of the City or otherwise authorized by the Charter or other applicable law.

Article II. General Requirements

§ 5-2. Oath of office.

Every officer of the City shall, before he or she enters upon the duties of such office, take and subscribe, before a person authorized by law to administer oaths or affirmations, an oath or affirmation faithfully and impartially to execute the duties of his or her office according to the best of his or her knowledge, skill and ability, and such oaths or affirmations required by the laws of the state. All such oaths or affirmations shall be filed by the City Clerk in his or her office and shall be there preserved.

§ 5-3. Bonds of officers and employees.

A. The officers and employees designated in Subsection B of this section or otherwise required by resolution shall, before entering upon the duties of their respective offices and employments, execute to the City a bond with a corporate surety authorized to do business in this state, conditioned upon the true and faithful performance by such officer or employee of the duties of his or her office or employment. The premium for official surety bonds shall be paid by the City.

B. The following officers and employees shall be bonded in the respective penal sums stated:

(1) Treasurer: Determined annually in accordance with N.J.A.C. 5:30-8.2

(2) Tax Collector: Determined annually in accordance with N.J.A.C. 5:30-8.3

(3) Any other officer or employee authorized to collect or receive public moneys, except as otherwise provided by resolution of the Council may be required to post bonds in such amounts as may be authorized pursuant to applicable law.

§ 5-4. Form and approval of bonds; failure to deliver bond.

All official surety bonds shall be in such form, and term or annual, as shall be approved by the Council. Such bonds shall be filed with the City Clerk, who shall endorse upon each bond the fact and date of approval thereof by the Council, except that the bond of the City Clerk shall be filed with the Treasurer. Upon the failure of any officer or employee to deliver the bond as required by this article within 30 days after the commencement of his or her term of office or of his or her employment, including those elected or appointed to fill vacancies, such office shall be deemed to be vacant.

§ 5-5. Purchase of insurance policies.

All insurance of whatever nature protecting the interests of the City government shall be purchased by the Business Administrator, with the approval of the Mayor. All insurance policies shall be filed in the office of the City Clerk. In the absence of the Business Administrator, the Mayor shall purchase said insurance.

§ 5-6. Contracts and documents.

A. All contracts, deeds, grants, leases and other documents evidencing any right, title or interest of the City, and records pertaining to the history of the City, shall, except as otherwise expressly provided by or pursuant to law, be deposited with the City Clerk and shall be safely preserved by the City Clerk against loss, deterioration or destruction.

B. No reports, contracts or official books or papers in the charge or keeping of any City officer shall be withdrawn from the files and taken from the officer having the custody thereof without an order of the Council, except when required for public use by the Mayor, City Clerk, City Attorney or Business Administrator. No such report, contract, book or document shall be surrendered by the officer

having the custody thereof without first receiving from any person authorized to take the same a receipt therefor in a book or books to be kept for that purpose.

§ 5-7. Annual audits.

The Council shall cause to be made an annual audit of the City's books, accounts and financial transactions as required by, and in accordance with, the Local Fiscal Affairs Law, N.J.S.A. 40A:5-4 et seq. Such annual audit shall be made by a registered municipal accountant of New Jersey selected by the Council.

Article III. Departments

§ 5-8. Department heads; powers and duties.

A. The head of each department, known as the Director, shall, subject to the supervision of the Business Administrator and subject to the Charter and ordinances of the City:

- (1) Have, exercise and discharge the functions, powers and duties of the department.
- (2) Prescribe the internal organization of the department and the duties of his or her subordinates and assistants.
- (3) Administer the work of the department through the divisions established by this chapter and such other units of administration as he or she may find necessary or desirable.
- (4) Appoint officers and employees employed within the department and assign functions, powers and duties to them.
- (5) Delegate such of his or her powers as he or she may deem necessary for the efficient administration of the department, to be exercised under his or her direction and supervision by division heads.

B. Said supervision and required reports shall not extend or apply to the Department of Law or to the office of the City Clerk and shall not extend or apply to the exercise of the control function in the management of the finances of the City, which control function is required by statute (N.J.S.A. 40:69A-48) to be exercised by an officer of the City other than the Business Administrator.

§ 5-9. Vacancies in office of Director; Acting Director.

Whenever a vacancy exists, by resignation, removal or otherwise, in the office of a Director of any City department, the Mayor may temporarily fill such vacancy in cases not specifically provided for in the Charter or ordinances by appointing an Acting Director from among the existing officers and employees of the City, who shall perform all the duties and functions of such department head, until the office shall be filled permanently. Any such appointment of an Acting Director shall terminate not later than 90 days after the date of the appointment, unless the Council shall, by resolution, authorize one or more extensions thereof.

§ 5-10. Temporary disability of administrative officer.

Whenever any administrative officer or the head of any administrative department or division thereof is, by reason of absence or disability, unable to perform his or her official duties, one or more officers or employees under his or her supervision whom he or she has designated may perform the ministerial duties of such office during such time as the absence or disability of the officer may continue. It shall be the duty of the head of each department and division to designate one or more such persons. When any person so designated to perform the duties of an officer during his or her absence or disability is required to sign any official document pertaining to such office, it shall be signed in the name of such officer and by the subordinate as designee.

Article IV. Office of the Mayor

§ 5-11. Powers and duties.

A. The Mayor, as the chief executive officer of the City, shall:

- (1) Have the power and duty to supervise the administration of the Charter and ordinances of the City and the general laws applicable thereto.
- (2) Have such powers of appointment and removal as are provided by the Charter or general law. Whenever the Director of any department of the City is also an officer or an employee within said department, the Mayor shall have the power to discipline such officer or employee, including the power of suspension or dismissal, subject, however, to such procedure as to notice and hearing as may be required by the Charter or general law.
- (3) Have the power to appoint, with the advice and consent of the Council, persons to offices where no other provision is made for such appointment.
- (4) Assign or approve the assignment of space in public buildings and other public places for the temporary or permanent use of any department, body, officer, agency or instrumentality.
- (5) Control, through the Business Administrator, the assignment, allocation and use of furniture, equipment or other public property in the City government.
- (6) Unless otherwise provided by resolution or ordinance hereafter adopted by the Municipal Council, have the power and duty to negotiate, enter into and execute any contract on behalf of the City of Rahway relating to any matter whatever, subject to bidding requirements, if any, imposed by law or ordinance, and further subject to the Director of Law's approval of same as to form and subject to available appropriations or funds having been provided by the Municipal Council.

B. The Mayor may:

- (1) Authorize the Business Administrator to assign and reassign, transfer and retransfer, from time to time, either temporarily or permanently, any property or personnel from one function to another or from one administrative unit to another, as the efficient management of the City government may require, subject to the express requirements of the Charter, Title 11, Civil Service, of the Revised Statutes, as amended, and all other applicable general laws.

(2) Appoint an Executive Secretary to serve at his or her pleasure at such compensation as shall be provided by ordinance; and said Executive Secretary shall perform secretarial, clerical and administrative duties for the Mayor.

(3) Delegate to the head of any department any function, power or duty conferred upon the Mayor by ordinance, which is not required by Charter or general law to be exercised, performed or discharged by the Mayor personally.

(4) Authorize the Business Administrator to dispose of obsolete and surplus goods and materials (hereinafter called "unneeded personal property") which the Mayor determines is no longer needed by the City or any City department, office or agency or is worn out or is scrap material or should be replaced. The Business Administrator shall require the head of any City department, office or agency to submit a written list to him or her and the Mayor of unneeded personal property, which list such head shall furnish at such time or times as designated by the Business Administrator. The Business Administrator shall maintain a list of all unneeded personal property, stating thereon the location and estimated value thereof, the date of disposition thereof, if disposed of, the estimated value thereof, the nature of disposition thereof, the price received and the name and address of purchaser, if sold.

If the Mayor's determination is that the value of such personal property exceeds \$300, the Business Administrator shall sell the same to the highest responsible bidder by public bidding after advertisement in a newspaper circulating in the City and after receipt of sealed bids or at a public auction or an online auction as authorized by the State of New Jersey subject to the approval of the Council, who shall have the right to reject all bids. Upon approval of the Mayor, any unneeded personal property may be traded in to a vendor in part payment of the purchase price of other personal property which the City shall require where the value of the property to be traded in does not exceed \$300, as determined by the Mayor; and if the Mayor determines the value to exceed \$300, then the Council's approval of the amount offered for such property to be traded in shall be first obtained. Any unneeded personal property that cannot be disposed of under the conditions herein set forth shall be deemed to have no value and may be discarded without remuneration by the Business Administrator, with approval of the Mayor.

Article V. Powers of Mayor During Civil Emergencies

§ 5-12. Extraordinary powers enumerated; definitions.

The Mayor shall have the following extraordinary powers during a civil emergency:

A. When, in the judgment of the Mayor, a civil emergency, as defined hereinafter, is deemed to exist, he or she shall forthwith proclaim in writing the existence of same. He or she shall cause such proclamation to be forthwith published at least once in a newspaper circulating within the City or if, in his or her judgment, such publication is not practicable, he or she shall cause the notice thereof to be given to the public in such manner as he may deem proper.

B. After proclamation of a civil emergency by the Mayor, he or she may order a general curfew as hereinafter defined, applicable to such geographical areas of the City or to the City as a whole, as he or she deems advisable, and also applicable during such hours of the day or night as he or she deems necessary in the interest of the public safety and welfare.

C. After proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, issue any or all of the following orders:

(1) Order the closing of all retail liquor stores.

(2) Order the closing of all taverns or portions thereof where intoxicating beverages are consumed, sold or distributed.

(3) Order the closing of all private clubs or portions thereof wherein the consumption of intoxicating beverages is permitted.

(4) Order the discontinuance of the sale, distribution or consumption of intoxicating beverages.

(5) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable or combustible products in any container other than a gasoline tank as is customarily affixed to a motor vehicle.

(6) Order the closing of gasoline stations and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.

(7) Order the discontinuance of selling, distributing, dispensing or giving away of firearms or ammunition of any character whatsoever.

(8) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms or ammunition.

(9) Issue such other orders as he or she deems to be imminently necessary for the protection of life and property.

D. Definitions. As used in this article, the following terms shall have the meanings indicated:

CIVIL EMERGENCY

(1) A riot or unlawful assembly characterized by the use of actual force or violence or any appearance or threat to use force by three or more persons acting together without authority of law.

(2) Any national disaster or man-made calamity, including, but not limited to, flood, conflagration, cyclone, tornado, earthquake or explosion, within the City likely to result in, or actually resulting in, death or injury of persons or destruction of property to such an extent that, in the Mayor's judgment, extraordinary measures must be taken to protect the public health, safety and welfare.

CURFEW

A prohibition against any person or persons walking, running, loitering, standing, motoring, riding or being upon any alley, street, highway, public or quasi-public place or vacant premises within the City, except persons officially designated by the Mayor or his or her representatives for duty with reference to said civil emergency and such other persons as the Mayor may, in the public interest, designate.

§ 5-13. Obedience to orders.

Every person shall promptly obey every order issued as aforesaid upon receiving notice thereof.

§ 5-14. Violations and penalties; additional remedies.

Any person, firm or corporation who shall violate any order issued as aforesaid may be immediately apprehended by the Mayor or any police officer, and such violator, upon conviction, shall be punished by a fine not to exceed five hundred (\$500.00) for the first offense and not to exceed two thousand (\$2,000.00) for a second or subsequent offense, or imprisonment for a term not to exceed ninety (90) days, or both, at the discretion of the court. In addition thereto, the Mayor may cause such measures to be taken at the expense of the violator to compel obedience to any order issued by him or her as aforesaid.

Article VI. City Clerk

§ 5-15. Appointment and duties.

A. The Council shall appoint a Municipal Clerk, who shall be known as the "City Clerk." The City Clerk shall, prior to his or her appointment, be qualified by training and experience to perform the duties of the office. He or she shall serve for a term of three years from the effective date of his or her appointment unless he or she shall acquire permanent tenure under N.J.S.A. 40A:9-134. He or she shall receive such compensation as shall be determined by ordinance.

B. The City Clerk shall:

- (1) Serve as Clerk of the Council, by virtue of his or her office, and keep its minutes and records of its proceedings in appropriate books to be kept in his or her office.
- (2) Maintain and compile the ordinances and resolutions adopted by the Council as required by the Charter and general law, and, at the close of each year, with the advice and assistance of the Department of Law, cause to be compiled or codified and bound all of said ordinances then in effect and shall properly index the record books.
- (3) Have custody of and safely keep the City Seal, all City records, documents, contracts, surety bonds, insurance policies, reports, other papers and maps for which no other repository is provided by law.
- (4) Provide secretarial and clerical services pertaining to the business of the Council and the official duties of the members of the Council.
- (5) Prepare the agenda for premeeting conferences and the agenda for Council meetings.
- (6) Deliver, as required by ordinance or the presiding officer of the Council, with the assistance of the Police Department, as far in advance of each Council meeting as time for preparation will permit, notices of special meetings, copies of the proposed agenda for Council meetings, copies of proposed ordinances and resolutions and other papers required for such meetings.
- (7) Receive and transmit all communications to or on behalf of the Council.

- (8) Promptly inform the Council of action taken by the Mayor with respect to ordinances or other matters submitted to the Mayor for his or her approval.
- (9) Establish and maintain liaison between the administrative and legislative branches of the City government for the purpose of coordinating their respective responsibilities and achieving harmonious relations between them.
- (10) Perform the duties required of municipal clerks by the election laws pertaining to the City of Rahway and as required by any other law, ordinance or resolution.
- (11) Record all premeeting conferences, regular, and special City Council meetings.
- (12) Perform the duties of the issuing authority for the approval of the granting of bingo and raffle licenses pursuant to N.J.A.C. 13:47-1.1 et seq.

§ 5-16. Affixing City Seal.

- A. The City Clerk shall cause the City Seal to be affixed to instruments and writing when authorized by any ordinance or resolution or when necessary to exemplify any document or record in his or her office or to certify any act or paper which, from the records in his or her office, shall appear to have been a public act of the City or a public document. He or she shall not affix the Seal, or cause or permit it to be affixed, to any instrument or writing or other paper, except as provided in this section, unless required by Charter or general law.
- B. In addition to the foregoing, when the Mayor has executed any contract or other paper on behalf of the City of Rahway, at the Mayor's request the City Clerk shall also sign and attest the same and affix the City's Seal thereto.

§ 5-17. Binding, certification and distribution of ordinances and resolutions.

- A. The City Clerk shall cause all of the ordinances and resolutions of a permanent nature passed by the Council to be carefully and securely bound in books to be provided for that purpose. The City Clerk shall enter after each ordinance his or her certificate of due and proper passage and of the proof of the due publication thereof. The City Clerk's omission to certify any ordinance or proof of publication thereof, as hereby directed, shall not impair or affect the validity in any respect.
- B. Certified copies of all ordinances and resolutions shall forthwith be distributed to the City Attorney and to all departments of the City that will be affected thereby.

§ 5-18. Publication of ordinances.

The City Clerk shall prepare a copy of all ordinances and proposed ordinances which will require publication under the Charter or general law and cause the same, properly attested, to be published in any newspaper legally qualified for the publication of official City advertisements and shall file in his or her office the requisite proofs of such publication.

§ 5-19. Issuance of and fees for licenses.

The City Clerk shall charge and receive for the use of the City such fees for and issue such licenses as shall be authorized by law, ordinance or resolution.

§ 5-20. Reference of matters by Council.

Whenever the Council has taken any action requiring any act or forbearance by any officer or employee of the City or affecting the administration of the functions, powers or duties of any such officer or employee, it shall be the duty of the City Clerk to communicate officially the action of the Council to the person or persons affected and to retain the matter on the agenda of the Council for such further disposition as may be required. Each officer and employee shall, unless otherwise directed, direct his or her response to the action of the Council to the attention of the City Clerk for presentation to and information of the Council.

§ 5-21. Fees for searches, transcripts and certifications.

The City Clerk shall charge and receive for the use of the City such fees for searches, transcripts and certifications as shall be authorized by resolution of the Council.

Article VII. Office of Emergency Management

§ 5-22. Division of Emergency Management.

A. There is hereby created within the Department of Public Safety a Division of Emergency Management, the head of which shall be the Office of Emergency Management Coordinator, who shall be appointed by the Mayor to a term of three years.

B. The Office of Emergency Management Coordinator shall be a resident of the City of Rahway, and , as a condition of the Coordinator's appointment and right to continued appointment for the full term of appointment, shall have successfully completed at the time of appointment or within one year immediately preceding the Coordinator's appointment the current approved "Home Study Course" and the basic emergency management workshop.

C. The Office of Emergency Management Coordinator shall be responsible for the planning, activating, coordinating, and conduct of the emergency management operations within the City in accordance with N.J.S.A. App. A:9-40.1 et seq. and other related orders and directives of the State Director of the Office of Emergency Management or the Governor of the State of New Jersey, in accordance with the State Civil Defense Act, Public Law 1942, Chapter 251 and amendments thereto.

D. There is hereby created an Emergency Management Council within the City of Rahway to be composed of not more than 15 members who shall be appointed by the Mayor and serve at the Mayor's pleasure. The Emergency Management Coordinator shall be a member and shall serve as the Chairperson of said Council. The Council shall assist the City in establishing the various local volunteer agencies needed to meet the requirements of all local emergency management activities in accordance with the rules and regulations established by the Governor

in pursuance of the provisions of the Emergency Management Act and it shall operate in accordance with N.J.S.A. App. A:9-41.

Article VIII. Department of Law

§ 5-23. Creation of Department; Director of Law; Municipal Prosecutor; Public Defender.

A. There shall be a Department of Law, the head of which shall be the Director of Law and the City's chief legal officer, to serve as the Chief City Attorney and legal advisor for the City, who may be referred to as the City's "Corporation Attorney." The Director shall be an attorney at law licensed to practice law in New Jersey for a period of not less than five years and shall be appointed by the Mayor with the approval of the Council for a term of four years, but coterminous with the term of the Mayor.

B. Within the Department of Law, there shall be a legal assistant to serve as Municipal Prosecutor for the City who shall, under the supervision of the Attorney General or the County Prosecutor, represent the state, county or municipality in any matter within the jurisdiction of the Municipal Court in accordance with N.J.S.A. 2B:12-27. The Municipal Prosecutor shall be licensed to practice law in New Jersey and shall be appointed by the Director of Law in the unclassified service for a term of two years, except that if the date of the expiration of the term of Director of Law is less than two years from the date of his or her appointment, then the term of such appointment shall expire on the date of the expiration of the term of said Director, subject to removal as provided by the Charter.

C. Within the Department of Law, there shall be a legal assistant to serve as Municipal Public Defender for the City. The Public Defender shall be licensed to practice law in New Jersey and shall be appointed by the Director of Law in the unclassified service for a term of one year, except that if the date of the expiration of the term of the Director of Law is less than one year from the date of his or her appointment, then the term of such appointment shall expire on the date of the expiration of the term of said Director, subject to removal by the Director. The Public Defender shall represent those indigent persons assigned to him or her by the Judge of the Municipal Court in matters before the Rahway Municipal Court. In accordance with N.J.S.A. 2B:24-1 et seq., each person applying for representation by the Municipal Public Defender shall pay an application fee of \$50. The Municipal Court may waive the required application fee, in whole or in part, if the Court determines, in its discretion, that the application fee represents an unreasonable burden on the person seeking representation.

D. The Director of Law, Municipal Prosecutor and Public Defender may engage in the private practice of law.

§ 5-24. Function and duties.

The duties of the Department of Law shall be to:

- A. Prosecute all complaints before the Municipal Court of the City when requested to do so by the Municipal Judge.
- B. Advise and render legal services to the Mayor and Municipal Council and all City officers, bodies, boards and agencies (except those bodies, boards or agencies having retained their own Special Counsel) when requested to do so.
- C. Prepare all contracts and other legal documents of the City in which the City is interested when requested to do so.
- D. Attend meetings of the Council and all City bodies, boards and agencies (except as aforesaid) when requested to do so.
- E. Prosecute and defend actions and proceedings by and against the City or any of the City's officers, boards, bodies or agencies (except as aforesaid) in all cases growing out of the City's official business, except such cases or matters which are defended by attorneys provided under the provisions of the City's insurance policy or policies.
- F. Prepare or approve as to form and legality all resolutions and ordinances to be executed, passed or adopted by the Council.
- G. Review, upon the Council's request, all matters as to form and legality requiring the Council's approval before the approval thereof.
- H. Perform such other legal duties as the Council or Mayor may designate.

§ 5-25. Disability or absence of Director of Law.

If, by reason of disability or absence of the Director of Law, he or she is unable to perform his or her duties, then the Mayor may appoint any attorney at law of New Jersey as a temporary substitute to perform the duties of the disabled or absent incumbent, who shall serve during the pleasure of the Mayor until the absent or disabled incumbent returns to his or her duties or his or her office or position becomes vacant and another Director is duly appointed pursuant to § 5-23. During the period that such substitute shall perform the Director's duties, he or she shall receive from the City the same compensation that the absent or disabled incumbent would be entitled to, and the latter shall forfeit his or her own compensation during such period, except so much thereof to which he or she may be entitled for sick leave.

§ 5-26. Special Counsel and additional staff.

The Director of Law is hereby authorized, within available appropriations, to employ such Special Counsel as he or she may deem necessary to aid in the management or conduct of any proceedings in which the City may be a party or be interested; and in connection with such proceedings and within available appropriations, the Director of Law may, in his or her discretion, employ or retain such expert or experts as he or she may deem necessary for the proper conduct of said proceedings.

§ 5-27. Compensation.

A. The Municipal Prosecutor and Public Defender shall receive an annual salary as provided by ordinance, payable in the same manner as other City employees are paid.

B. The Director of Law shall be entitled to reimbursement for actual disbursement and expenses necessary for the proper discharge of his or her duties, such as filing and recording fees, depositions, out-of-pocket costs for title abstracts and other search costs and miscellaneous costs and expenses; and he or she shall be entitled to compensation for extraordinary, unusual or complicated duties or matters, including, but not limited to, extensive and unusual legislative duties, protracted litigation, cases on appeal, etc.

Article IX. Department of Administration

§ 5-28. Creation; head and duties.

A. There shall be a Department of Administration, the head of which shall be the Business Administrator, who shall also be known as the Director of Administration and who shall receive an annual salary as provided in the Annual Salary Ordinance, payable in the same manner as other salaried City employees are paid, which salary may be increased by the Municipal Council. The Business Administrator shall receive no additional compensation for being head of the Department. He or she shall devote his or her full time and attention to his or her duties during the usual business hours of the City government. The Business Administrator shall be appointed pursuant to law and for a term provided by law.

B. The Business Administrator shall have the qualifications prescribed by law. Under the direction and supervision of the Mayor, the Business Administrator shall:

(1) Assist the Mayor in the preparation of the City budget.

(2) Prepare and prescribe uniform forms of budget requests for use by all departments and spending agencies, together with appropriate instructions for such use.

(3) Review and analyze all budget requests for appropriations.

(4) Complete the budget document in accordance with the policies established by the Mayor and the State of New Jersey.

(5) Supervise the administration of each annual budget through a system of periodic allotments.

(6) Administer and be responsible for a centralized purchasing system and assist the Mayor in the negotiation of purchases and contracts on behalf of the City relating to any matter or service whatsoever subject to bidding and other requirements imposed by ordinance or law and also subject to available appropriations.

(7) Provide for the installation and administration of a controlled system of requisitions, purchase orders, uniform specifications, inspection and supervision of deliveries and performance of contracts.

(8) Be responsible for the development and administration of a sound personnel system, including the formulation of policies and procedures for hiring,

promotions, transfers, separations, vacations, sickness, leaves of absence and retirements, subject to civil service rules and regulations and the approval of the Mayor and further subject to revision by the Municipal Council.

(9) Supervise the management, planning and operations of all departments, offices, boards, bodies and agencies except the Department of Law and the office of the City Clerk and except as provided in § 5-8 and as provided by law, and for such purpose prescribe standards and rules of administrative practice and procedure and consult with the heads of all departments and other officers and employees of the City.

(10) Control departmental and other governmental operations through periodic control reports and meetings, except as provided in § 5-8.

(11) Provide for the maintenance, preservation and disposal of records and reports.

(12) Make a periodic study of the organization, operation and procedures of all departments, bodies, boards and agencies except the Department of Law.

(13) Coordinate the operation and administration of the various departments, divisions, bureaus and agencies of the City government.

(14) Maintain a continuing review and analysis of budget operations, work programs and costs of municipal services and equipment.

(15) Assign and transfer employees from one department, office, division, bureau, board or agency (except the Department of Law and the office of the City Clerk) to another as efficient administration may require, provided that such assignment or transfer is permitted by law and civil service rules.

(16) Receive and study proposed resolutions and ordinances from the Mayor or any department or board, body or agency pertaining to their duties, except the Department of Law, and if the Business Administrator deems same proper, refer same, together with his or her recommendations, to the Department of Law for its attention and consideration.

(17) Attend all Council meetings, including Council's premeeting conferences.

(18) Perform such other duties as this Code or the Mayor may prescribe.

C. In the event of the removal or failure of reappointment of a Business Administrator, he or she shall be entitled to three months' written notice of removal or nonreappointment, or if the Mayor determines that the removal shall be immediate, then the Administrator shall be paid any unpaid balance of his or her salary plus his or her salary for the next three calendar months following the effective date of the Mayor's action, unless the removal is for good cause as defined by N.J.S.A. 40:69A-43.

Article IX. Department of Public Works

§ 5-29. Creation; Director of Public Works.

A. There shall be a Department of Public Works, the head of which shall be the Director of Public Works. The Director shall be appointed pursuant to law, possess and maintain required NJ State licenses and serve for a term as provided by law.

B. As compensation for his or her duties, the Director of Public Works shall receive a salary per annum as provided in the Salary Ordinance, payable in the same manner as other salaried City employees are paid, which may be increased by the Municipal Council.

C. The Director of Public Works shall devote his or her full time and attention to his or her duties during the usual business hours of the City government. The Director shall supervise all of the divisions and bureaus of the Department of Public Works and its employees, and, with the assistance of subordinate employees, shall perform all the duties imposed upon said Department.

§ 5-30. Organization.

A. The Department of Public Works shall consist of the following Bureaus:

(1) The Bureau of Buildings and Repairs, which shall be in charge of the maintenance and repair of all City-owned buildings, property, equipment, street repairs, sidewalk repairs, and pothole repairs.

(2) The Bureau of Maintenance and Grounds, which shall be in charge of the care and maintenance of all City-owned property, public streets and sewer systems, street sweeping, cutting brush and grass and leaf collection.

(3) The Bureau of Garage Services, which shall be in charge of the City vehicle maintenance garage.

(4) The Bureau of Sanitation, which shall be in charge of solid waste, refuse, garbage and recycling collection and disposal, subject to applicable provisions of federal, state, county and municipal law and regulations.

(5) The Bureau of Pump Stations, which shall be in charge of the operation and maintenance of all municipal pumping stations, including sanitary and storm stations.

(6) The Bureau of Shade Trees, which shall be in charge of municipal shade trees.

B. Bureau General Supervisor; duties.

There shall be, within the Department of Public Works, such General Supervisor's as may be deemed necessary for the efficient operation of the Department, who shall, under the overall supervision of the Director of Public Works, supervise and direct the activities of the various Bureaus of the Department, and shall perform the following duties:

(1) Execute plans for the effective utilization of available funds, personnel, equipment, materials and supplies.

(2) Organize and develop suitable work programs for the various functions of the Department.

(3) Issue suitable assignments and instructions to individuals and groups and supervise their work.

(4) Supervise employees engaged in the construction, maintenance and repair of streets and sewers.

(5) Investigate complaints and take proper action for the purpose of making required repairs with a minimum of delay.

- (6) Assure that proper safety precautions are taken by employees while they are working.
- (7) Inspect all work to assure compliance with policies and proper procedures.
- (8) Prepare suitable reports as required by the Director of Public Works, the Business Administrator or the Mayor.
- (9) Recommend what equipment, materials and supplies are required and store, safeguard and supervise the proper use of needed equipment, materials and supplies.
- (10) Keep such records and files as the Director of Public Works may require.
- (11) Perform such other duties as may be imposed by the Director of Public Works.

Article X. Department of Revenue and Finance

§ 5-31. Creation: Director as head.

- A. There shall be a Department of Revenue and Finance, the head of which shall be the Director of Revenue and Finance.
- B. The Department of Revenue and Finance shall consist of the following offices:
 - (1) Office of the Treasurer.
 - (2) Office of the Tax Collector.
 - (3) Office of Assessments.

§ 5-32. Appointment of Director and Treasurer; term of Treasurer.

- A. The Director of Revenue and Finance and Treasurer shall be appointed by the Mayor with the advice and consent of the City Council.
- B. The term of office for the Treasurer shall be four years which shall run from January 1 in the year in which the Treasurer is appointed.

§ 5-33. Qualifications of Treasurer.

The Treasurer shall be qualified for appointment as Chief Financial Officer pursuant to N.J.S.A. 40A:9-140.1 through N.J.S.A. 40A:9-140.16.

§ 5-34. Powers and duties of Treasurer.

- A. The Treasurer shall be the City's Chief Financial Officer. He or she shall exercise and discharge the functions of the Chief Financial Officer provided for by general law.
- B. The Treasurer shall:
 - (1) Have custody of all funds belonging to or under control of the City or any department, office or agency of the City government.
 - (2) Deposit all funds received by him or her in such depositories as may be designated by resolution of the Council and according to law.
 - (3) Make disbursements by an individual warrant check for each claim against the municipality. Each warrant check shall bear the signature of the Mayor, or Business Administrator, and shall be countersigned by the Treasurer or Acting Treasurer. The signature of the Mayor or Business Administrator and Treasurer may be subscribed on any check, either manually or mechanically.
 - (4) Be the supervisor of the City's Utility Funds.

- (5) Maintain the necessary consumer records and accounts for all users of water supplied by the City unless contracted with outside management company .
- (6) Provide for the reading of water meters and the rendering of bills upon charges as authorized by law unless contracted with outside management company .

C. He or she shall also:

- (1) Be responsible, pursuant to the provisions of the Charter, ordinances and laws applicable to the City, for the preauditing and control of all City revenues and expenditures, in accordance with State Statutes, the management of the City's investment program, the management of the City's debt and the development of sound financial policies for recommendation to the Mayor and Council.
- (2) Maintain the City's accounting records and prescribe and enforce a uniform system of accounts for all departments, offices and agencies of the City government.
- (3) Maintain a centralized payroll system with the use of a computer system when directed.
- (4) Preaudit all bills, claims and demands against the City.
- (5) Certify to all proposed contract resolutions and ordinances submitted prior to passage by the Municipal Council, as to available appropriations in conformity with general law, the Charter and ordinances of the City.
- (6) Control all expenditures to ensure that budget appropriations are not exceeded.
- (7) Prepare all preliminary work in connection with the City budget to include all required adjustments.
- (8) Prepare all required data in connection with the City debts and bond sales.
- (9) Have control over all the investments of the City and be responsible for the safekeeping of all bonds and notes of the City and ensure that required statutory expenditures are made.
- (10) Maintain all City records on a centralized computer system when directed to do so.
- (11) Require reports of receipts and disbursements from each department office and agency of the City government to be made daily or at such intervals as he or she may determine will most efficiently protect the City's interest.
- (12) Control all expenditures to ensure that budget appropriations are not exceeded and pass upon each proposed expenditure for conformity with general law, the Charter and ordinances of the City; and unless the Treasurer shall certify that there is an unencumbered balance of appropriation and available funds, no appropriation shall be unencumbered and no expenditure shall be made.

§ 5-35. Office of Tax Collector.

A. The head of this Office shall be the Municipal Tax Collector.

B. The Municipal Tax Collector shall:

- (1) Have, exercise and discharge the functions, powers and duties of the collector of taxes as provided for by general law, the specific general laws being N.J.S.A. 40A:9-141 through 40A:9-145.12, as amended.

- (2) Extend each year's tax duplicate, prepare and mail tax bills, receive payments thereof and maintain tax accounting records in such manner as may be prescribed or approved by the Municipal Comptroller.
- (3) Receive and collect all delinquent real property taxes and water charges and charge and receive penalties and interest pursuant to applicable laws.
- (4) Make and certify all searches for tax and other liens on any real property in the City as may be authorized by law and charge and collect for the City the applicable fee according to such law.
- (5) Perform other duties as may be required by the head of the Department and Business Administrator.

§ 5-36. Transition.

Any person holding the Office of Comptroller and Chief Financial Officer at the time of the adoption of this chapter shall continue as Chief Financial Officer with the title of Treasurer when this chapter becomes effective with the term of appointment being four years from January 1 in the year of their appointment.

§ 5-37. Office of Assessments.

There shall be an Office of Assessments within the Department of Revenue and Finance, the head of which shall be the City Tax Assessor. It shall include such other officers and employees as may be authorized by ordinance or resolution of the Council.

§ 5-38. Qualification of Assessor; term.

The City Assessor shall, prior to his or her appointment, be qualified by training and experience of at least three years in the valuation or assessment of real and personal property. The City Assessor shall serve for the term provided by general law.

§ 5-39. Function, powers and duties of Office of Assessments.

The Office of Assessment, under the supervision of the Director of Revenue and Finance, shall:

- A. Have, exercise and discharge the functions, powers and duties of the Assessor of the City pursuant to law.
- B. Make assessments for benefits for local improvements pursuant to general law.
- C. Make all changes on Assessor's records in ownership or character of the property assessed.

Article XI. Department of Recreation and Senior Services

§ 5-40. Creation; Department head; Divisions.

A. There shall be a Department of Recreation and Senior Services, the head of which shall be the Director of Recreation and Senior Services. The Director shall, prior to his or her appointment, be qualified by training and at least three years' experience in the supervision or direction of community recreational activities.

The Department of Recreation and Senior Services shall be separated into two divisions: the Division of Recreation and the Division of Senior Services.

§ 5-41. Division of Recreation; powers and duties; programs and user charges; violations.

A. There shall be a Division of Recreation, the head of which shall be the Supervisor of Recreation.

B. Functions, powers and duties. The Division of Recreation shall:

(1) Control, manage and operate the functions and activities of the Rahway Recreation Center, all public parks, playgrounds and recreational places and facilities under the jurisdiction of the City government.

(2) Study the recreational needs and facilities in the City and available to residents of the City and plan for the acquisition and development of necessary recreational facilities.

(3) Cooperate with other public agencies and with private agencies in the development and operation of recreational facilities.

(4) Organize, promote and sustain juvenile and adult recreational activities, including, but not limited to, athletic, cultural and artistic programs and activities.

C. Programs and user charges.

(1) In order to provide funds, in whole or in part, necessary to improve, maintain and police the parks, lands, playgrounds or recreation facilities under its control, the Division of Recreation may arrange and provide for the giving of exhibitions, events, concerts, games and contests. It may use and employ such parks, lands, playgrounds or recreation facilities for the purpose of giving thereon such exhibitions, concerts, games, events and contests and establish a schedule of appropriate charges for said use.

(2) The Division may establish a schedule of reasonable registration fees to offset the costs of programs and activities it conducts.

D. Control of recreational areas; enforcement; violations and penalties.

(1) The Division of Recreation shall have full control over all parks, lands, playgrounds, recreation facilities and equipment used in connection therewith which may be acquired or leased for recreational purposes. The Division may adopt suitable fees, rules and regulations for the use thereof and for the conduct of all persons who enter in or upon any recreational facility or use any such facility, and any persons who shall violate any rule or regulation shall be punishable by a fine not exceeding \$500 for each offense.

(2) The custodians, supervisors and assistants appointed by the Division shall, while on duty and for the purpose of preserving order and the observance of rules and regulations of the Department, have all those powers granted to them by the Code of the City of Rahway and state law.

§ 5-42. Division of Senior Services; powers and duties.

A. The head of the Division of Senior Services shall be the Supervisor of Senior Services who shall be qualified by education or a minimum of three years' experience in gerontological services or a related field.

B. Functions of Division of Senior Services. The Division of Senior Services shall:

- (1) Administer programs conducted at the Rahway Senior Citizen Center and the Senior Annex.
- (2) Coordinate activities and programs conducted at the Senior Citizen Center and the Senior Annex by the various organizations and groups using same.
- (3) Plan and organize programs and services that will enrich the lives of the elderly and promote the physical, emotional and educational well-being of older adults.
- (4) Facilitate efforts to coordinate programs benefiting older adults with the Rahway Housing Authority, Riverton (formerly the Rahway Geriatric Center) and similar organizations.
- (5) Develop resources to refer older adults to other agencies and organizations to meet their social needs.
- (6) Establish a schedule of reasonable registration fees to offset the costs of programs and activities it conducts.
- (7) establish a schedule of appropriate charges for use of the Rahway Senior Citizen Center and Senior Annex.

Article XII. Department of Community Development

§ 5-43. Creation; Department head.

A. There is hereby established within the City of Rahway a Department of Community Development, the head of which shall be the Director of Community Development.

§ 5-44. Organization; Divisions. The Department shall be separated into four Divisions as follows:

- A. Division of Building and Code Enforcement.
- B. Division of Planning.
- C. Division of Public Health and Housing.
- D. Division of Engineering.

§ 5-45. Division of Building and Code Enforcement; Construction Official as head; function.

A. There shall be within the Department of Community Development a Division of Building and Code Enforcement, the head of which shall be the Construction Official, who shall be appointed by the Mayor; and prior to his or her appointment, he or she shall possess the qualifications required by law for the Building Inspector. He or she shall have, exercise and discharge the duties of the Division of Building and Code Enforcement.

B. The functions and duties of the Division of Building and Code Enforcement shall be as follows:

- (1) To perform all the duties of the Construction Official as provided by general law and the ordinances of the City.

(2) To make inspections of existing structures and new construction to assure compliance with City ordinances and regulations concerning buildings and construction.

(3) To enforce the City's Building Code.

(4) To perform related duties as required by the Director and to serve as Construction Code Official.

§ 5-46. Division of Planning; Division Head; duties.

A. Within the Department there shall be a Division of Planning, the head of which shall be the Director of Planning.

B. Division duties.

(1) The Division shall:

(a) Undertake various planning activities, including the organizing, promoting and making of planning surveys; collection and compilation of planning data; drawing and drafting of maps and charts; and the interpretation and transposition of statistical data into visual form.

(b) Supply planning services by staff and/or consultant contract to various autonomous boards and elected and appointed officials of the City.

(c) Administer laws and ordinances relating to property maintenance.

(d) The Division shall plan, schedule, and administer the Community Development Block Grant (CDBG) Programs.

(e) To enforce the City's Zoning Ordinance.

(2) The following autonomous statutory boards are assigned to the Division of Planning for administrative purposes and staff performance reporting:

(a) The Planning Board.

(b) The Zoning Board of Adjustment.

(3) The Division of Planning shall promote sound economic development within the City of Rahway and shall:

(a) Establish linkage with other City entities, both public and private, to promote and increase service delivery to those citizens that require and are eligible for municipal services.

(b) Serve as liaison between the City of Rahway and other governmental entities for the procurement of public funds and technical assistance, including the filing of grant applications on behalf of the City of Rahway.

§ 5-47. Division of Public Health and Housing; City Health Officer as Head; duties.

A. Within the Department there shall be a Division of Public Health. The head of the Division of Public Health within the Department of Community Development shall be the City Health Officer. The Division of Public Health shall:

(1) Administer state laws and City ordinances conferring functions, powers and duties upon a board or department of health or a local health officer.

(2) Enforce laws and ordinances providing for the prevention and control of disease and make related inspections.

(3) Administer the laws and ordinances relating to vital statistics.

(4) Administer a public health nursing service and health education programs.

(5) Operate public health clinics as authorized by ordinance or general law.

(6) Administer laws and ordinances relating to housing.

§ 5-48. Division of Engineering; City Engineer as Head; duties.

A. The head of the Division of Engineering shall be the City Engineer. This Division shall exercise and discharge the engineering duties of the City of Rahway.

B. The City Engineer shall, prior to his or her employment, possess a professional degree in civil engineering from a recognized college and also a license as a professional engineer issued by the State of New Jersey, and shall also have had, prior to his or her employment, at least three years of supervisory engineering experience in the design, maintenance and construction of civil engineering projects, including the preparation and review of construction plans and specifications. The City Engineer shall not perform any work relating to professional engineering or land surveying within the limits of the City of Rahway except his or her duties for the City.

C. The Division of Engineering shall:

(1) Provide all engineering services, as directed by the Director of Community Development, required by the various departments, offices, boards, bodies or agencies of the City government with the assistance of such consultants, if any, as may, from time to time, be authorized by the Mayor or Business Administrator within available appropriations.

(2) Except for construction of new buildings and structures, direct and supervise the preparation of plans and specifications for public works contracts, assist in the lettering and performance progress payments pursuant to contract.

(3) Examine proposed tentative and final subdivision plats, review them for conformity with Chapter 369, Subdivision of Land, and statutes, advise the Planning Board as to such matters and inspect and approve all installation made in accordance with the requirements of the Planning Board prior to the acceptance of any street or the release of any security related to a subdivision approval, cause the City Engineer or an assistant to attend the meetings of the Planning Board when requested by it to do so.

(4) Prepare the drafts of ordinances and resolutions pertaining to the duties of the Division and determine the need for easements, licenses and rights-of-way required for the performance of public improvements, subject to the approval thereof by the Department of Law as to legal form and validity.

(5) Regulate the street openings, the alteration and repair of sidewalks, curbs and gutters and encroachments by objects and structures above and below public streets and sidewalks, in order to prevent interference with the public use thereof and to maintain reasonable standards of maintenance and repair.

(6) Perform other duties prescribed by other provisions of this Code or by the Director of Community Development.

Article XIII. Procedure of Municipal Council

§ 5-49. Presiding officers; powers; vacancy; temporary presiding officer.

A. The Council shall organize annually on the first business day of January, or such other date as the Council may determine by resolution, at 7:00 p.m. by the election of a presiding officer from its members, who shall be known as the President of the Council. He or she shall hold office for one year and until the election of his or her successors.

B. The President of the Council shall preside over all regular and special meetings of the Council. The President shall conduct the meetings of the Council in accordance with the provisions of this article and shall maintain order and decorum at all such meetings. The President shall appoint all committees of the Council. The President shall be entitled to vote on all questions, his or her name being called last in any roll call. The President shall sign all ordinances and resolutions adopted by the Council during his or her presence.

C. The Council shall also select a Vice President, who shall hold the office until the next ensuing business day after January 1 following his or her election as Council Vice President. The Vice President shall preside at meetings of the Council in the absence of the President.

§ 5-50. Compensation of Council.

The compensation of each Councilperson shall be established by the Salary Ordinance annually, payable in equal semimonthly installments, except that the President of the Council shall receive an additional amount as established by the Salary Ordinance annually.

§ 5-51. Regular meetings.

A. Regular meetings of the Council for any calendar year shall be held in accordance with the meeting schedule adopted by the Council prior to its reorganization meeting each January. Such meeting schedule shall be published annually each January in the official newspaper(s) of the City and posted on the bulletin board in the Municipal Building in accordance with the Open Public Meetings Act.

B. The Council may, by resolution adopted in accordance with the New Jersey Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) and Section 5-75 of the Code of the City of Rahway, reschedule the date and/or time of any regular meeting.

§ 5-52. Special meetings.

A. A special meeting of the Council shall be called by the Mayor upon request, in writing, signed by a majority of the members of Council specifying the purpose for which such meeting is to be called.

B. Either the presiding officer of the Council or the Mayor may, on his or her own initiative, orally (by telephone or otherwise) or by a written notice call a special

meeting of the Council if, in his or her opinion, same is necessary or expedient, specifying the purpose for which such meeting is to be called.

C. The call for a special meeting shall be directed to the City Clerk, who shall forthwith serve or cause to be served a written notice upon each member of the Council, the Mayor, the Business Administrator and the Director of Law at their places of residence or at their regular places of business or occupation if situated within the limits of the City by leaving a copy thereof with each one of them personally or with a responsible adult, if present, and if not present, by leaving same at a conspicuous or suitable place thereat. When, in the opinion of the presiding officer or the Mayor, the safety or protection of public property or the interests of the public require emergent action, said notice may be given orally by telephone or otherwise. Such notice shall state the date and hour of the meeting and the purpose for which the meeting is called. No other business shall be transacted at such meeting unless all of the members present shall consent thereto.

D. Insofar as reasonably possible and the circumstances permit, a special meeting shall be called upon at least 24 hours' prior notice to the members of the Council, the Mayor, the Business Administrator and to the Director of Law .

E. Immediately following the call to order and preceding the introduction of any items on the special meeting agenda, except ordinances on second reading, all citizens present shall be given an opportunity to comment and ask questions on items on the special meeting agenda, and each citizen shall be entitled to speak up to a total of five minutes at any such meeting.

§ 5-53. Place of public meetings; executive session; recording of meetings.

A. All meetings of the Council, regular and special, shall be held in the Council Chamber of the City Hall in the City of Rahway, except in the case of the destruction thereof or other emergency proclaimed by the Mayor.

B. Regular and special meetings shall be open to the public, except that the Council, upon the consideration of any nominations made by the Mayor, shall, and upon the motion of any member with respect to a question of privilege may, go into executive session from which all persons other than members of the Council may be excluded.

C. The municipality shall be responsible for the recording of all publicly advertised meetings of the City Council.

§ 5-54. Quorum.

A. A majority of the whole number of members of the Council shall constitute a quorum, but no ordinance shall be adopted by the Council without the affirmative vote of a majority of all the members of the Council.

B. Should no quorum attend within 30 minutes after the hour appointed for the meeting of the Council, the President of the Council, or in his or her absence the City Clerk or his or her designee, may thereupon adjourn the meeting until the next day, unless by unanimous agreement those members present select another hour or day. The names of the members present and their action at such meeting shall be recorded in the minutes by the City Clerk.

§ 5-55. Committees.

Standing and special committees of the Council and the Chairpeople thereof (if the committee shall consist of more than one Councilperson) may be appointed by the presiding officer at any meeting of the Council. A quorum shall consist of a majority of the members thereof, but a committee may consist of only one member. Meetings of committees shall be held at such times as do not conflict with any meeting of the Council. Each committee shall make its report in writing and file the same with the City Clerk and, when directed to do so by said presiding officer, shall also file with the City Clerk all papers of whatever nature submitted to the committee for consideration.

§ 5-56. Order of business; approval and transmittal of minutes.

A. Promptly at the hour set for each meeting, the members of the Council and the City Clerk shall take their regular places in the Council chamber, and, except as may be otherwise provided by resolution of the Council, the business of the Council shall be taken up for consideration and disposition in the following order:

- (1) Roll call.
- (2) Pledge of Allegiance to the flag.
- (3) Approval of minutes.
- (4) Presentation.
- (5) Communications from Mayor and reports of City officers.
- (6) Reports of Council committees.
- (7) Hearings of citizens on items on agenda, except ordinances on second readings (five minutes per speaker).
- (8) Consent agenda. ["Consent agenda" defined: All items listed with an asterisk (*) are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion on these items unless a Councilmember or citizen so requests, in which event the item will be removed from the general order of business and considered in its normal sequence on the agenda.]
- (9) Ordinances, appropriations and claims.
- (10) Resolutions.
- (11) Ordinances on second reading, public hearings.
- (12) Miscellaneous.
- (13) Communications, petitions and hearings of citizens on any item (five minutes per member).
- (14) Council comment (three minutes per member).
- (15) Adjournment.

B. Unless a reading of the minutes of the previous meeting is requested by three Council people immediately following the roll call, such minutes when signed by the President of the Council and the City Clerk shall be considered approved without reading, provided that any Councilperson may move to correct an error in the minutes of the previous meeting.

C. The City Clerk shall, at least two full working days preceding each meeting, transmit a copy of the minutes of the previous meeting to each member of the Council.

§ 5-57. Rules of order.

Except as may be otherwise provided in the Charter or by ordinance, all questions of order, methods of organization and the conduct of business of the Council shall be governed by Robert's Rules of Order Revised, with particular reference to the following rules:

A. Rule 1. The President of the Council, or such other member of the Council as may be presiding, may move, second and debate from the chair, subject only to such limitations of debate as are by these rules imposed upon all members and shall not be deprived of any of the rights and privileges of a Councilperson by reason of his or her being the presiding Chairperson.

B. Rule 2. The vote upon every motion, resolution or ordinance shall be taken by roll call in alphabetical order, except that the President shall be called last, and the vote of each member shall be entered upon the minutes. Upon any roll call, there shall be no discussion or explanation given by any member voting, and the vote shall be taken as "aye" or "nay." A member of the Council may abstain from voting on any matter. Except as otherwise required by the Charter or by other provisions of this Code or other ordinances, the determination of any question shall be by vote of a majority of those voting on the question.

C. Rule 3. In proper order of business, any person, other than a Councilperson, desiring to address the Council shall first secure the permission of the presiding officer at the meeting, but preference shall be given to those persons who shall have notified the City Clerk of their desire to speak in advance of the meeting in time for their names to be included on the calendar of the Council. No such person shall be permitted under any circumstances to address the Council while a motion is pending nor to direct any remarks to an individual member of the Council nor to enter into any discussions with any Councilperson during any meeting unless permission to do so is given by the presiding officer. Each person addressing the Council shall first give his or her name and address to the Clerk and shall speak from such location in the Council chamber as shall be designated by the presiding officer. All remarks shall be addressed to the Council as a body and not to any member thereof and shall not exceed five minutes in duration.

D. Rule 4. Any person who shall persist in addressing the Council in violation of these rules after having been called to order or who shall engage in impertinent or slanderous remarks or boisterous conduct while attending a Council meeting shall be forthwith barred from the Council chamber by the presiding officer.

E. Rule 5. The Chief of Police, or such member or members of the Police Department as he or she may designate, shall be the Sergeant at Arms of the Council at its meetings. The Sergeant at Arms shall carry out all orders and instructions given by the presiding officer for the purpose of maintaining order and decorum at Council meetings.

§ 5-58. Preparation and introduction of ordinances and resolutions.

A. The Director of Law or his or her authorized representative shall be available to the Council at all regular and special meetings. He or she shall be responsible for the preparation and drafting of all ordinances and resolutions for any member of the Council when and as requested.

B. A copy of each proposed ordinance shall, upon its introduction, be furnished forthwith to each member of the Council by the City Clerk. Except as otherwise required by law, ordinances may be introduced and adopted by title. Every ordinance, after introduction and adoption on first reading, shall be published in full, together with a notice as required by law, and such publication shall be at least 10 days prior to the time fixed for further consideration upon second reading and final passage. At the time and place so specified in such notice, all persons interested shall be given an opportunity to be heard thereon.

C. Any member of the Council, subject to the provisions of § 5-63C, may introduce an ordinance or resolution in writing at any time, according to the established order of business. Upon request, each proposed ordinance or resolution shall, prior to its introduction, be reviewed as to form and legality by the Department of Law. Prior to introduction, ordinances and resolutions which would affect the functions, powers or duties of an existing department, board or agency may be referred by the City Clerk to the Business Administrator and to the head of the department, board or agency concerned, each of whom shall promptly submit a report to the Council containing his or her recommendations, but the failure of the Clerk to do so or the failure to submit said report shall not affect the validity thereof or prevent the adoption thereof by the Council.

D. The Clerk of the Council shall insert the name of the Councilperson who introduces an ordinance or resolution in a space to be provided on forms furnished by said Clerk. Whenever the Mayor shall present any ordinance, resolution or other matter to the Council, any Councilperson may assume sponsorship thereof by moving that such ordinance, resolution or other proposed action be considered in accordance with law.

E. No ordinance or resolution affecting any department, board or agency shall be proposed by any employee except the head thereof, and if such head shall propose same, it shall be referred by him or her to the Business Administrator with a memorandum explaining in detail the necessity therefor; provided, however, that the failure so to do shall not prevent the Council from adopting such ordinance or resolution.

§ 5-59. Adoption of ordinances and resolutions.

Ordinances other than bond ordinances shall require at least five affirmative votes for adoption. Bond ordinances shall require at least six affirmative votes for adoption. Unless otherwise required by the City Charter or by this article, adoption of resolutions shall require the affirmative vote of a majority of those voting thereon, provided that resolutions creating emergency appropriations and budgetary transfers and resolutions declaring an emergency to allow an ordinance to take effect within a shorter time than 20 days after passage shall require at least

six affirmative votes for adoption. All ordinances, except budget ordinances, shall take effect 20 days after final passage and approval by the Mayor, unless the Council shall, by duly adopted resolution of emergency, provide for an effective date within a lesser period of time.

§ 5-60. Mayor's veto of ordinances; reconsideration by Council.

Whenever an ordinance has been duly vetoed by the Mayor and returned to the Council in accordance with the City Charter, the Council shall, at its next regular meeting occurring not less than the third day following the return of the ordinance by the Mayor, take up for reconsideration the ordinance or any item or part thereof from which the Mayor has withheld his or her approval. If, upon such reconsideration, the Council, by the affirmative vote of at least six members, shall vote to override the Mayor's veto, the ordinance, or any item or part thereof on which the Council has so voted, shall take effect notwithstanding the objections of the Mayor thereto.

§ 5-61. Certification of passage of ordinance over Mayor's veto.

Whenever an ordinance has been vetoed by the Mayor and is passed by the Council over such veto in the manner provided by law, the City Clerk shall append to such ordinance a certification in substantially the following form:

"I hereby certify that the above ordinance adopted by the Council of the City of Rahway on the day of was vetoed by the Mayor of the City and was passed over said veto on the day of

Dated: City Clerk"

§ 5-62. Nominations for offices or positions.

- A. Upon the receipt from the Mayor of his or her nominations to any office or position, the same shall be read, under communications, by the Clerk of the Council or his or her designee and, unless otherwise ordered, shall be considered by the Council under "New Business."
- B. When the nomination is taken up for action, the President shall put the question on each nomination as follows: "Will the Council confirm the nomination?" On that motion, a vote shall be ordered. If five or more members vote to confirm, the President shall announce, "The nomination is confirmed." If fewer than five members vote to confirm, the President shall announce, "The nomination is rejected."
- C. Action by confirmation or rejection upon a nomination made by the Mayor shall not be postponed or delayed longer than for one regular meeting.
- D. Within two days after confirmation or rejection of a nomination, the Clerk of the Council shall, in writing, notify the Mayor of that fact.
- E. Whenever exercising their authority to designate a member to the Union County Utilities Authority, as provided for in the Consent Judgment between the City and the Union County Utilities Authority, the Mayor and the City Council shall not so designate any member of the City Council to serve as a member of the Union County Utilities Authority.

§ 5-63. Premeeting conferences.

A. The Council will confer at 7:00 p.m. on Tuesday before each regular meeting, or at such other time or times as may be set forth in the annual meeting schedule adopted in accordance with §5-50, to agree upon the agenda for such regular meeting and prepare to take up the matters thereon. For the months of June, July and August, the premeeting conference will be scheduled at 7:00 p.m. prior to the regular meeting that month.

B. The Council may, by resolution adopted in accordance with the New Jersey Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) and Section 5-75 of the Code of the City of Rahway, reschedule the date and/or time of any pre-meeting conference.

C. Attendance; procedures.

(1) At such premeeting conference, the persons attending shall be the members of the Council, the Clerk of the Council, the Business Administrator, the Director of Law and such other officers, employees and persons as the presiding officer or the Mayor shall request to attend.

(2) All such premeeting conferences shall be open to the public; however, members of the public shall not be heard while the Council is discussing any business, except by unanimous consent of the members of the Council present.

(3) At the conclusion of the business discussion, time shall be set aside for members of the public to make comments regarding governmental issues pertinent to the City of Rahway; however, each speaker shall be limited to three minutes.

(4) The presiding officer may exclude from any such meeting any member or members of the public for failure to observe the rules of procedure, order and decorum prevailing at such meeting as prescribed by law.

D. Any matter which has not been discussed or presented for consideration at such premeeting conference shall not be acted upon at any regular meeting except upon unanimous consent of the members present.

Article XIV. Award of Contract

§ 5-64. Award of contracts per the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

A. When the cost or price of any contract does not exceed in the fiscal year the maximum bid threshold as mandated by the Director, Division of Local Government Services, the City's qualified purchasing agent is authorized to award a contract without competitive bidding in accordance with the relevant portions of the Local Public Contracts Law, N.J.S.A. 40A:11-3. The Business Administrator shall approve any contracts exempt from competitive bidding under this section.

B. Pursuant to the provisions of N.J.S.A. 40A:11-11, the City of Rahway is hereby authorized to enter into contracts with the County of Union for the joint use by the City of Rahway and other municipalities in the County of Union of administrative services and facilities of the Office of Purchasing Agent of the County of Union appropriate to the procurement of certain materials, supplies and equipment which may be determined to be required from time to time by the City

of Rahway and which the City may otherwise lawfully purchase for itself. The services and facilities of said Office of County Purchasing Agent shall be provided without cost to the City of Rahway.

C. The proper officials of the City of Rahway are hereby authorized and empowered to execute, on behalf of the City, all such contracts with the County of Union as may be authorized and approved by resolution of the Municipal Council of the City of Rahway.

Article XVI. Vacations

§ 5-65. Employee vacations.

A. Employees of the City of Rahway, other than members of collective bargaining units, shall be allowed the following annual leave with pay for vacation purposes:

(1) First year of service: one working day per month of service.

(2) Thereafter, one additional working day for each year of service, but no employee shall be entitled to more than 25 working days annually.

B. All Department and Division heads are entitled to 25 working days, with pay, annually regardless of length of service.

C. When in any calendar year the annual vacation leave or part thereof is not granted and taken by reason of the pressure of work, such leave or part thereof shall accumulate to the credit of the employee and shall be granted and may be taken only during the next succeeding calendar year.

Article XV. Department of Police

§ 5-66. Establishment; composition; procedures.

A. Establishment. There shall be a Department of Police, the head of which shall be the Director who shall be appointed by the Mayor with the advice and consent of Council. The Director shall serve as the appropriate authority for the purposes of N.J.S.A. 40A:14-118 except that, in the event the Director is also the Chief of Police, the appropriate authority shall be the Business Administrator.

B. Organization. The Police Department shall consist of the following officers and persons who shall be appointed by the appointing authority, except for the Chief of Police who shall be appointed by the Mayor:

(1) Chief of Police.

(2) Deputy Chief of Police.

(3) Captains.

(4) Lieutenants.

(5) Sergeants.

(6) Detectives (Juvenile and Detective Bureau combined).

(7) Patrol persons.

C. Administration and discipline generally. The administration and discipline of the Police Department shall be subject to the Optional Municipal Charter Law, applicable general law and ordinances of the City.

D. Powers and duties of the Police Department. The Police Department shall:

(1) Preserve and protect the public peace and enforce all penal laws and ordinances effective within the City.

(2) Administer and enforce laws and ordinances to regulate, direct, control and restrict the movement of vehicular and pedestrian traffic and the use of the streets and public places by vehicles and persons, and make rules and regulations not inconsistent with the Optional Municipal Charter Law, ordinances and general law for such purposes.

(3) Remove all nuisances in the public streets, parks and other public places.

(4) Inspect and observe all places of public amusement or assemblage and all places of business requiring any state or municipal license or permit.

(5) Provide proper police attendance and protection at fires.

(6) Operate, install, repair and maintain the police radio systems and radio equipment and auxiliary, electrical and mechanical installations.

(7) Provide special escort service for any person carrying money or other valuable property within the City of Rahway, for the sum of \$20 from a single source of origin to a destination, to be collected by the Police Department and paid to the City Treasurer, which sum may hereafter be changed by resolution of the Municipal Council.

E. Duties of Director and Chief of Police. The Director of Police shall be the administrative head of the Police Department. The Director of Police shall be responsible to the Business Administrator for the conduct, efficiency and management of the Police Department and for the enforcement of rules and regulations governing the same, and for the carrying out of all lawful orders and instructions of the Business Administrator and Mayor. All orders and instructions to members of the Police Department, other than to the Director and Chief of Police, shall be made by or through the Director and Chief of Police, or by or through the officer in command in case of inability to communicate with the Director and Chief of Police. The devolution of command of the Police Department in the event of the inability to communicate with the Chief shall be as specified in the rules and regulations. The responsibilities of the Chief of Police shall include those provisions of the Police Chief's Responsibility Act, N.J.S.A. 40A:14-118, which describes the duties and responsibilities of the Chief of Police.

F. Powers and duties of Police Department members. Every member of the Police Department shall:

(1) Preserve order, peace and quiet when on duty.

(2) Report promptly all violations of law or ordinance to the Director and Chief of Police.

(3) Have the power to arrest as permitted by law.

(4) Have the power and authority within the City to serve and execute warrants and other processes for the apprehension and commitment of persons charged with or held for examination or trial or taken in execution for the commission of any crime or misdemeanor or the violation of any law or ordinance.

(5) While executing, serving or assisting in the execution or serving of any such warrant or processes, and while in the performance of their duty as peace officers, be and are hereby vested with and have all the power and authority conferred on constables at common law and by the laws of the state.

(6) Comply with duties fixed by statutes and ordinances of the City applicable to such members and the rules and regulations of the Police Department.

G. Hours of duty; emergency duty; overtime pay.

(1) The hours of employment of the uniformed members of the Police Department shall be established by existing labor contract and shall not exceed those hours, except in case of emergency.

(2) The Director and Chief of Police or the Mayor may summon and retain on duty any and all members of the Police Department for the duration of an emergency.

(3) Overtime pay in emergencies is set at straight time under N.J.S.A. 40A:14-134. All other overtime shall be paid at the rate of time and a half for hours worked in excess of the duty period established in the existing labor contract.

H. Prohibited activities.

(1) No member of the Police Department shall accept or solicit anything of value as consideration for or in connection with the discharge of his or her official duties.

(2) No member of the Police Department, without the written permission of the Director and Chief of Police, shall solicit or cause to be solicited, whether directly or indirectly, any money or other thing of value, for the benefit of any organization or any member of any organization. This prohibition shall not apply to regular dues or assessments of police benevolent organizations or other purposes authorized by the rules and regulations of the Police Department.

I. Member qualifications.

(1) A person must be sound in body and of good health sufficient to satisfy a physician and the Board of Trustees of the Police and Firemen's Retirement System of New Jersey, that he or she is eligible for membership in the retirement system, which facts shall be certified by said physician, and such physician as may be designated by the Board of Trustees.

(2) No person shall be so appointed who has been convicted of a crime involving moral turpitude.

(3) No person shall be appointed who is less than 18 years of age or more than the maximum age set by applicable civil service regulations.

§ 5-67. School traffic guards.

A. Physical fitness examination required; physician's certificate. In addition to such qualifications as may be required by law, any person applying for an appointment as a school traffic guard shall be required to submit to a physical fitness examination by a physician licensed to practice in this state. A certificate signed by the physician certifying to the person's sound physical condition and fitness shall be considered and taken as sufficient evidence of the applicant's physical capability of performing the duties required of a school guard.

B. Powers and duties.

(1) It shall be the duty of school traffic guards to maintain the orderly movement of vehicular traffic consistent with the safety of children attending school in the City.

(2) The guards shall perform their respective duties during the hours and places designated by the Director and Chief of Police.

(3) The duties of the school traffic guards are to:

(a) Safeguard and protect the lives of all school children in the City.

(b) Assist and aid all school children on their way to and from school and at all times when said guards are on duty.

(c) Direct traffic at street intersections and other places traversed by school children on their way to and from school.

(d) Lessen all hazards and point out all traffic dangers to school children.

(e) Perform all other duties directed by the Director and Chief of Police.

§ 5-68. Special police.

Special police officers, also known as "special law enforcement officers," shall be appointed as follows in accordance with the Special Law Enforcement Officers' Act of 1985, N.J.S.A. 40A:14-146.8 et seq.:

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

EMERGENCY - Any sudden, unexpected or unforeseeable event requiring the immediate use or deployment of law enforcement personnel, as shall be determined by the Police Director or his or her designee. Vacancies, shortages in police personnel caused by vacancies unfilled by the City Council for more than 60 days or any other condition which could reasonably have been anticipated or foreseen shall not constitute an emergency. However, an emergency may continue when a vacancy remains unfilled for more than 60 days and when, on application of the City Council, the County Prosecutor grants an extension for one or more sixty-day periods upon a showing by the City Council of a diligent, good-faith effort to fill the vacancy.

SPECIAL POLICE OFFICER or SPECIAL LAW ENFORCEMENT OFFICER - Any person appointed pursuant to N.J.S.A. 40A:14-146.8 et seq. to temporarily or intermittently perform duties similar to those performed regularly by members of the Police Department, or to provide assistance to the Police Department during unusual or emergency circumstances.

B. Creation of position. The appointing authority may appoint special law enforcement officers as it deems necessary for the preservation of peace and good order in the City of Rahway. They shall be under the supervision and direction of the Chief of Police or, in the absence of the Chief, the chief law enforcement officer of the City.

C. Qualifications.

(1) No person may be appointed as a special law enforcement officer unless such person:

(a) Is a resident of the State of New Jersey during the term of appointment.

(b) Is able to read, write and speak the English language well and intelligently and has a high school diploma or equivalent.

(c) Is sound in body and of good health.

(d) Is of good moral character.

(e) Has not been convicted of any offense involving dishonesty or which would make him or her unfit to perform the duties of the office of special law enforcement officer.

(f) Has successfully undergone the same psychological testing that is required of all full-time police officers.

(g) Complies with all other requirements set forth in N.J.S.A. 40A:14-146.8 et seq., the administrative rules and regulations of the Department of Police, and the general ordinances of the City of Rahway.

(2) Residents of the City of Rahway shall be given preference for appointments as special officers. Nonresidents certified as special officers by the New Jersey Police Training Commission may be considered for appointment at the discretion of the appointing authority.

D. Classification. Only Class Two officers, as defined in N.J.S.A. 40A:14-146.11, shall be appointed. Class Two Officers shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by a Class Two special law enforcement officer may be authorized only after the officer shall have been fully certified as successfully completing training as prescribed by the Police Training Commission and having complied with the rules and regulations of the Police Department.

E. Training course. No person shall commence duties as a special law enforcement officer until having successfully completed a training course approved by the Police Training Commission. In addition, no Class Two special law enforcement officer shall be issued a firearm prior to having successfully completed the basic firearms course required by the Police Training Commission for permanent, regularly appointed police and annual requalification examinations.

F. Persons ineligible for appointment. No person shall be eligible to serve as a special law enforcement officer in the City of Rahway if that person serves or intends to serve as a special law enforcement officer in another municipality, nor shall any permanent, regularly appointed full-time police officer be permitted to simultaneously serve as a special law enforcement officer in the City. No public official with responsibility for setting law enforcement policy or exercising authority over the budget of the City or supervision of the Police Department shall be appointed as a special law enforcement officer.

G. Fingerprints. Every applicant for the position of special law enforcement officer shall, prior to appointment, have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

H. Powers and authority. The Chief of Police or, in the absence of the Chief of Police, other chief law enforcement officer of the City, may authorize special law enforcement officers, when on duty, to exercise the same powers and authority as permanent, regularly appointed police officers, including, but not limited to, the carrying of firearms and the power of arrest, subject to rules and regulations, not inconsistent with the certification requirements of N.J.S.A. 40A:14-146.8 et seq., as may be established by the Code of the City of Rahway.

I. Appointment; term; revocation.

(1) A special law enforcement officer may be appointed for a term not to exceed one year. The powers and duties of a special law enforcement officer shall cease at the expiration of the term to which the special law enforcement officer shall have been appointed. At the expiration of such term, the appointing authority shall have absolute discretion in determining whether to reappoint.

(2) The appointment of a special law enforcement officer may be revoked for cause and after an administrative hearing, unless the appointment is for four months or less, in which event the appointment may be revoked without cause or hearing. Nothing herein shall be construed to require the reappointment upon the expiration of the term. Special law enforcement officers shall not be classified as regular members of the Police Department entitled to tenure and other benefits of the Police Department.

J. Duty times. A special law enforcement officer shall be deemed to be on duty only while performing the public safety functions on behalf of the City pursuant to N.J.S.A. 40A:14-146.8 et seq. and when receiving compensation, if any, from the City at the rates or stipends as established by ordinance. A special law enforcement officer shall not be deemed to be on duty for purposes of N.J.S.A. 40A:14-146.8 et seq. while performing private security duties for private employers, which duties are not assigned by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer of the City, or while receiving compensation for those duties from a private employer. A special law enforcement officer may, however, be assigned by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer of the City to perform public safety functions for a private entity if the Chief of Police or, in the absence of the Chief, other chief law enforcement officer of the City supervises the performance of the public safety functions. If the Chief of Police or other chief law enforcement officer assigns the public safety duties and supervises the performance of those duties, then, notwithstanding that the City is reimbursed for the cost of assigning a special law enforcement officer at a private entity, the special law enforcement officer shall be deemed to be on duty.

K. Hours of employment. No special law enforcement officer may be employed for more than 20 hours per week, except as follows:

(1) During an emergency there shall be no limitation as to the number of hours per week a special law enforcement officer may be employed.

(2) The City may designate one special law enforcement officer to whom the twenty-hour-per-week limitation on hours shall not apply. That special law enforcement officer may be employed for more than 20 hours per week. The appointing authority may change this designation at will, and no special law enforcement officer shall have any right to appointment, reappointment, or retention of such designation.

L. Supervision; conduct.

(1) A special law enforcement officer shall be under the supervision and direction of the Chief of Police or, in the absence of the Chief, other chief law enforcement officer of the City and shall perform all duties solely within the City of Rahway,

except when in fresh pursuit of any person, pursuant to N.J.S.A. 2A:156-1 et seq., or when authorized to perform those duties in another municipality pursuant to a mutual aid agreement enacted in accordance with N.J.S.A. 40A:14-156.1.

(2) A special police officer shall comply with the rules and regulations applicable to the conduct and decorum of the permanent, regularly appointed police officers of the City, as well as all rules and regulations applicable to the conduct and decorum of special law enforcement officers.

§ 5-69. Detective Bureau.

A. Continuance; head; assignments.

(1) The Detective Bureau heretofore created and established in the Police Department is hereby continued.

(2) One member of the Detective Bureau having the rank of Captain shall be assigned in charge of the Bureau, in addition to his or her duties as Captain.

(3) Assignments to and in the Detective Bureau shall be made by the Chief of Police.

B. Compensation.

(1) In addition to the salary which has been and will hereafter be established for the rank attained by a member of the force of the Police Department, each such member, upon his or her assignment to the Detective Bureau, shall receive additional compensation for his or her duties in the Detective Bureau.

(2) The compensation for each grade shall be established by ordinance.

§ 5-70. Juvenile Bureau.

A. Establishment. There is hereby created within the Police Department a bureau to be designated as the "Juvenile Bureau" to consist of members of the Police Department. Such members of the Department shall be assigned to the Bureau by the Director and Chief of Police.

B. Determination of juvenile delinquency; exception.

(1) "Juvenile delinquency" is hereby defined as the commission, by a child under the age of 18 years, of any of the following acts which, when committed by a person of the age of 18 years or over, would constitute a disorderly persons offense, petty disorderly persons offense or other offense: the violation of any penal law or municipal ordinance; any act or offense for which he or she could be prosecuted under a procedure partaking of the nature of a criminal action or proceeding; or being a disorderly person; or any of the following acts:

(a) Incurability.

(b) Idly roaming the streets at night.

(c) Department, endangering the morals, health or general welfare of said child.

(2) The commission of an act which constitutes a violation of the provisions of Chapter III or IV of Title 39, Motor Vehicles and Traffic Regulation, of the Revised Statutes, or of any amendment or supplement thereof, by a child of or over the age of 17 years who is the holder of a valid license to operate a motor vehicle under the laws of this state or any other state shall not constitute juvenile delinquency as defined in this section.

C. Powers and duties. It shall be the duty of the Juvenile Bureau to:

- (1) Investigate all cases of juvenile delinquency.
- (2) Coordinate and supplement the activities and programs of public, private and religious agencies with the City devoted, in whole or in part, to the welfare and protection of persons under the age of 18 years and to cooperate with such agencies.
- (3) Collect data and statistics to make such recommendations to the Chief of Police as it deems advisable, with reference to the institution of recreational projects by public or private agencies, which project shall be devoted, in whole or in part, to the provision of leisure time activities of persons under 18 years of age.
- (4) Collect data and statistics and to make studies relating to the detection, prevention or treatment of delinquencies of persons under 18 years of age and make such recommendations to the Director and Chief of Police as it deems advisable with reference thereto.
- (5) Make such other recommendations to the Director.

§ 5-71. Special-duty jobs, salary and vehicle fees.

A. Any and all extra-duty assignments for police personnel shall be determined and approved by the Chief of Police or his or her designee. No police officer shall perform special-duty assignments for private parties or non-law enforcement entities for compensation other than through the procedure set forth in this article. The Chief of Police or his or her designee shall obtain such information as he or she determines necessary and is authorized to approve such special-duty police work in accordance with this article. The Chief of Police or his or her designee may assign a police vehicle for use in performing extra duty if and in the event it is determined that the use of a police vehicle is necessary to perform the contracted duty. A separate fee shall be charged for such use. The Chief of Police or his or her designee may deny the assignment or use of police officers or vehicles and/or may impose any condition or requirement as in his or her sole discretion and determination is in the best interest of the City and/or police officers or public safety. The Chief of Police or his or her designee shall be guided by the nature of the assignment and may refuse to approve those with conflict of interest and/or significant risk of injury. This section does not apply to assignments or work performed for or at the direction of any special task force or similar assignments by the Union County Prosecutor's Office or other law enforcement agencies.

B. Assignments to be voluntary. Police personnel may volunteer to participate in the special-duty jobs program. All special assignments shall be administered by the Chief of Police or his or her designee in accordance with a fair and reasonable system, which shall take into account the seniority of the police personnel, unless exigent circumstance such as time constraints or special skills dictate otherwise. Work assignments under the program shall be considered voluntary and participants shall be compensated in accordance with the rates set forth herein.

C. Officers on duty; agreement; payment and costs. Officers engaged in special-duty assignments shall be deemed on duty for all purposes, including, but not limited to, worker's compensation, public liability and third-party claims for damages and shall conform to all Police Department rules, regulations and

procedures. All such agreements for special-duty assignments shall be contracted for in writing by the completion of a form available from the Police Department, which contracts shall be kept on record as other such public documents.

Delinquent parties shall be liable for all costs, fees and attorneys' fees associated with the collection of any amounts due. Private parties or attorneys who utilize police officers in civil cases by subpoena will be responsible to reimburse the City for the costs incurred for the officers' time while complying with the subpoena. The time incurred will be billed by the City to the requesting private attorney or party at the rate established for special-duty assignments. Officers will continue to be compensated by the City as per past practice and the collective bargaining agreement for time responding to subpoena(s). This section does not apply to internal administrative or disciplinary matters in which reimbursement to the City is not applicable.

D. Work to be done within municipality; outside assistance. All special-duty assignments shall be within the municipality, unless specific written approval is given by the Police Chief and/or the Business Administrator to the officer to work outside of the municipality. The Chief of Police or his or her designee may contact adjoining municipal police departments to see if they are willing to perform such special assignments. This does not apply to assignments crossing municipal boundaries in which the work is partially performed within the municipality.

E. Special fund.

(1) All payments for special-duty assignments shall be deposited in and be made through a special police trust fund established by the City's Chief Financial Officer, from which payment shall be made to the individual police officers performing such service. All payments from the trust fund shall be made to the police officers in a timely manner as provided by law, subject to required deductions and an administrative fee to be retained by the municipality. Any dispute between the contractor and the police officer on assignment as to services required or compensation due shall be determined by the Chief of Police or his or her designee. The Chief of Police's decision, or that of his or her designee, shall be final and binding.

(2) All requests by private and/or non-law enforcement parties for special-duty services shall be made no later than 1600 hours on the day prior to the scheduled workday, except in the event of exigent circumstances. This time period may be waived by the Chief of Police or his or her designee. Upon filing the request, the requesting party shall deposit with the City, or have on deposit, in the Special Duty Police Trust Fund at least sufficient funds to pay for the services requested, including all administrative charges. The amount required to be deposited shall be subject to the determination and approval of the Chief of Police or his or her designee and must at all times be sufficient to pay for special-duty services before said services are rendered, and no services shall be rendered unless prepaid. In the event that the request for special services was not made by 1600 hours on the day prior to the scheduled workday, the "emergency traffic/security rates" as enumerated in § 5-71E(5) herein shall come into effect.

(3) Parties that utilize special-duty services on a regular basis for a week or longer shall maintain a minimum balance of the average weekly expenditure in the fund. Parties that utilize special-duty services on a regular or frequent basis shall maintain a minimum deposit of \$500 in the fund. The Chief of Police or his or her designee shall have the authority to determine the appropriate minimum balance for a particular party utilizing services to ensure adequate funds are on deposit to timely pay the officers and administrative fees for services provided. The Chief of Police or his or her designee, with the approval of the Business Administrator, may waive or adjust the minimum balance required for assignments for municipalities, government agencies, utilities or nonprofit organizations.

(4) No services shall be rendered for any party that does not have funds on deposit sufficient to cover the services. No services shall be rendered to any party that is delinquent on payment for past services rendered. Delinquent parties shall be liable for interest at 18% per annum on any funds noticed to the party as delinquent, together with any damages or attorneys' fees or costs incurred by reason of their delinquency. If the Chief of Police or his or her designee determines a detail poses a hazardous condition or a concern for public safety when not properly staffed, he or she may cancel any proposed assignment. The Chief of Police or his or her designee shall have the right to cancel special-duty job services when a party is delinquent in payment.

(5) Hourly rates/charges.

(a) The hourly rate/charge payable to police officers shall be as follows:

Job	Rate Per Hour Under 8 hours	In Excess of 8 Hours
Traffic assignments	\$60	\$90
Security assignments	\$30	\$45
Emergency traffic	\$75	\$112.50

(b) A four-hour minimum is applicable to all jobs unless waived by the Chief of Police or his or her designee.

(6) Any work performed on the following days shall be paid at a rate of time and a half; in excess of eight hours shall be paid at a rate of double time:

- (a) New Year's Eve.
- (b) New Year's Day.
- (c) Easter.
- (d) Memorial Day.
- (e) July 4th.
- (f) Labor Day.
- (g) Thanksgiving.
- (h) Christmas Eve.
- (i) Christmas Day.

(7) The hourly rate/charge payable for police vehicles shall be an additional \$15 per hour, or portion thereof, per each vehicle used. The City shall also charge \$12 per hour as a surcharge for administrative costs, to be retained by the municipality. The Chief of Police or his or her designee may waive the minimum hours on a particular assignment should he or she determine this is in the interests of the City. In continuing assignments, the Chief of Police or his or her designee

may waive the hourly minimum on a continuing basis. The Chief of Police or his or her designee, with the approval of the Business Administrator, may waive or adjust the administrative fee for assignments for municipalities, government agencies or nonprofit organizations.

(8) Hours will be billed in full-hour increments only. If an officer works 15 minutes or greater into an hour, a full hour will be billed.

F. Cancellation. Any assignment which is canceled on less than two hours' notice shall be charged against the party. Upon cancellation, the contractor shall be responsible for the minimum payment of four hours, per officer assigned plus vehicle and administrative fees, at the specified rate plus any administrative fees that may apply.

G. Authority to terminate assignment. The Chief of Police or his or her designee has the authority to order any police officer to vacate or terminate any special-duty assignment in response to emergency situations or whenever the assignment creates an unacceptable risk to health, safety and welfare of the police officer and/or public in the sole determination and discretion of the Chief of Police or his or her designee. The contractor shall not be responsible for any compensation for the time that the police officer is away from the special-duty assignments and shall have no claim for any costs or damages against the municipality, the Chief of Police or his or her designee or any police officer arising from the termination of any special-duty assignment other than the prorated return of any fees prepaid to the City for the time.

H. Insurance coverage. The municipality shall be responsible to provide all necessary insurance coverage as required by law for all special-duty and extra-duty assignments for police personnel, including but not limited to workers' compensation, public liability and claims for damage or personal injury, including death or damage to property, which may arise as a result from the municipality's performance under the contract.

I. Conformance with agreement. All special-duty assignments and related work shall be performed in accordance with the agreement for special-duty assignment of police officers entered into between the contractor and the municipality.

J. The Chief of Police or his or her designee, subject to the approval of the Business Administrator, has the authority to set reasonable rules and regulations for officers, as well as contractors/vendors, for the administration of the special-duty jobs program.

Article XVIII. Department of Fire

§ 5-72. Establishment; composition; procedures.

A. Establishment. There shall be a Department of Fire, the head of which shall be the Director of the Fire Department, who shall be appointed by the Mayor, with the advice and consent of the Council. The Chief of Fire may also serve as Director of the Department of Fire.

B. Organization. The Fire Department shall consist of the following:

(1) Chief.

- (2) Deputy Chief.
- (3) Battalion Chiefs.
- (4) Captains.
- (5) Firemen.

C. Jurisdiction; function.

(1) The Fire Department shall have exclusive jurisdiction over the control, fighting and the extinguishment of any conflagration which occurs within the City limits.

(2) The Fire Department shall:

(a) Designate and fix the location of fire alarm, telegraph, signal and alarm stations, and construct, install, operate, repair and maintain the fire alarm, telegraph and signal systems.

(b) Investigate the cause, circumstances and origin of fires and report to the County Prosecutor every case of suspicion of arson.

(c) Inspect and test any automatic or other fire alarm system or fire extinguishing equipment.

(d) Be authorized to enter upon, without fee or interference, all premises, grounds, structures, buildings, vessels and passages whenever necessary, in the performance of its duties.

(e) Operate a training program to maintain and improve the fire fighting efficiencies of the members of the Fire Department.

(f) Administer and enforce the Fire Prevention Code as provided in Chapter 209, Fire Prevention.

D. Director and Chief.

(1) The Director shall be the administrative head of the Fire Department, under the direction of the Mayor, and be responsible for the proper administration of fire affairs. He or she shall govern and control the Fire Department and prescribe its rules and regulations.

(2) The Director shall also have the following duties and powers:

(a) Make, administer and enforce rules and regulations for the control, disposition and discipline of the Department and its officers and employees.

(b) Establish procedures for the hearing and determination of charges of violations of departmental rules and regulations by any member of the Fire Department, provided that a member may be fined, reprimanded, removed or suspended as punishment or dismissed from the Department only on written charges made or proffered against him or her, after such charges have been examined, investigated and heard by the Director, and upon such reasonable notice to the member charged and according to such practice, procedure and manner as may be prescribed by the rules and regulations of the Department in accordance with law.

(c) Deduct and withhold any salary, within his or her discretion, from any member of the Fire Department on account of absence, for any cause, without leave.

E. Prohibited activities.

(1) No member of the Fire Department shall accept or solicit anything of value as consideration for or in connection with the discharge of his or her official duties.

(2) No member of the Fire Department, without the written permission of the Director, shall solicit or cause to be solicited, whether directly or indirectly, any money or other thing of value, for the benefit of any organization or any member of any organization. This prohibition shall not apply to regular dues or assessments of the Firemen's Benevolent Organizations, or other purposes authorized by the rules and regulations of the Fire Department.

Article XX. Use of Recycled Paper for City Stationery

As used in this article, the following terms shall have the meanings indicated:

PRINTING - Shall not include newspaper advertisements.

RECYCLED PAPER - Any paper which was produced from newsprint and/or from discarded paper and is certified by the manufacturer as recycled paper.

The City shall make every effort to use recycled paper for all of its stationery and printing needs.

Article XXI. Meeting Starting Times of Agencies, Boards and Commissions

§ 5-73. Policy.

It is the policy of the City of Rahway that maximum participation by the public should at all times be encouraged. In order to permit the public to attend meetings which are open to the public in accordance with the terms of the Open Public Meetings Act, the City Council has determined that no such meetings should begin at a time which would limit public participation due to its starting time.

§ 5-74. Starting time for meetings.

No commission, board, authority or other body established by ordinance of the City of Rahway and subject to the provisions of the Open Public Meetings Act shall conduct any meeting which is scheduled to start prior to 6:30 p.m., Monday through Friday, except as otherwise provided in § 5-75 of this article.

§ 5-75. Emergency.

A. Any body covered by the terms of this article may, in the case of an emergency, conduct a meeting which begins prior to 6:30 p.m., Monday through Friday.

B. For the purpose of this article, an "emergency" shall be deemed to be that circumstance in which the public body is required to meet to fulfill a statutory requirement of that body and would be unable to otherwise obtain a quorum of said public body after 6:30 p.m. in sufficient time to satisfy its statutory obligations.

Article XXII. Affirmative Action Policy

§ 5-76. Policy.

It is the public policy of the City of Rahway to provide equal employment and business opportunity for all persons, partnerships, companies and corporations and to prohibit discrimination in employment and business practices because of race, color, religion, sex, ancestry, national origin, sexual orientation or physical or mental impairment, and to promote to the full realization equal employment and business opportunity through a positive and continuing program within each department, division, agency or component of the City of Rahway. This policy of equal employment and business opportunity shall apply to every contractor, subcontractor or bidder holding or seeking a public contract with the City of Rahway and is intended to provide minority businesses in the City of Rahway equal opportunity to participate in the filling of the City of Rahway's nonbid purchase orders up to legal nonbid limit. The policy of equal employment opportunity applies to every aspect of municipal employment policy and practice.

§ 5-77. Affirmative Action Officer.

There shall be an Affirmative Action Officer responsible for implementing the City of Rahway's Affirmative Action Policy who shall be appointed by the Mayor for a term of four years coterminous with the term of the Mayor.

BE IT FURTHER ORDAINED THAT:

1. All Ordinances or parts of Ordinances inconsistent herewith are repealed.
2. If any section, subsection, sentence, clause, phrase, or a portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
3. This Ordinance shall become effective after second reading and publication as required by law.

Council Vice President Wenson Maier 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 Vice President Wenson Maier closed the Public Hearing.

Roll Call for O-7-16:

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson Maier

ABSENT: Councilmembers Cox, Baker

by Councilmember Giacobbe.

YES: Councilmembers Bresenhan, Brown, Farrar, Giacobbe, Miles, Mojica, Wenson
Maier

ABSENT: Councilmembers Cox, Baker

Council Vice President Wenson Maier declared the motion carried.