



Borough of Rocky Hill
Borough Council Agenda
November 5, 2018
7:30 PM

1. CALL TO ORDER

2. SALUTE TO THE FLAG

3. NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT -

This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was included in a list of meetings transmitted to the Courier News and the Home News Tribune on July 18, 2018. Notice remains continuously posted as to required notices under the Statute.

A copy of this notice is available to the public and is on file in the Office of the Borough Clerk.

4. ROLL CALL

5. MAYOR'S COMMENTS

6. APPROVAL OF MINUTES

B. Borough Council - Second Meeting of Month - Oct 15, 2018 7:30 PM

7. PUBLIC COMMENT— (MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE MAYOR AND COUNCIL ARE REQUESTED TO STAND AND STATE THEIR NAME AND ADDRESS FOR THE RECORD.)

8. STATE POLICE REPORT

9. ENGINEER'S REPORT

10. CHIEF FINANCIAL OFFICER'S REPORT

11. DEPARTMENTAL REPORTS

12. APPROVAL OF VOUCHERS

A. Bill List 2018-11-05

13. SPECIAL BUSINESS

14. UNFINISHED BUSINESS

A. ORDINANCE-2018-11 An Ordinance Adding Chapter 9 to the General Code of the Borough of Rocky Hill
Titled: DEFENSE OR INDEMNIFICATION OF BOROUGH EMPLOYEES

B. Follow Up: Actions from the BPU

C. NJ DEP Moritorium Update

15. NEW BUSINESS

16. COMMUNICATIONS

17. PUBLIC COMMENT– (MEMBERS OF THE PUBLIC WISHING TO ADDRESS THE MAYOR AND COUNCIL ARE REQUESTED TO STAND AND STATE THEIR NAME AND ADDRESS FOR THE RECORD.)

18. EXECUTIVE SESSION

19. RESULTS OF EXECUTIVE SESSION (IF ANY)

1. To Retire into Executive Session for the Purpose of Litigation: Shafer Vs. Rocky Hill Borough

20. ADJOURNMENT



Borough of Rocky Hill
Borough Council
Minutes of the Regular Meeting
October 15, 2018

The regular meeting of the Borough Council of the Borough of Rocky Hill was called to order by Mayor Phil Kartsonis at 7:30 PM followed by the salute to the flag.

NOTICE OF COMPLIANCE WITH OPEN PUBLIC MEETINGS ACT

ROLL CALL

Attendee Name	Title	Status	Arrived
Irene Battaglia	Councilwoman	Present	
Amy Kirtland	Council Member	Present	
Billy Dawson	Council Member	Present	
John Hagemann	Council Member	Present	
Mark Sibley	Councilman	Present	
Robert Uhrik	Councilman	Present	
Phil Kartsonis	Mayor	Present	

Also present: Clerk Rebecca Newman, Deputy Clerk Christine Witt, CFO Joe Monzo, and Attorney Tim Beck.

MAYOR'S COMMENTS

Mayor Kartsonis announced that the bulk trash pick up will take place this week. The State Construction officials have become involved in resolving the issues with the dangerous buildings at 98 Washington Street. There was a water main break on Hickory Court last week. Frank's Theatres, which was to be the centerpiece of the Montgomery Promenade, has filed for bankruptcy.

APPROVAL OF MINUTES

- A. Borough Council - First Meeting of Month - Oct 1, 2018 7:30 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Mark Sibley, Councilman
SECONDER:	John Hagemann, Council Member
AYES:	Battaglia, Kirtland, Dawson, Hagemann, Sibley, Uhrik

PUBLIC COMMENT

Ken Rizzi, 14 Crescent Avenue, commended that the fence installed by the Business Park has blocked access to Van Horne Park from Crescent Avenue. The path to the park by the pond is

Minutes Acceptance: Minutes of Oct 15, 2018 7:30 PM (Approval of Minutes)

clogged by debris and not passable. This is a public health issue because first responders can not access the park or the pond.

Cary Dawson, 6 Lemore Circle, spoke as President of the Mary Jacobs Library Foundation. Ms. Dawson outlined the plans for Montgomery Township to build a new library facility and the Somerset County Library System to move the collection and staff currently housed at the Mary Jacobs Library to the Montgomery Township library. Ms. Dawson said that Montgomery Mayor Madrid has offered no support on working on plans for the future of the Mary Jacobs Library building. In discussing the plans for the new Montgomery library, Township officials and County Library officials have compared the new facility to Mary Jacobs Library to the detriment of Mary Jacobs Library. Ms. Dawson has requested that these officials keep the Mary Jacobs Library out of their conversations when discussing the new facility.

DEPARTMENTAL REPORTS

Municipal Court Report

See attached report.

- 1. Municipal Court Report September 2018

Tax Collector Report

Water and Sewer Report

The pumps at the well house have been replaced and New Jersey American Water was turned on during the replacement process.

Chief Financial Officer's Report

- A. Chief Financial Officers Report - Budget Review

See attached reports.

Interim Engineer Report

- 1. Interim Engineering Report Mid October 2018

APPROVAL OF VOUCHERS

- A. October 15 Bill List

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Billy Dawson, Council Member
SECONDER:	Mark Sibley, Councilman
AYES:	Battaglia, Kirtland, Dawson, Hagemann, Sibley, Uhrik

COMMITTEE REPORTS

Administration & Records -B. Dawson

Minutes Acceptance: Minutes of Oct 15, 2018 7:30 PM (Approval of Minutes)

Buildings & Grounds - J. Hagemann

See attached report.

- A. Buildings and Grounds Report September 2018

Finance & Insurance - A. Kirtland

Public Safety & Emergency Services - B. Dawson

See attached reports.

- B. Franklin Township Police Report September 2018

- C. Constable Report September 2018

Streets & Roads - M. Sibley

The fire hydrants have been painted, making a list of pot holes to be filled, the reserved parking spot for first responders was painted yellow.

Water, Sewer & Environmental Protection - R. Uhrik

The new well pump and generator were installed at the well house.

- D. Water and Sewer Report September 2018

See attached report.

Council Representative to Planning Board - I. Battaglia

See attached report.

- E. Planning Board Report October 2018

Council Liaison to Recreation Committee- A. Kirtland

Movie night to be rescheduled.

Council Representative to Board of Health - B. Uhrik

The flu clinic will take place on October 23rd from 1-3pm in Borough Hall and is free to residents.

Zoning Official's Report - M. Blasch

Grants Committee - A. Kirtland

Ms. Kirtland prepared a grant request for the purchase for Fire Department turnout gear. Exploring a shared services agreement for a grant writer.

SPECIAL BUSINESS

- A. Authorizing the Approval of Darrell Myers to the NJ State Fireman's Association

RESULT: ADOPTED [UNANIMOUS]
MOVER: Irene Battaglia, Councilwoman
SECONDER: Amy Kirtland, Council Member
AYES: Battaglia, Kirtland, Dawson, Hagemann, Sibley, Uhrik

- B. RESOLUTION-2018-79 Providing for the Insertion of a Special Item of Revenue in the 2018 Budget Pursuant to N.J.S. 40A:4-87 (Chapter 159, P. L. 1948)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Billy Dawson, Council Member
SECONDER: Robert Uhrik, Councilman
AYES: Battaglia, Kirtland, Dawson, Hagemann, Sibley, Uhrik

- C. First Aid Presentation

Tom Bremner and Jim Banks provided an update on the First Aid Squad. The squad's financials are on track, and there have been 7 fundraisers this year. The squad is updating its five-year plan for expenditures. A bathroom renovation project is starting in November. There are 30 members including 9 EMTs, 5 cadets, 7 drivers, and 5 associate members. Recruitment efforts include door-to-door canvassing and distributing File of Life packets. The squad has responded to 49 calls so far this year and responded to 70 calls in 2017. The response area in Franklin has expanded. Calls are mostly for falls and motor vehicle accidents. The ambulance is doing well. Working with Fire Department on joint training sessions. Need to put up parking signs near squad building. Questions remain about transferring the title of the ambulance.

UNFINISHED BUSINESS

- A. ORDINANCE-2018-10 An Ordinance of the Borough of Rocky Hill, County of Somerset, State of New Jersey, Amending Chapter 80, Entitled "Development Regulations" of the Code of the Borough of Rocky Hill, to Amend Section 80-91F in Order to Add Parking Standards to the B Business Zoning District.

RESULT: ADOPTED [5 TO 1]
MOVER: Billy Dawson, Council Member
SECONDER: Amy Kirtland, Council Member
AYES: Battaglia, Kirtland, Dawson, Hagemann, Uhrik
NAYS: Sibley

- B. ORDINANCE-2018-11 An Ordinance Adding Chapter 9 to the General Code of the Borough of Rocky Hill Titled: DEFENSE OR INDEMNIFICATION OF BOROUGH EMPLOYEES

The ordinance lays out that the Borough will defend or indemnify its employees, council members, board members, etc. in the event that they are named personally in litigation involving Borough affairs, operations or services. The Borough's employees and volunteers would therefore be protected from the legal and financial burden of defending themselves if they are sued in connection with municipal affairs.

RESULT:	FIRST READING [UNANIMOUS]	Next: 11/5/2018 7:30 PM
MOVER:	Mark Sibley, Councilman	
SECONDER:	Irene Battaglia, Councilwoman	
AYES:	Battaglia, Kirtland, Dawson, Hagemann, Sibley, Uhrik	

C. DEP Moritorium Update

Discussion tabled.

D. Sewer Man Hole Update

See attached report.

E. Ballot Issue- Action Plan Discussion

Mr. Hagemann was incorrectly placed on the ballot by the County Clerk. Legal action against the County is not practical, therefore the only recourse is to send a letter to Rocky Hill voters explaining the situation.

NEW BUSINESS

COMMUNICATIONS

PUBLIC COMMENT

Tom Bremner, 17 Crescent Avenue, requested that a sign be placed in front of Borough Hall stating that John Hagemann is not running for mayor. Mr. Bremner also requested permission for signs advertising the election day chili lunch at Trinity Church. The first aid squad is hosting a fundraising breakfast on November 17th.

Jim Banks, 85 Washington Street, stated that there is a loose manhole cover near his house on Washington Street that is very loud when traffic goes over it.

ADJOURNMENT

Meeting adjourned at 9:23 PM.

Minutes Acceptance: Minutes of Oct 15, 2018 7:30 PM (Approval of Minutes)

List of Bills - (All Funds)

12.A.a

Vendor	Description	Payment	Check	Total
CURRENT FUND				
640 - Fine Construction	PO 6297 Generator Award per resolution	5,137.50	5	.50
115 - JML LANDSCAPING INC.	PO 6915 Brush & Limb clean up	2,244.00	2	.00
601 - John Hagemann	PO 6921 Reimbursement for Buildings & Groun	156.73		.73
122 - KENCOR INC	PO 6919 Elevator pressure test: State Manda	573.00		.00
585 - KEY TECH LABORATORIES	PO 6911 Core Sampling: Princeton Avenue	975.00		.00
594 - PREMIER DISPOSAL	PO 6925 Garbage service and Fall Bulk Trash	5,611.08	5	.08
210 - PSE&G	PO 6908 Electric: Panicaró, Crescent Point	13.18		.18
210 - PSE&G	PO 6926 Street Lights Electric	711.35		.35
354 - RICOH USA, INC.	PO 6928 Copy machine rental	109.73		.73
603 - Robert Uhrík	PO 6913 Leaugue Lunch 2017	40.00		.00
248 - SOMERSET CTY GOV. OFFS. ASSOC.	PO 6920 SCGOA Meeting October 2108: Uhrík	35.00		.00
664 - STUART HALLMAN	PO 6907 Rain Garden Supplies	275.92		.92
455 - TAMARA LEE PP	PO 6916 Planning Services October 2018	1,437.50	1	.50
UTILITY OPERATING				
380 - HANS OLSEN	PO 6923 Water Dept. maintenance	350.00		.00
659 - Mumford Bjorkman Assoc	PO 6792 Evaluation of Elevated Tank at 1 Yo	3,500.00	3	.00
535 - MUNICIPAL MAINTENANCE CO.	PO 6910 Water Dept. repairs: labor & materi	2,506.72	2	.72
450 - ONE CALL CONCEPTS INC	PO 6927 October 2018 One Calls	12.50		.50
210 - PSE&G	PO 6908 Electric: Panicaró, Crescent Point	861.04		.04
311 - TIM LESKO	PO 6906 Water Department Maintenance	170.00		.00
311 - TIM LESKO	PO 6924 Water Department Maintenance	420.00		.00
322 - VECTOR SECURITY	PO 6917 Water Dept. monitoring 11/1/18 to 1	648.72		.72
289 - VERIZON	PO 6909 Water Dept. phone	35.22		.22
UTILITY CAPITAL				
666 - DECOTIIS	PO 6914 Bond Counsel	893.93		.93
449 - JOSEPH MONZO	PO 6918 postage reimbursement	24.70		.70
TRUST OTHER				
455 - TAMARA LEE PP	PO 6916 Planning Services October 2018	1,035.00	1	.00
286 - VAN CLEEF ENGINEERING	PO 6922 Engineering for PB Apps	365.75		.75
TOTAL			28	.57

Attachment: Bill List 2018-11-05 (DOC-2018-113 : Bill List 2018-11-05)

Summary By Account

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	IT
01-101-01-001	CASH			0.00	17, 99
01-201-20-110-020	MAYOR AND COUNCIL - OTHER EXPENSE	35.00			
01-201-21-180-020	PLANNING BOARD - OTHER EXPENSE	862.50			
01-201-21-190-020	COAH - OTHER EXPENSE	575.00			
01-201-26-290-020	STREETS AND ROAD- OTHER EXPENSES	1,686.35			
01-201-26-297-020	GARBAGE AND TRASH-OTHER EXPENSE	5,611.08			
01-201-26-306-020	RECYCLING - OTHER EXPENSE	2,244.00			
01-201-26-310-020	BUILDINGS AND GROUNDS - OTHER EXPENSE	1,115.38			
01-201-31-430-020	ELECTRICITY - OTHER EXPENSE	13.18			
01-203-20-110-020	(2017) MAYOR AND COUNCIL - OTHER EXPENSE		40.00		
01-203-44-901-020	(2017) CAPITAL IMPROVEMENTS - CIF		5,137.50		
TOTALS FOR		12,142.49	5,177.50	0.00	17,319.99

ACCOUNT	DESCRIPTION	CURRENT YR	APPROP. YEAR	NON-BUDGETARY	
08-101-01-001	CASH			0.00	8,504.20
08-201-26-290-020	Other Expense	8,504.20			

TOTALS FOR	UTILITY OPERATING	8,504.20	0.00	0.00	8,504.20
=====					
09-216-52-300	Improvement Authorizations-Unfunded			918.63	
09-260-05-100	Water & Sewer Operating-Interfund			0.00	918.63

TOTALS FOR	UTILITY CAPITAL	0.00	0.00	918.63	918.63
=====					
19-260-05	INTERFUND - DUE CURRENT			0.00	1,400.75
19-290-56-900-9	RESERVE FOR DEVELOPERS ESCROW			1,400.75	

TOTALS FOR	TRUST OTHER	0.00	0.00	1,400.75	1,400.75
=====					

Total to be paid from Fund 01 CURRENT FUND	17,319.99
Total to be paid from Fund 08 UTILITY OPERATING	8,504.20
Total to be paid from Fund 09 UTILITY CAPITAL	918.63
Total to be paid from Fund 19 TRUST OTHER	1,400.75

	28,143.57

Attachment: Bill List 2018-11-05 (DOC-2018-113 : Bill List 2018-11-05)



Ordinance # ORDINANCE-2018-11

An Ordinance Adding Chapter 9 to the General Code of the Borough of Rocky Hill Titled:
DEFENSE OR INDEMNIFICATION OF BOROUGH EMPLOYEES

Chapter 9: DEFENSE OR INDEMNIFICATION OF BOROUGH EMPLOYEES.

9-1 Purpose.

Each municipality in the State of New Jersey may defend or indemnify its officials and employees in connection with municipal affairs and operations pursuant to N.J.S.A. 59:10-4.

It is deemed desirable to establish rights and procedures with respect to the defense and indemnification of Borough officials and employees.

9-2 Definitions.

As used in this section:

Borough shall mean the Borough of Rocky Hill, in the County of Somerset.

Borough employee shall mean and include any past, present and future member of the governing body of the Borough; any past, present and future member of any other Borough board, body, commission or Council, whether created by State law or by municipal ordinance or resolution; and any other past, present and future Borough officer, official or employee, whether elected or appointed, compensated or uncompensated, full-time or part-time, who by reason of position or employment is authorized to perform any acts or services of any nature whatsoever for or on behalf of the Borough; provided, however, that independent contractors shall not be considered Borough employees for purposes of this section.

9-3 Defense of Civil Actions or Proceedings Against Borough Employees.

Except as provided in Sections 9-4, 9-5, 9-10 or 9-11, the Borough shall provide for the defense of any civil action or proceeding commenced against any Borough employee on account of any act or omission by a Borough employee involving Borough affairs, operations or services. The duty to defend shall extend to a cross-action, counterclaim or cross-complaint.

9-4 Notice to Borough of Civil Action or Proceeding; Delivery of Documents.

Every Borough employee who is served with any summons, complaint, process, notice, demand or pleading in a civil action or proceeding involving Borough affairs, operations or

services and who desires that the Borough provide for a defense shall deliver the original or a complete copy thereof to the Borough Clerk within seven (7) calendar days of the time that service is made upon such Borough employee. Each document shall bear a notation as to the date upon which service was made upon the Borough employee. The Borough employee shall promptly furnish such additional information regarding the matter as may be requested by the Borough. Failure to comply with the foregoing requirements shall constitute grounds for a refusal by the Borough to provide the Borough employee with a defense to any civil action or proceeding in accordance with the provisions of this section.

9-5 Refusal of Borough to Provide Defense.

The Borough shall not be required to provide for the defense of a civil action or proceeding against a Borough employee if the Borough Council determines that it is likely that:

- a. The act or omission was not within the scope of employment; or
- b. The act or the failure to act involved actual fraud, actual malice or willful misconduct; or
- c. The act or failure to act was in violation of the Local Government Ethics Law; or
- d. The defense of the action or proceeding by the Borough would create a conflict of interest between the Borough and the Borough employee.

In the event of an action or proceeding against more than four (4) members of the Borough Council, the Borough Attorney, in consultation with the unconflicted Council Members, may make any determination which might otherwise be made by the Borough Council in accordance with this Section 9-5.

In the event that the Borough shall refuse to provide for the defense of a civil action or proceeding for any of the reasons mentioned above, the Borough shall cause notice of such refusal to be given to the Borough employee concerned in such manner that the notice of refusal is received within fourteen (14) calendar days after the original service upon the Borough employee of the document mentioned in Section 9-4.

9-6 Method of Providing Defense; Borough Control Over Litigation; Satisfaction of any Judgment or Settlement.

Defense for a Borough employee may be provided by the Borough Attorney, or by other counsel employed by the Borough for such purpose, or by an exercise of the Borough's right under any appropriate insurance policy to require the insurer to provide the defense.

Whenever the Borough provides for the defense of a Borough employee pursuant to any provision of this Section, the Borough or the Borough's insurer may assume exclusive control over the representation of such Borough employee, who shall cooperate fully with the Borough or the Borough's insurer in all matters relating to the defense.

The Borough or the Borough's insurer, as the case may be, shall have the right to settle or compromise any litigation involving a defense provided for a Borough employee. In the event that a Borough insurance policy contains a deductible amount and the defense is provided by the insurer, the terms of the settlement shall be approved by the Borough Council. In the event that the action or proceeding is against more than four (4) members of the Borough Council, the

terms of the settlement shall be approved by the Borough Attorney, in consultation with the unconflicted Council Members.

The Borough and/or the Borough's insurer shall provide for the payment and satisfaction of any amount which may be due under any judgment against the Borough employee or shall provide for the payment of any amount due by reason of the settlement of any action or proceeding, and the Borough employee shall not be required to contribute to any such payment.

9-7 Indemnification.

In any case where the Borough is required to provide a defense under this article, the Borough employee shall be entitled to indemnification from the Borough. Any indemnification shall include the amount of any judgment or the amount under any bona fide settlement agreement, as well as all costs of defending the civil action or proceeding, including reasonable counsel fees and expenses, together with the costs of appeal, if any.

In the event that in accordance with the provisions of Section 9-5 the Borough shall refuse to provide for a defense to a civil action or proceeding, the Borough employee shall be entitled to indemnification from the Borough if the Borough employee establishes that the act or omission upon which the claim or judgment was based occurred within the scope of employment as an employee of the Borough, and the Borough fails to establish that the act or omission constituted actual fraud, actual malice or willful misconduct or was in violation of any provision of the Local Government Ethics Law.

9-8 Effect of Private Insurance.

This indemnification shall be deemed primary unless the Borough employee has in effect, with respect to any claim made, a personal professional liability policy. If such a policy is in effect, this indemnification shall be deemed secondary to the extent that coverage is afforded under the terms of that policy. In other words, the amount the Borough is obliged to indemnify the Borough employee shall be reduced by any insurance coverage payable to the Borough employee.

9-9 Obligations of Insurer under an Insurance Policy.

No provision of this Chapter shall be interpreted or construed as affecting or limiting any obligation of any insurer under the terms of any insurance policy carried by the Borough.

9-10 Statutory Obligations of Borough to Particular Employees.

This Chapter shall not apply to any Borough employee so as to modify the rights or benefits under any statutory or decisional law applicable to such Borough employee.

9-11 Action or Proceeding Instituted by the Borough.

No provision of this Chapter shall apply to any action or proceeding of any nature instituted by the Borough against any Borough employee.

Introduced and passed on first reading:

:

ATTEST:
APPROVED: _____

Rebecca Newman, Borough Clerk

Phil Kartsonis, Mayor



**BOROUGH OF ROCKY HILL
SOMERSET COUNTY**

**To Retire into Executive Session for the Purpose of Litigation: Shafer Vs. Rocky Hill
Borough**

, WHEREAS, Section 8 of the Open Public Meetings Act (N.J.S.A. 10:4-12(b) (1-9) permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Borough Council is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rocky Hill, County of Somerset, State of New Jersey, as follows:

1. The public shall be excluded from discussion of and action on the executive Session of November 5, 2018.
2. The general nature of the subject matter to be discussed is as follows:

Litigation in the Matter of Shafer vs. The Borough of Rocky Hill

3. Minutes of said discussion will be made available as soon as it is deemed in the public interest to do so.
4. The Borough Council may take official action on those items discussed in executive session upon completion of the executive session.

This Resolution takes effect immediately.

Rebecca P. Newman
Borough Clerk

ATTEST:

By:

Rebecca P. Newman, RMC
Borough Clerk

By:

Phil Kartsonis, Mayor

CERTIFICATION

I, Rebecca P. Newman, Borough Clerk of the Borough of Rocky Hill do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Borough Council on November 5, 2018.

Rebecca P. Newman, RMC
Borough Clerk