

REGULAR MEETING  
BOROUGH COUNCIL  
BOROUGH OF RUMSON  
September 9, 2008

A regular meeting of the Borough Council of the Borough of Rumson was held in the Charles S. Callman Courtroom of the Memorial Borough Hall on September 9, 2008 and was called to order by Mayor John E. Ekdahl at 7:30 p.m.

Pledge of Allegiance.

Present: Mayor Ekdahl, Councilwoman DeVoe, Councilmen Broderick, Hemphill, Kammerer, Rubin and Shanley.

Absent: None.

Thomas S. Rogers, Municipal Clerk/Administrator, was present.

Martin M. Barger, Borough Attorney, was present.

C. Bernard Blum, Jr., Borough Engineer, was present.

David Marks of T & M Associates was present.

Bonnie Heard of T & M Associates was present.

The Mayor declared a quorum present and announced that the notice requirements of the Open Public Meetings Act had been met by the posting and mailing of a schedule of all regular and work meetings of the Borough Council for the year 2008 to the *Asbury Park Press* and the *Two River Times*.

On motion by Councilwoman DeVoe, seconded by Councilman Rubin, the minutes of the previous meeting were approved as written, copies having been forwarded to all Council members. All in favor.

**MOTION TO CHANGE THE ORDER OF BUSINESS IN ORDER TO HOLD A PUBLIC MEETING ON THE POLICE SHARED SERVICES STUDY REPORT:**

On motion by Councilwoman DeVoe, seconded by Councilman Rubin, the Order of Business was changed in order for the Borough Council to hold a public meeting on the Police Shared Services Study Report at this time. All in favor.

**PUBLIC MEETING ON THE POLICE SHARED SERVICES STUDY REPORT:**

Mayor Ekdahl requested that the Municipal Clerk/Administrator read the letter to the Mayor and Council that had been received from Police Chief Richard E. Tobias in support and appreciation of the letter that was sent to the Rumson residents on the "Findings of the Mayor and Council Regarding the Report on Shared Police Services."

The Municipal Clerk/Administrator advised that this letter was to be introduced later in the meeting as a communication, but he thought it was appropriate that it be read prior to the public meeting.

The Municipal Clerk/Administrator read the following letter:

Dear Sirs and Madame:

I fully support and applaud the conclusions of your letter dated September 2, 2008 regarding the feasibility of shared police services. This study has been an arduous process for you and the Department at every level. *The Rumson Police Department will always strive for excellence in our service to the residents of Rumson, our community.*

The Police Chiefs of Little Silver, Fair Haven, and Rumson, along with our respective Departments, are all on board for the cost savings challenge. I have already contacted Chief Breckenridge of Fair Haven, to discuss sharing the use and the costs of Rumson's new Alcotest 7110 MKIII-C Unit for Alcohol Breath Testing Analysis so that we may begin savings of our taxpayers' dollars. Like Rumson, Little Silver has also already purchased their new Alcotest unit, the use of which is mandated by the NJ State Police as of September 2008. Many possibilities for the sharing of costs will present themselves in the future, and I will be open to doing whatever we can to make a difference for our residents while maintaining our current high standards of service and support of our own Rumson community.

This is a turning point from which the Rumson Borough Council and the Rumson Police Department can move forward with a renewed spirit and the beneficial climate of mutual respect and understanding.

Sincerely,  
Chief Richard E. Tobias

Mayor Ekdahl thanked the Municipal Clerk/Administrator and welcomed all in attendance. He advised that the meeting would be opened for comment on the Report on Shared Police Services and if anyone had any other matters to comment on that they hold them until the Comments from the Public section later in the meeting. The Mayor invited anyone who wished to speak regarding the Report or the letter sent from the Mayor and Council to the residents to step up to the podium and give their name and address and the following residents responded:

Isaac Fajerman of 85 Waterman Avenue requested that the Borough Attorney answer the question that he had posed to him at the August 26<sup>th</sup> Borough Council meeting but had refused to answer. He wanted to know if the Prosecutor for the Borough of Rumson, Michael Halfacre, who also serves as Mayor of Fair Haven and has had a large part in the Shared Services Study for the three towns, posed a conflict of interest because of his positions of influence and his close relationship with the Rumson Police Department. He stated that Mr. Barger, as the Borough Attorney, had a responsibility and duty to the residents' interests, as well as those of the Mayor and Council.

In response to Mr. Fajerman's question, Mr. Barger stated that he had advised Mr. Fajerman at the August 26<sup>th</sup> Borough Council meeting that he would not answer that question, that a question of a conflict of interest concerning an attorney in the State of New Jersey should be directed as an application to the Office of Attorney Ethics in Trenton. He stated, as he had two weeks ago, that it was not for him to make that decision, that the Ethic Commission handled these matters. Mr. Barger added that attorney ethics are governed by the Office of Attorney Ethics as part of the Office of Administrative Law in Trenton.

After a protest by Mr. Fajerman, Councilman Broderick advised Mr. Fajerman that he had asked his question and he felt that it had been answered by Mr. Barger. He added that Mr. Barger was not the ruling authority.

Mr. Barger reiterated that Mr. Fajerman had to ask his question of the Office of Attorney Ethics in Trenton, which had been established for that purpose.

Mr. Fajerman asked if there were something unethical going on, would Mr. Barger would just allow it to continue?

Mr. Barger said that he would not answer that question, and again referred Mr. Fajerman to Trenton.

Mayor Ekdahl advised Mr. Fajerman that the question could not be answered at this level and that he would have to go to Trenton.

Alix Ann Arlinghaus of 120 Avenue of Two Rivers stated that there seemed to be a "huge disconnect" between the information in the letter sent to the residents and the recent article in the *Asbury Park Press*, and she asked that someone on the Council address the matter.

Mayor Ekdahl asked to what area she was referring.

Ms. Arlinghaus stated that the letter lead everyone to believe that the Mayor and Council had made a decision and that the possibility of a merger was over, but the information in the September 5, 2008 *Asbury Park Press* article referred to a merger as a possibility.

Councilman Broderick stated that he had thought that the Council's letter had been clear on their position.

Alex J. Shanley of 10 Clover Lane stated that he wanted to compliment the Council for pursuing this and investigating it. He stated that he agreed with the conclusions in the letter, especially the last paragraph regarding no guarantees in the future if some kind of regional police department came together that the burden would be shared equally by all three towns. He added that, being involved in the educational process of this town, he understood the problem with regionalization and the inequities of the funding. Mr. Shanley stated that he applauded the Council's decision and that local control was the only way to go. He added that we have an outstanding Police Department, Borough workers and teachers in Rumson and if the Mayor and Council want fiscal control, they should keep it small.

Trudy Parton of 8 Heathcliff Road stated, "My sole purpose in being here tonight is, as it turns out, to agree with Mr. Shanley. I think you did a great job of thoroughly considering all aspects of the Report and I have to agree with your conclusion."

Joe Lagrotteria of 6 Forrest Avenue stated that it was a great decision made by the Mayor and Council and a fantastic letter that was sent to the residents that was well thought out. He added that the letter explained everything perfectly and he thanked the Council for listening to the people.

Retired Mayor Charles "Chillie" S. Callman of 89 Rumson Road stated that the letter to the residents mentioned that the Rumson Police Department had done a fine job in town and should continue to. He asked the members of the Police Committee if steps have been taken to make promotions in the Department and to settle the contract with the P.B.A.

Mayor Ekdahl stated that the Borough was in arbitration with the P.B.A. and the first meeting would be in a few weeks. He added that the Police Chief had made some recommendations for promotions to the Police Committee last week.

Mayor Callman stated that the letter to the residents made it very clear that the Mayor and Council were not in favor of a merger of the three departments. He asked what had happened in the days following the letter being sent for the articles in the *Asbury Park Press* to have such wrong information.

Mayor Ekdahl stated that the Mayor and Council had no control over what was written in the newspapers. He stated that the *Press* interviewed five or six individuals and came up with their story. The Mayor added that their letter stood on its own. He stated that he personally had been misquoted on one statement of fact in one article; he could not speak for the others that had been interviewed.

Councilman Broderick stated that the Council had no control over the newspaper articles but he would like to have the Mayor and Council's letter to the residents entered into the minutes of this public meeting as being their position on the Report on Shared Police Shared Services.

On motion by Councilman Broderick, seconded by Councilman Kammerer the following letter was entered into the minutes of this meeting. All in favor.

### **Findings of the Mayor and Council Regarding the Report on Shared Police Services**

September 2, 2008

Dear Resident:

The Mayor and Council of the Borough of Rumson have reviewed the final report prepared by Patriot Consulting Group, Inc. which considers the feasibility of merging police departments in the towns of Fair Haven, Little Silver and Rumson. While a merger may be feasible and have the potential to result in a **gross** savings to all three towns, upon further analysis we do not agree that a significant **net** savings would result.

In addition, the Borough of Rumson Police Department currently provides our residents with an excellent level of service. We believe this service would not be enhanced with the merging of our

police departments and therefore can not support the conclusions found in the report. We recommend that our three towns form a Joint Management Committee to meet on a regular basis with the respective Chiefs of Police in an effort to continue to improve communication among our three police departments, to explore cost saving opportunities which could include the sharing of technology, equipment and communication networks, and the possible expansion of mutual aid.

The total gross savings identified in the report is speculative and based on reducing the number of police officers employed by the three towns from 46 to 40. The report concludes that the three towns could potentially save \$1.5 million in 2011 to \$2 million a year in 2017. If shared equally by all three towns the gross savings to Rumson residents could potentially be \$500,000 to \$666,666 annually. This translates into an annual gross savings of \$192 to \$256 per Rumson household based on 2,600 households, with no guarantee of better service.

Further analysis suggests that the gross savings to our residents will likely be reduced significantly by several factors which will ultimately result in a marginal net savings and may in fact result in higher costs. These factors include:

- The report lacks a detailed scheduling analysis to support a conclusion that the three towns can be policed with 40 police officers. The gross savings stated in the report would be reduced in the event that a number greater than 40 police officers is required.
- The report acknowledges the need for a central police facility. None of our three towns have a facility large enough to house a merged police force. Several million dollars would be needed to acquire suitable land, construct a building and purchase equipment. Federal or state grants are not available to cover these costs, therefore the costs will reduce the gross savings significantly.
- Merging police departments would create administrative needs which currently do not exist. The report recommends several administrative roles including a civilian Chief Administrative Officer. The added cost of employing civilian employees would significantly offset any gross savings.
- The report assumes that certain implementation costs would be covered by grants from the State of New Jersey under the SHARE program; however, there is no guarantee that this program will be funded in the future.
- A Joint Management Committee to manage the merged police departments would require ongoing legal counsel to advise them on various issues. The annual cost of such legal counsel would be an offset to any gross savings.
- The savings to Rumson residents has been calculated using an assumption that all three towns share equally in any savings. The State of New Jersey could potentially mandate that the costs associated with a merged police department must be allocated based on relative property values similar to the manner in which the cost of maintaining Rumson-Fair Haven Regional High School are allocated between Rumson and Fair Haven. Such a mandate would negatively impact Rumson which has higher property values relative to Fair Haven and Little Silver and thus significantly reduce savings, if not increase the cost to the residents of the Borough of Rumson.

The Mayor and Council are committed to providing the highest level of service to the residents of Rumson at the lowest cost possible. In a responsible and thoughtful manner, we will continue to explore shared services with our neighboring towns as a way of either improving the level of service or reducing costs to our residents.

If you have any questions regarding the consultant's report or our findings based on that report, please contact Tom Rogers, Borough Administrator at 732-842-3300. Copies of the consultant's report can be found on the Borough's website [[www.rumsonnj.gov](http://www.rumsonnj.gov)]. The Mayor and Council will be available to answer any questions at our next regularly scheduled public meeting on September 9, 2008 at 7:30 pm. We hope you will be able to join us.

Sincerely,

### **The Mayor and Council of the Borough of Rumson**

Assemblyman Declan O'Scanlon congratulated the Mayor and Council on the above letter and stated that he agreed with many of the conclusions that the Mayor and Council had reached. He stated that he felt that he needed to address the "almost confrontational tone that this whole process has taken." He stated that "merging these departments is not what's on the table. It has never been at this point." He added that the letter stated that "We recommend that our three towns form a Joint Management Committee to meet on a regular basis with the respective Chiefs of Police in an effort to continue to improve communication among our three police departments, to explore cost saving opportunities which could include the sharing of technology, equipment and communication networks, and the possible expansion of mutual aid." He stated that this was basically all that had been discussed, but ultimately there had been some discussion on the potential several years down the road to merge some of the departments. He stated that that would not happen without the cooperation of the people, the governing bodies, police chiefs and police personnel. Assemblyman O'Scanlon stated that it had never been his intention, nor the intention of any of the governing bodies, to "push forward a merger that we all conceded we are not ready for and won't be, if ever, for several years." Assemblyman O'Scanlon stated that he did not believe that his "comments to the *Asbury Park Press* did anything other than discuss the conclusion of this letter, which recommends these councils continue to meet to figure out ways to improve service and save you money without reducing your police services." He stated that the chiefs all agreed on the need to work together and that the letter from Chief Tobias was outstanding.

Assemblyman O'Scanlon stated that we have all worked together and we will continue to do so and he looked forward to that and thanked the Mayor and Council.

Mayor Ekdahl thanked Assemblyman O'Scanlon.

Councilwoman DeVoe stated that Assemblyman O'Scanlon's congratulations were accepted and that the Council was pleased with his congratulations. Councilwoman DeVoe stated that she did not accept his comment that this has been confrontational. She stated that the Council's letter was their stand and that "we will decide in our own time when and what we will do." She added that she did not understand why the Assemblyman was at tonight's meeting because he was not Rumson's Assemblyman.

Councilman Broderick stated that he had served on the Committee with Assemblyman O'Scanlon for two years and that the Assemblyman was the one who thought of this possibility and

spearheaded the efforts. He added that two years had been spent considering this study and that it had been thought through, the possibilities analyzed, and the conclusions were drawn, which he believed were the correct conclusions. He stated that, as a Council, they would continue to pursue ways to save money or improve services. Councilman Broderick added that there was nothing wrong with the study having taken two years and a month or two for the Council to come out with an opinion because that was the process. He stated that the Council did not have the luxury of just saying, “No we want our own Police Department” and making that decision. Councilman Broderick said that no one should be faulted for coming up with the idea or following through with it.

Mr. Fajerman stated that, since there was an honorable Assemblyman at the meeting, he would like to bring up that when he lived in San Diego County he had observed that in their traffic court the judge handled approximately 500 traffic violations in about four to five hours. He stated that the three part-time courts in the municipalities of Rumson, Fair Haven and Little Silver were not efficient and could be combined to save tax dollars.

Mayor Callman asked permission to distribute to the Mayor and Council copies of some factual information regarding the Borough’s relationship with the State of New Jersey.

Permission was granted and Mayor Ekdahl explained that the information was a newspaper article dating back to November of 1990 with a headline of “Rumson Tax Protest Sent to State Officials.” He added that, not having read the article, he assumed that it had to do with education and thanked Mayor Callman.

Retired Police Chief Robert Zerr of 85 Avenue of Two Rivers stated that Rumson would loose if the towns merged police departments because Rumson would no longer be a small town.

Mayor Ekdahl thanked everyone for participating in the public meeting tonight and also the meetings held in Little Silver and Fair Haven and advised that the Council had used the public’s input when the decision had been made on how to move forward. He stated that there had been initial ideas in the Committee and Council and that many of the ideas and comments of the people were taken to heart when making the decision. The Mayor added that hopefully the Council had come up with a satisfactory solution and again thanked those in attendance.

Patrolman Kevin Gaynor of 59 Lennox Avenue and P.B.A. Local 345 representative stated that he appreciated the letter to the residents but the article that appeared in the *Asbury Park Press* the next day gave him a totally different interpretation and asked the Mayor to shed light on that.

Mayor Ekdahl asked what the area of his concern was.

Ptl. Gaynor advised that the letter was very clear in stating that the Council was in conflict with many of the items in the Patriot Report—financial, the numbers of men that would be on patrol, and other aspects. He stated that the following day’s article gave him concern that what was in the letter was not true.

Councilman Broderick stated that the difference was that the Mayor and Council *had not* written the article but *had* written the letter.

Mayor Ekdahl stated that the article had information provided by individuals from two other towns.

The Council advised that the information in the letter was the correct information and Councilman Rubin stated that they stood by the letter and that he disavowed anything written in the newspaper articles.

Ptl. Gaynor stated that he had gotten to the meeting a few minutes late and apologized if he was asking a question that the Council had already addressed. He added that he commends the Council for sending the letter out. But he vehemently declared that it was a little late and that the process should have taken place prior to the public meeting, no later than a week after the Report on Shared Police Services had been put out.

It was explained to Ptl. Gaynor by Councilman Broderick that the public meetings were a part of the process.

Ptl. Gaynor stated that the Council had not done their due diligence with respect to the Report.

Mayor Ekdahl stated that part of due diligence was listening to the residents.

Ptl. Gaynor argued with the Mayor that the Council should have reviewed the Report and gotten back to the residents with their findings, but they did not. He stated that the Council did a disservice to the residents of Rumson.

Mayor Ekdahl stated that his understanding of Ptl. Gaynor's statement was that Ptl. Gaynor didn't want the public to be heard.

Ptl. Gaynor stated that the residents should have been heard after the findings were made known. He asked why the Council had taken a month and a half to review the Report.

Maria Sacco of 29 Bellevue Avenue asked if the Mayor or any member of the Council had called the *Asbury Park Press* to ask them where they had gotten their information and the disinformation that caused such a problem.

Councilman Kammerer asked Mrs. Sacco if she had a problem with the Council's position and conclusions and stated that he felt there was no need for a discussion of the newspaper articles.

Mrs. Sacco stated that she agreed with the letter but felt that Rumson had been misrepresented in the newspaper articles and wanted to know if anyone from the Borough Council had contacted them to find out where they had gotten their information.

Councilwoman DeVoe stated that she could only speak for herself and that she had not contacted the *Asbury Park Press*.

Mrs. Sacco stated that the Mayor and Council had put out a wonderful letter and then the newspaper wrote an article with a completely different spin. She said if she had been the Mayor of Rumson, she would have called the *Asbury Park Press* and asked them what they were doing.

Councilman Hemphill stated that the point was that the letter sent to the residents was the appropriate message and that the *Press* wouldn't have retracted the stories.

Mrs. Sacco stated that she would think that the Mayor and Council would want to know for their own information, not for a retraction.

Councilman Kammerer said that the Mayor and Council would not be contacting the *Asbury Park Press*.

Kathleen Levens of 43 Forrest Avenue stated that, since there was so much upset over the difference in what was written in the *Asbury Park Press* and what the letter to the residents had stated, she would think that the Council would want to write a letter to the *Asbury Park Press* so the readers of the newspaper would get the Council's official position.

Councilman Rubin stated that Councilwoman DeVoe and he would compose a letter to the *Press* with these thoughts and hope that it got published.

Mrs. Levens thought that it would be good to smooth out all the misunderstandings.

Councilman Kammerer stated that the position that the Council had taken was in the letter that would become part of the minutes of this meeting, which made it public information, and that the minutes of each Borough Council meeting were posted on the Borough's website and some of the publications take the minutes of our meeting and print them word-for-word.

Mrs. Levens stated that everyone does not have a computer and that everyone reads the newspaper. She added that the Council should take that extra step to have it cleared up in the newspaper for all to read.

Councilwoman DeVoe stated that Mrs. Levens' point was well made.

Mayor Ekdahl thanked everyone for their participation.

**MOTION TO RETURN TO THE REGULAR ORDER OF BUSINESS:**

On motion by Councilman Kammerer, seconded by Councilman Broderick, the meeting returned to the Regular Order of Business. All in favor.

**COMMUNICATIONS:**

**LETTER FROM THE FAIR HAVEN EDUCATION FOUNDATION, INC. (A NONPROFIT ORGANIZATION THAT RUNS PROGRAMS TO ENHANCE THE ACADEMIC ENVIRONMENT IN THE FAIR HAVEN PUBLIC SCHOOLS) REQUESTING PERMISSION TO USE BINGHAM HALL FOR A FUNDRAISER AUCTION ON FRIDAY NIGHT, OCTOBER 24, 2008:**

The Municipal Clerk/Administrator advised of a letter to the Mayor dated August 25, 2008 from the Fair Haven Education Foundation, Inc., which is a nonprofit organization that runs programs to enhance the academic environment in the Fair Haven public schools, requesting permission to use Bingham Hall for a fundraiser auction to kick-off the new year on the night of Friday, October 24, 2008.

After a brief discussion, the Council agreed that the Borough's policy was to grant the use of Bingham Hall to Rumson residents and organizations.

On motion by Councilwoman DeVoe, seconded by Councilman Broderick, this communication was ordered received and permission for the Fair Haven Education Foundation, Inc. to use Bingham Hall was denied on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**LETTER FROM MARILYN WATKINS REQUESTING PERMISSION TO HOLD A ONE AND ONE-HALF HOUR OF PRAYER "PUBLIC SQUARE ROSARY CRUSADE RALLY" IN VICTORY PARK AT NOON ON SATURDAY, OCTOBER 11, 2008 IN CELEBRATION OF THE OCTOBER 13<sup>TH</sup> ANNIVERSARY OF THE FATIMA "MIRACLE OF THE SUN" WITH APPROXIMATELY 40 PEOPLE EXPECTED TO ATTEND:**

The Municipal Clerk/Administrator advised of a letter to the Mayor and Council dated August 28, 2008 from Marilyn Watkins of 2 Wilson Circle requesting permission to hold a "Public Square Rosary Crusade Rally" at Victory Park at noon on October 28, 2008 in celebration of the October 13<sup>th</sup> anniversary of the Fatima "Miracle of the Sun" with approximately 40 people expected to attend.

On motion by Councilwoman DeVoe, seconded by Councilman Shanley, this communication was ordered received and the request for the Rally in Victory Park on October 28<sup>th</sup> was denied on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**LETTER FROM MONMOUTH DAY CARE CENTER REQUESTING PERMISSION TO USE BINGHAM HALL FOR THEIR 40<sup>TH</sup> ANNIVERSARY KICK OFF CELEBRATION AND FUNDRAISER ON SATURDAY, JANUARY 10, 2009 WITH APPROXIMATELY 75 GUESTS IN ATTENDANCE; FOOD AND BEVERAGE ARE TO BE PROVIDED:**

The Municipal Clerk/Administrator advised of a letter to the Mayor dated August 28, 2008 from Heidi Zaentz, Executive Director of the Monmouth Day Care Center (a non-profit early education center), requesting permission to use Bingham Hall on Saturday, January 10, 2009 for their 40<sup>th</sup> anniversary kick off celebration and fundraiser. The letter explained that there would be approximately 75 guests that would be served food and beverages; Monmouth Day Care Center would provide proof of insurance to the Borough. The Municipal Clerk/Administrator stated that, if the Council granted permission, he would make sure that the proper insurance was provided.

Councilwoman DeVoe stated that, with the satisfaction of the insurance provision, she moved that this communication be ordered received and the request for the Monmouth Day Care Center fundraiser at Bingham Hall on January 10, 2009 be approved. Motion seconded by Councilman Shanley. All in favor.

**LETTER FROM CLEAN OCEAN ACTION REQUESTING PERMISSION TO USE THE BOROUGH PARK AT THE CORNER OF RUMSON ROAD AND WARD AVENUE FOR PARKING FOR A GATHERING AT 39 WARD AVENUE ON FRIDAY, SEPTEMBER 26, 2008 FROM 6:00 P.M. TO 8:00 P.M.; APPROXIMATELY 30 CARS ARE EXPECTED TO USE THE LOT:**

The Municipal Clerk/Administrator advised of a letter to the Mayor dated August 27, 2008 from Jennifer Smiga, Events and Development Director of Clean Ocean Action, requesting permission to use the Borough Park at the corner of Rumson Road and Ward Avenue for parking for a gathering at the home of Kate and John Grossarth on Friday, September 26, 2008 from 6:00 p.m. to 8:00 p.m. with approximately 30 cars expected.

Councilwoman DeVoe stated that she didn't like the Open Space area referred to as a parking lot.

Councilman Broderick stated that the area had not been rehabilitated since the area had been used this summer for parking and he saw no problem allowing the request.

On motion by Councilman Shanley, seconded by Councilman Broderick, this communication was ordered received and the request to use the Borough Park for parking on September 26<sup>th</sup> was granted on the following roll call vote:

In the affirmative: Broderick, Hemphill, Kammerer, Rubin and Shanley.

In the negative: DeVoe.

Absent: None.

**LETTER TO THE MAYOR AND COUNCIL FROM POLICE CHIEF RICHARD E. TOBIAS IN SUPPORT AND APPRECIATION OF THE LETTER DATED SEPTEMBER 2, 2008 THAT WAS SENT TO ALL RUMSON RESIDENTS ON THE "FINDINGS OF THE MAYOR AND COUNCIL REGARDING THE REPORT ON SHARED POLICE SERVICES:"**

The Municipal Clerk/Administrator had read the letter from Chief Richard E. Tobias prior to the public meeting on the "Findings of the Mayor and Council Regarding the Report on Shared Police Services.

Councilman Kammerer stated that he wished to thank Chief Tobias for his support.

Councilman Broderick stated that the Council looked forward to continuing to work with our Police Department.

On motion by Councilman Kammerer, seconded by Councilman Broderick, this communication was ordered received. All in favor.

**LETTER FROM GERALYN PALUMBO OF 40 LENNOX AVENUE REQUESTING PERMISSION TO HOLD A SMALL WEDDING CEREMONY WITH APPROXIMATELY 10 GUESTS ON THE BANDSTAND AT VICTORY PARK ON SATURDAY, OCTOBER 4, 2008:**

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The Municipal Clerk/Administrator advised of a letter dated September 8, 2008 from Gerlayn Palumbo of 40 Lennox Avenue requesting permission to hold a small wedding ceremony with approximately 10 guests on the bandstand at Victory Park on Saturday, October 4, 2008 at 6:00 p.m.

On motion by Councilwoman DeVoe, seconded by Councilman Rubin, this communication was ordered received and permission for the wedding ceremony at Victory Park on October 4<sup>th</sup> was granted. All in favor.

**LETTER FROM THE STATE D.E.P. ADVISING OF THE WITHDRAWAL LETTER FOR THE CAFRA AND WATERFRONT DEVELOPMENT PERMITS OF BRUCE AND GERALDINE MATZEL FOR PROPERTY LOCATED AT 41 OAKES ROAD:**

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The Municipal Clerk/Administrator advised of a letter from the State of New Jersey Department of Environmental Protection Division of Land Use Regulations advising of the withdrawal of the CAFRA General Permit #10 and Waterfront Development Permit #19 for Bruce and Geraldine Matzel for property located at 41 Oakes Road.

On motion by Councilman Rubin, seconded by Councilman Shanley, this communication was ordered received. All in favor.

**COMMITTEE REPORTS:**

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None.

**UNFINISHED BUSINESS:**

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**ORDINANCE 08-015 D TO AMEND THE BOROUGH'S LAND USE AND DEVELOPMENT REGULATIONS TO REFLECT CHANGES FOR CLARIFICATION AND COMPLIANCE IN CHAPTERS 22-2, 22-3, 22-5, 22-6, 22-7, 22-8, 22-9, 22-10, 22-11 AND 22-12. PUBLIC HEARING:**

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The Municipal Clerk/Administrator advised the Council that the Rumson Planning Board had reviewed Ordinance Amendment 08-015 D and provided a Consistency Report as required prior to approval by the Borough Council.

The Municipal Clerk/Administrator stated that an ordinance entitled:

08-015 D

AN ORDINANCE TO AMEND THE CODE

OF THE BOROUGH OF RUMSON BY  
AMENDING CHAPTER XXII,  
DEVELOPMENT REGULATIONS

was scheduled for public hearing at this time. He stated that the ordinance had been posted and published and the affidavit of publication is on file.

On motion by Councilman Rubin, seconded by Councilman Hemphill, the public were given an opportunity to be heard on this ordinance in final reading. All in favor.

There was no response from the public.

On motion by Councilman Rubin, seconded by Councilman Hemphill, the public hearing on this ordinance was declared closed. All in favor.

Councilman Rubin moved the adoption of this ordinance in final reading. Motion seconded by Councilman Hemphill and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**NEW BUSINESS:**

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**RESOLUTION TO AUTHORIZE THE PERSON-TO-PERSON TRANSFER OF THE LIQUOR LICENSE FOR MURPHY'S TAVERN AT 17 WARD LANE:**

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The Municipal Clerk/Administrator advised that the Rumson Police Chief had approved this Person-to-Person Liquor License Transfer for Murphy's Tavern from Suds and Sawdust, LLC to Trained Monkeys, LLC and all the documentation required by the Alcoholic Beverage Commission had been received.

Councilman Rubin offered the following resolution and moved its adoption:

ALCOHOLIC BEVERAGE CONTROL RESOLUTION  
PERSON-TO-PERSON TRANSFER

WHEREAS, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 1342-33-007-004, heretofore issued to Suds and Sawdust, LLC (trading as Murphy's Tavern) for premises located at 17 Ward Lane, Rumson, New Jersey; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business;

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Rumson does hereby approve, effective September 12, 2008, the transfer of the aforesaid Plenary Retail Consumption License to Trained Monkeys, LLC (trading as Murphy's Tavern), and does hereby direct the Municipal Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to Trained Monkeys, LLC (trading as Murphy's Tavern), effective September 12, 2008."

Resolution seconded by Councilman Hemphill and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**RESOLUTION TO AUTHORIZE THE REFUND OF A PROPERTY TAX OVERPAYMENT FOR BLOCK 121, LOTS 1 & 2:**

Councilman Kammerer offered the following resolution and moved its adoption:

**RESOLUTION REFUND TAX OVERPAYMENT  
FOR BLOCK 121, LOTS 1 & 2**

WHEREAS, effective 2008, Block 121, Lots 1 & 2 were subdivided to create Block 121, Lots 1.01, 1.02 & 1.03; and

WHEREAS, Peter Barnett, Borough Assessor, has advised that the assessed value for the original Lots 1 & 2 remained, in error, on the Borough Tax Records when the 2008 Tax Duplicate was prepared; and

WHEREAS, Helen L. Graves, Borough Tax Collector, has confirmed that due to this error, Block 121, Lots 1 & 2 were incorrectly billed for 2008 preliminary Tax Billing; and

WHEREAS, Stephen P. DePalma, of 64 Rivergate Way, Long Branch, NJ 07740 and 2655 Eagle Cv, Park City, UT 84060, paid the preliminary tax billing for Block 121, Lot 1 in the amount of \$7,118.63; and

WHEREAS, Stephen P. DePalma, also paid the preliminary tax billing for Block 121, Lot 2 in the amount of \$7,544.36; and

WHEREAS, Mr. Barnett subsequently submitted a Form for the Correction of Errors in Property Tax Assessments to the Monmouth County Board of Taxation to reduce the value of Block 121, Lots 1 & 2 to Zero (\$0.00) for Tax Year 2008; and

WHEREAS, Ms. Graves has requested that Stephen P. DePalma be refunded \$14,662.99 for overpayment of the preliminary billing for Block 121, Lots 1 & 2;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Rumson that Stephen P. DePalma be refunded \$14,662.99 for overpayment of 2008 property taxes for Block 121, Lots 1 & 2; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the Borough Tax Collector.

Resolution seconded by Councilman Hemphill and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**MOTION TO CHANGE THE ORDER OF BUSINESS IN ORDER TO HOLD A PUBLIC HEARING ON THE BOROUGH OF RUMSON'S APPLICATION FOR A MONMOUTH COUNTY OPEN SPACE TRUST FUNDS GRANT IN THE AMOUNT OF \$250,000.00 TO FUND THE VICTORY PARK EXPANSION—ACQUISITION OF THE NORTHERN PORTION OF 38 WEST RIVER ROAD, BLOCK 5, LOT 3:**

On motion by Councilman Broderick, seconded by Councilman Rubin, the Order of Business was changed in order for the Borough Council to hold a public hearing at this time on the Borough of Rumson's application for a Monmouth County Open Space Trust Funds Grant in the amount of \$250,000.00 to fund the acquisition of the northern portion of 38 West River Road, Block 5, Lot 3 on the Tax Map, adjacent to Victory Park. All in favor.

**PUBLIC MEETING ON THE BOROUGH'S MONMOUTH COUNTY OPEN SPACE TRUST FUNDS GRANT APPLICATION:**

Mayor Ekdahl opened the meeting to the public for comments or questions on the application to Monmouth County Trust Funds Grant and the following residents responded:

Dolores MacConnachie of 1 Parmly Street asked how much of the property was being acquired.

Mayor Ekdahl stated that it was the back half of the property that was on the river across the street from the Exxon station that sat between Brennan's Delicatessen and Victory Park.

In answer to a question by Ms. MacConnachie, the Mayor stated that the total cost of the property acquisition was \$875,000.00 and that the property would be merged with Victory Park and opened to all.

In answer to further questions on the funding for the balance of the cost, the Municipal Clerk/Administrator advised that the Borough would be applying for an additional \$250,000.00 grant from

the State at the September 23<sup>rd</sup> Borough Council to offset the cost and that a grant did not have to be paid back in the future. He explained that the Borough's recent purchase of the portion of Gunning Island was funded totally by County, State and federal grants.

Ms. MacConnachie asked if the property included the house that currently stood on the property, and if so, what would be done with the structure.

Mayor Ekdahl stated that the house was on the property being acquired and that for now it would just be shored up until such time as a decision was made as to how it would be utilized.

The Municipal Clerk/Administrator stated that the house sat within a three hundred (300') foot setback and if the house were to be removed, the State would never allow another structure of any kind (even a storage shed) to be built in that location. By leaving the structure in place, the Council can then consider all options before making a decision—possibly leaving a portion of the foundation to build some sort of structure there in the future.

Isaac Fajerman of 85 Waterman Avenue asked how the property value had been set.

The Municipal Clerk/Administrator advised that, whenever a municipality purchases property, especially when it involves funding from state or country grants, the municipality is required to use certified appraisers with two separate independent appraisals to set the value of the property. He added that the appraised values on this property had been \$875,000.00 and \$885,000.00.

Kathleen Levens of 43 Forrest Avenue asked if this property could be used for the storage of boats, a meeting place and launch for boats for the crew teams and residents—and possibly for boating lessons also.

Mayor Ekdahl stated that the use for the boating was one idea being considered by the Council.

Mayor Ekdahl asked if there were any further comments and no one responded.

**MOTION TO RETURN TO THE REGULAR ORDER OF BUSINESS:**

On motion by Councilman Kammerer, seconded by Councilman Rubin, the meeting returned to the Regular Order of Business. All in favor.

**RESOLUTION TO AUTHORIZE THE BOROUGH TO APPLY FOR A MONMOUTH COUNTY OPEN SPACE TRUST FUNDS GRANT IN THE AMOUNT OF \$250,000.00 TO FUND THE VICTORY PARK EXPANSION—ACQUISITION OF THE NORTHERN PORTION OF 38 WEST RIVER ROAD, BLOCK 5, LOT 3:**

Councilman Hemphill offered the following resolution and moved its adoption:

**RESOLUTION**

WHEREAS, the Monmouth County Board of Chosen Freeholders has approved an Open Space Trust Fund and established a Municipal Open Space Program to provide Program Grant funds in

connection with municipal acquisition of lands for County park, recreation, conservation and farmland preservation purposes, as well as for County recreation and conservation development and maintenance purposes; and

WHEREAS, the Mayor and Borough Council of the Borough of Rumson desires to obtain County Open Space Trust Funds in the amount of \$250,000 to fund the Victory Park Expansion – Acquisition of Part of 38 West River Road, Block 5 Lot 3; and

WHEREAS, the total cost of the project including all matching funds is \$875,000; and

WHEREAS, the Borough of Rumson will be holder of any interest acquired with County Open Space Trust Funds.

NOW, THEREFORE, BE IT RESOLVED BY MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF RUMSON THAT:

1. Thomas S. Rogers, Borough Clerk/Administrator authorized to (a) make an application to the County of Monmouth for Open Space Trust Funds, (b) provide additional application information and furnish such documents as may be required for the Municipal Open Space Grants Program and (c) act as the principal contact person and correspondent of the above named municipality; and
2. The Borough of Rumson is committed to this project and will provide the balance of funding necessary to complete the project in the form of non-county matching funds as required in the Policy and Procedures Manual for the Program; and
3. If the County of Monmouth determines that the application is complete and in conformance with the Monmouth County Municipal Open Space Program and the Policy and Procedures Manual for the Municipal Grants Program adopted thereto, the municipality is willing to use the approved Open Space Trust Funds in accordance with such policies and procedures, and applicable federal, state, and local government rules, regulations and statutes thereto; and
4. Thomas S. Rogers, Borough Clerk/Administrator is hereby authorized to sign and execute any required documents, agreements, and amendments thereto with the County of Monmouth for the approved Open Space Trust Funds; and
5. This resolution shall take effect immediately.

Resolution seconded by Councilman Shanley and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**FINANCIAL OFFICER'S REPORT:**

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The Financial Officer's Report disclosed the following cash on hand in the Current Fund Account as of September 9, 2008:

Wachovia Bank		
Balance:	08/12/08	\$ 5,041,132.66
Cash Receipts:		\$ 5,335,974.14
Void Check		\$ 0.00
Pre-Paid Items:		\$ (0.00)
Bills & Claims:	08/26/08	\$ (80,951.76)
Bills & Claims:	09/09/08	\$ (4,455,592.99)
Payroll:	08/15/08	\$ (213,595.87)
Payroll:	08/29/08	\$ (197,978.86)
Wachovia Bank Balance:		<u>\$ 5,428,987.32</u>
Certificate of Deposits:		\$ 8,000,000.00
Money Market Funds:		\$ 0.00
Total Current Fund:		\$13,428,987.32

On motion by Councilman Broderick, seconded by Councilman Shanley, the Financial Officer's Report was ordered received and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

**CONSIDERATION OF BILLS AND CLAIMS (RESOLUTION):**

Councilman Kammerer offered the following resolution and moved its adoption:

\$	265.00	Monmouth County SPCA
\$	52.50	Red Bank Veterinary Hospital
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\$	317.50	Animal Control Account
\$	16,800.00	Jan Communications
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\$	16,800.00	Capital Account
\$	75.00	Ace Auto Tops & Seat Covers
\$	24.00	Acme Locksmith Service
\$	642.42	Action Office Supplies
\$	10.10	Adamson Industries Corp
\$	75.00	APWA North Jersey Branch
\$	69.65	Avaya Inc
\$	1,106.90	Bob's Uniform Shop
\$	289.20	William Brush
\$	104.95	Comcast of Monmouth
\$	578.40	Edwin Connor
\$	38.00	Custom Tire Associates

\$	139.98	Dell Inc
\$	336,125.00	Depository Trust Company
\$	46.00	Deptcor
\$	149.98	F & C Automotive Supply Inc
\$	578.40	James F Gallagher
\$	834.00	Garden State Highway
\$	289.20	Ella Gaynor
\$	746.20	Good Year Auto Service Center
\$	155.00	AH Hoffman LLC
\$	268.78	Home Depot Commercial Credit
\$	15,563.85	JCP& L
\$	365.40	Kaldor
\$	434.40	Gerald Kelly
\$	578.40	William Kirkpatrick
\$	265.20	John H Lacey Jr
\$	382.44	Lawson Products Inc
\$	56.89	Mazza and Sons Recycling
\$	40.00	MCAA of Monmouth County
\$	530.00	Middletown Fire & Safety Inc
\$	850.00	Mobile Vision
\$	12,398.49	Treasurer County of Monmouth
\$	36.00	Morris Plate Glass
\$	578.40	Royal E Moss
\$	289.20	Elizabeth Murphy
\$	289.20	Jacquelyn Murphy
\$	578.40	Patricia Murphy
\$	175.04	National Parts Supply Company
\$	435.53	Naylor's Inc
\$	829.08	Neopost
\$	10,939.62	New Jersey American Water
\$	54,284.75	State of NJ Pensions/Active
\$	34,271.41	State of NJ Pensions/Retiree
\$	289.20	William J Patton
\$	289.20	Joseph Ranierer
\$	50.00	Registrar's Association of NJ
\$	100.00	Registrar's Association of NJ
\$	37.00	Residential Flag Poles
\$	1,845.42	Reusille Mausner Carotenuto
\$	205.75	Roy Press Printers
\$	289.20	J Gary Sammon
\$	63.21	Sanitation Equipment Corp
\$	578.40	James Scalzo
\$	53.43	Colleen Schulster
\$	289.20	Doris M Shea
\$	418.80	Sherwin-Williams Co
\$	289.20	Joan Shea
\$	578.40	Joseph Sorrentino
\$	125.00	Stewart Plumbing
\$	578.40	James & Pauline Tanner

\$	803.25	Targeted Technologies LLC
\$	1,343.70	TCP Petroleum
\$	4,606.00	Torcon
\$	12.16	The Two River Times
\$	2,000.00	United States Postage Service
\$	444.17	Up Tite Fasteners
\$	741.79	Verizon
\$	254.03	Verizon Wireless
\$	289.20	Emily Wagner
\$	63.01	George Wall Lincoln Mercury
\$	40.00	Jessica Wardell
\$	578.40	Lorraine & Robert Watson
\$	64.47	Mark Wellner
\$	28.79	Werner Dodge
\$	3,240.00	West River Equities LLC
\$	289.20	Ruth M Widmaier
\$	289.20	Robert Zerr
\$	14,662.99	Stephen P DePalma
\$	2,167,828.50	Rumson Elementary School Dist
\$	1,775,416.46	RFH Regional High School
\$	4,455,592.99	Current Fund
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\$	128.00	Ryser's Landscape Supply
\$	128.00	Endowment Inc Account
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\$	12,811.29	Athlete's Alley
\$	148.32	John Hird
\$	46.62	Moore Medical
\$	410.00	Nappi Trucking Corp
\$	75.42	Naylor's Inc
\$	650.22	Sherwin-Williams Co
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\$	14,141.87	Recreation Account
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\$	916.99	Current Fund Appropriations
\$	4,454,676.00	Current Fund Appropriations
\$	317.50	Animal Control Fund Expenses
\$	16,800.00	Capital Fund Disbursements
\$	128.00	Endowment Disbursements
\$	14,141.87	Recreation Disbursements
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\$	4,486,980.36	Total Of All Funds

Resolution seconded by Councilman Broderick and carried on the following roll call vote:

In the affirmative: Broderick, DeVoe, Hemphill, Kammerer, Rubin and Shanley.

In the negative: None.

Absent: None.

### **COMMENTS FROM THE COUNCIL:**

The Mayor afforded the members of the Council an opportunity to be heard at this time and there was the following response:

Councilman Hemphill stated that he would like to take this opportunity to thank Councilman Broderick for all his great work in analyzing the Report on Shared Police Services and reducing the important items down to a format that the Council could review and use to make a decision to produce the Council's final letter. He added that Councilman Broderick did a great job and the other members of the Council all agreed.

Councilman Broderick thanked everyone and stated that it was a combined effort.

Councilwoman DeVoe stated that several others had assisted Councilman Broderick in putting it together, "not to take away from you, Shaun."

### **COMMENTS FROM THE PUBLIC:**

The Mayor afforded the public an opportunity to be heard at this time and the following residents responded:

Dolores MacConnachie of 1 Parmly Street asked if the Council could give an update on the status of the New Borough Hall Building Project and if the Project was on budget.

Councilman Hemphill, Chairman of the Building Committee, stated that the building was moving along after the delays due to some dewatering issues that had to be taken care of and slowed the process down a bit. He added that the pace was picking up now and that the steel would be delivered tomorrow. Councilman Hemphill stated that at this time we were a little over budget due to the added cost of the dewatering.

In answer to a question by Ms. MacConnachie, Councilman Hemphill stated that we were about \$40,000.00 over budget. He stated that was the only big issue that had not been anticipated and pumping out the basement area was necessary before construction could continue. Councilman Hemphill added that everything seems to be on track and on budget, but it was too early to tell if there would be any other issues in the future.

Ms. MacConnachie stated that she wanted to make sure that there were not going to be any cost overruns on the Project.

Councilman Hemphill stated that there were going to be a number of other areas where the Borough saves money, so we are "still in the game." He thanked Ms. MacConnachie for her comments.

Patrolman Kevin Gaynor, as P.B.A. Local 345 representative, asked if there were any concerns for the P.B.A. membership—with regard to the necessity of the dewatering—as the Police Department would be located in the basement. He stated that the area has had a long period of drought this summer.

Councilman Hemphill stated that there were no concerns and explained the need for the dewatering: in order to get into the Police Department, it was necessary to dig down about five (5) feet deeper than the floor itself and that was when water was hit and the dewatering was necessary before the footings could be put in; after the footings went in the level was built back up well above that area.

Ptl. Gaynor asked if Councilman Hemphill was confident that there wouldn't be any problems with mold or mildew.

Councilman Hemphill stated that there was a drainage system underneath the floor that would take out anything that occurs on a high water table situation and there were barriers between that system and the floor to keep any kind of mold from coming through.

Ptl. Gaynor stated that police departments in other towns that have been housed in the basement of the buildings have experienced problems with mold and he added that the Department would like to feel confident that they would not have those problems in the future.

Isaac Fajerman of 85 Waterman Avenue asked if there had been an expert that looked into this problem.

Councilman Hemphill stated that we have the building engineers on the Project, as well as the soil engineers who have continuously reviewed the processes.

Mr. Fajerman asked if they were up on the latest techniques in drainage, because he watches the builder shows on television.

Councilman Hemphill stated that he was sure they were up on all the latest techniques.

Mr. Fajerman stated that he wanted to say that Victory Park was a great place and that all the kids love it, especially during July when the Summer Recreation Program is there, and he encouraged the Council to do everything they could to expand the Park.

Mr. Fajerman once again brought up the problem that he had with his neighbor's landscaping wall on the property line and the way it had been built, as well as the town's solution to have the neighbor pay to fix the problem that wouldn't work if the neighbor didn't agree with the price. He stated that he would like to remind the Borough that this matter was referred by the Municipal Judge to Zoning as being the responsible department. Mr. Fajerman stated that he had asked the mason that was working on the new Borough Hall Building Project to inspect the wall and was advised by him that there were the following two solutions: raise the grade of Mr. Fajerman's property or remove the wall and put the foundation in the ground where it belongs. He stated that the Borough Construction Official had given him the same advice and that he respected the Official's opinion. Mr. Fajerman stated that the Construction Official had advised him that Fair Haven had an ordinance that addressed this issue. Mr. Fajerman stated that he felt that Rumson should have such an ordinance to insure that the walls had to be finished to the neighbor's property down to the grade. The Construction Official had told Mr. Fajerman that Rumson did not have such an ordinance and should have one to address this problem. He added that the solution that the Municipal Clerk/Administrator had suggested to have a meeting would not solve the problem.

Tom Rogers, Municipal Clerk/Administrator, stated that the offer that Mr. André, the Zoning Officer, had spoken with Mr. Fajerman about was not that the neighbor, Mr. Schwartz, would hire a contractor to fix the wall, but for Mr. Fajerman to get his own contractor and decide how he would like to have it fixed; at that point Mr. Schwartz would entertain paying to have the work done.

Mr. Fajerman stated that the Borough should have a standard in an ordinance to make sure that the walls were constructed properly. He added that the foundation for the wall had been put in without a permit and that the application falsely indicated that the ground level on both properties was the same. Mr. Fajerman said that the role the Borough should play was to have an ordinance to regulate wall construction and not to be a mediator after the fact.

Mayor Ekdahl stated that, as Mr. Fajerman had indicated, that did not seem to be the case and that at this point it was a private matter between him and his neighbor. He added that it sounded to him that Mr. Rogers had volunteered to help settle this dispute.

Mr. Fajerman stated that there was also dirt thrown on his property and that Mr. Rogers had suggested that Mr. Fajerman dig it up and put it back on Mr. Schwartz's property so that he could haul it away.

Mr. Rogers stated that that was not what he had suggested. He stated that Mr. Fajerman had been very frustrated and had told him that he would not hire someone to move the dirt. He added that Mr. Schwartz had said that he would pay to have the dirt moved. Mr. Rogers asked if Mr. Fajerman had gotten an estimate from the mason that he had look at the wall to his satisfaction.

Mr. Fajerman stated that the mason had advised that, as had the Construction Official, the wall had not been built properly and that he was surprised that the town had permitted it.

Councilman Hemphill stated that he would think if Paul Reinhold, the Construction Official, had said that it was not a proper wall and had not been built correctly that he would tell Mr. Schwartz to take the wall down.

Mr. Fajerman stated that he thought that Mr. Reinhold was afraid to say that.

Councilman Hemphill stated that he didn't think that Mr. Reinhold was afraid to say anything.

Councilman Broderick stated that Mr. Reinhold would say exactly what the rules state.

Mr. Fajerman stated that Mr. Reinhold had stated that it was okay in some conversations and not okay in others and then Mr. André advised that the wall was okay because it was on Mr. Schwartz's property.

Councilman Hemphill stated that Mr. Fajerman was talking about two different issues— location of the wall would be a matter for the Zoning Officer and construction of the wall would be a matter for the Construction Official and that it appears that both have agreed that it was okay.

Mr. Fajerman stated that Mr. Reinhold had advised that it had not been built properly, that the foundation should be below ground. He added that the issue was that Mr. Reinhold either did not

have the authority or did not want to assert his authority. Mr. Fajerman stated that he could understand his concern about telling someone to tear down a wall.

Councilman Hemphill stated that Mr. Reinhold would not have any problem telling someone that they had to do that.

Mr. Fajerman stated his point to be that it was obvious by looking at the photo he had provided that it was not built properly and asked if the Council thought that walls should be allowed to be constructed in this manner.

Councilman Broderick stated that Mr. Fajerman was combining two different things: the private issue to be settled outside of a public forum and the public issue with regard to the way that our rules read. He suggested that Mr. Fajerman propose new language to be incorporated into the Borough's ordinances for the future and that the private issue has to be resolved privately according to the way the ordinances read right now.

Mayor Ekdahl stated that we have Mr. Reinhold and Mr. André give the Council a written statement as to what they have determined.

Mr. Rogers stated that he would obtain a copy of the Fair Haven ordinance.

Mayor Ekdahl stated that the Council would analyze the statements and ordinance when they were received.

**ADJOURNMENT:**

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On motion by Councilwoman DeVoe, seconded by Councilman Rubin, the meeting adjourned at 8:41 p.m. All in favor.

Respectfully submitted,

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Thomas S. Rogers, R.M.C.  
Municipal Clerk/Administrator