

**MINUTES OF A REGULAR MEETING OF THE
MAYOR & COUNCIL
HELD TUESDAY, SEPTEMBER 23, 2008**

The meeting was called to order by Mayor Hipp at 8:10 p.m. with the following Councilmembers present:

Councilman Fecanin
Councilwoman Keyes
Councilman Genovesi
Councilwoman Inguanti
Councilman Sasso

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Councilman Sommer – was present via phone
at 10:18 pm

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Mayor Hipp asked those present to join him in a salute to the flag.

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Council President Genovesi read the provisions of the Open Public Meetings Law.

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Mayor presented the following proclamations/awards:

- **In Memory of Fred Molan**
- **Joseph Driscoll - Eagle Scout Project**
- **Babe Ruth Champions – 13 year old All-Stars**
- **Lupus Awareness Month**
- **In Memory of Dorothy Clare**

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Mayor Hipp opened the hearing of citizens.

Frank Wilson, 171 Montross Avenue said he hopes a banner for the Babe Ruth All Stars could be put up across Park Ave, even though the budget is tight he thinks they could squeeze \$100 to put the banner up. Mr. Wilson said in regard to the budget, he heard it got knocked down again and at the last work session it got knocked down and the question he has in the last two years they saw a budget increase of 33% and this one is 3.39% total, he asked the Councilmembers who are going to vote against it, why are they

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voting against it? Mr. Wilson asked is it because it is too low, do they see something else that should be in there?

Bonnie Corcoran, 390 Montross Avenue thanked the Fire Dept. for their volunteerism, knowing a lot of firefighters from Sussex Cty. It's a lot of hard work, which usually is a thankless volunteer job and stated that a lot of citizens are behind them. Ms. Corcoran said she read the article briefly as she didn't attend the meeting but she did OPRA the CD and listened briefly to it, not the entire hearing so she wanted to ask with the Fire Dept. if they have ever had a hearing of such and why don't they approach other towns that have had hearings of such. She said they went to Montclair for ordinances on demolishing homes, they went to other towns to see what they are doing, maybe approach other towns if they had hearings like that. Ms. Corcoran said if it is a conflict of interest maybe they should remove it from the town solely and totally to get an unbiased view of the whole matter, these are our volunteers who do a lot of hard work. She said living next to Lincoln School when the fire alarm goes off the response time is phenomenal between getting the kids out and responding to the fire.

Ms. Corcoran said in regards to crossing guards, she was wondering if there was a line item in the budget, the Mayor talked with the crossing guards numerous times and now they are not talking and she has been told there was a line item in the budget and she just wondered if it is because they have not had a raise in a few years and she is pretty sure they are below the minimum wage, Councilman Fecanin. She said they too put their lives on the line by watching the kids and almost getting hit by drivers and parents that are on cell phones not looking.

Ms. Corcoran said as for the budget, she would also like to know why it is not passed yet when they are going into October and there is two months left in the year, she thinks they should have a budget. She said she is hearing the numbers of 3.3% and she thinks that is a great number but she also thinks it might be skewed a little because that includes them having the tax money from the Encap tax lien sale which hasn't happened yet. Ms. Corcoran said in fact it was put off again until October so why are they anticipating the money when they don't have it yet; if they don't include the tax money for Encap what would their real budget number be today, because she believes it will be more than 3.3%.

Robin Reenstra-Bryant, 450 Riverside Terrace said as the Manager of the Downtown Partnership she was asked on behalf of the Executive Board of Trustees to make sure the Council was aware of the delays in passing the budget would mean that the special assessments for the Downtown Partnership can not be issued or collected. She said those fees form a major portion of the budget for the Partnership and there by impact significantly on the items they can accomplish during the year. Ms. Bryant just wanted to bring that to their attention and make sure everyone was aware that there is follow-up further beyond the budget itself and the issuance of the tax bills to the town, the special assessments are also impacted.

As no other citizens wished to speak, Mayor Hipp closed the hearing of citizens.

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Councilman Fecanin said in response to Mr. Wilson regarding the budget and why he voted against the amendment, there are a lot of "what ifs" in the budget, he has been in the process for nine years and has never seen it take so long, he has never seen the numbers down so low-balled that's ridiculous. He thinks that in the future they are going to be asked for anticipated money, emergency funds, the number looks good now but truthfully he thinks it is going to be around 11%. He said how can they anticipate gas, only \$1,000 more from last year, that's ridiculous, they are selling away property the cellular tower across the street and he thinks that is a bad move for the town just to make the budget look good. Councilman Fecanin said they are not worrying about the future of the town.

Councilwoman Keyes said to clarify they haven't actually voted on the budget, they have been voting on the amendment to the budget.

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Councilman Genovesi made a motion to move that all the items on the Consent Agenda be passed, seconded by Councilwoman Inguanti with all members present voting aye.

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Councilman Genovesi moved to approve the Minutes of the Regular Meeting of August 26, 2008, seconded by Councilwoman Inguanti, all members present voting aye with the exception of Councilwoman Keyes who abstained.

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

1. In the amount of \$5,088.00 payable to Friends of Rutherford Soccer – Travel Soccer referees.
2. In the amount of \$75.00 payable to Elaine Volpe – refund for Fall Soccer.
3. In the amount of \$35.00 payable to Motrja Fedorka – refund for Fall Soccer.
4. In the amount of \$25.00 payable to Kevin Loughlin – refund for Fall Soccer.
5. In the amount of \$35.00 payable to Dungho Oh – refund for Fall Soccer.
6. In the amount of \$45.00 payable to Teri Spettell – refund for Fall Soccer.
7. In the amount of \$25.00 payable to Steven Savitsky – refund for Labor Day Street Fair.

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That bills in the amount of \$1,083,085.55 payable from the Current Account and \$400 from the Public Assistance Trust Fund #1 all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, Fire Chief Mark Gentile has requested permission to attend the New Jersey State Firemen's Convention; and

WHEREAS, this conference to be held in Wildwood, New Jersey on September 12, 13, and 14, 2008 provides a discussion of programs which will be of benefit to our residents; and

WHEREAS, it has been determined that the program is educational in scope and thus would benefit the Fire Chief and the Borough,

NOW, THEREFORE, BE IT RESOLVED that Mark Gentile is authorized to attend said conference and the Treasurer is hereby authorized to issue a warrant in the amount of \$300.00 to Mark Gentile to cover the cost of registration and expenses, and is directed to charge same to Educational Program for Employees (Account No. 6200); and

BE IT FURTHER RESOLVED, that upon his return, the Fire Chief shall submit a written report to the Mayor and Council itemizing the actual expenses incurred and shall outline the primary topics covered at this conference, their relevance and possible application to his employment with the Borough.

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

WHEREAS a lien on the parcel of property referred to as Block 21, Lots 10 & 11, more commonly known as 185 & 187 Prospect Place and assessed in the name of Bergen

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County Developers was sold at the Borough's Tax Lien sale on May 22, 2008 to Crusader Lien Services and;

WHEREAS the necessary arrangements have been made with the Tax Collector's Office for the redemption of this lien and a check in the amount of \$12,143.79 has been deposited in the Tax Sale Suspense Account and a check in the amount of \$15,000 was deposited in the Premium Trust Account on the day of the sale;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant made payable to Crusader Lien Services in the amount of \$27,143.79 in settlement of Tax Title Lien # 0200802.

Principal.....	\$ 11,588.53
Interest & Penalty.....	\$503.26
Recording Fees.....	\$ 52.00
Premium.....	\$ 15,000.00
 TOTAL.....	 \$ 27,143.79

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS due to a computer transposition error the property at Block 34, Lot 16 more commonly known as 78 Donaldson Avenue, received both a 2007 regular and a 2007 added assessment on the same improvement, resulting in an excess 2007 overall assessment and therefore an overpayment of 2007 taxes in the amount of \$3,343.76, and;

WHEREAS the taxpayer has paid both amounts in full; and

WHEREAS the tax assessor and collector confirm the above facts and the correction of same for 2008;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant in the amount of \$3,343.76 made payable to Anthony & Denise Zaza and charge same to 2007 taxes.

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

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WHEREAS a lien on the parcel of property referred to as Block 30, Lot 4, more commonly known as 340 Mortimer Avenue and assessed in the name of Luis O. Salto was sold at the Borough's Tax Lien sale on May 22, 2008 to Robert Rothman Pension Trust and;

WHEREAS the necessary arrangements have been made with the Tax Collector's Office for the redemption of this lien and a check in the amount of \$14,241.19 has been deposited in the Tax Sale Suspense Account and a check in the amount of \$40,100.00 was deposited in the Premium Trust Account on the day of the sale;

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue a warrant made payable to Robert Rothman Pension Trust in the amount of \$54,341.19 in settlement of Tax Title Lien # 0200803.

Principal.....\$ 13,739.96
 Interest & Penalty.....\$449.23
 Recording Fees.....\$ 52.00
 Premium.....\$ 40,100.00

 TOTAL.....\$ 54,341.19

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9/16

Under the Consent Agenda, Councilman Fecanin moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye except Councilwoman Keyes:

WHEREAS there is an overpayment of 2008 third quarter taxes for the following properties, and;

WHEREAS it has been determined that the parties listed are entitled to a refund of these overpayments;

NOW THEREFORE BE IT RESOLVED that the Financial Officer be and he is hereby authorized to issue warrants totaling \$14,734.51 and charge same to 2008 taxes.

BLOCK	LOT	NAME & ADDRESS	AMOUNT
11.01	1.02	First American R.E. Tax Service Re: 510 Riverside Avenue	\$2142.38
36	21 C0101	Richard J. Allen, Atty. Trust Acct. Re: 126 Hackett Pl. Unit A101	\$1166.76

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94	35		George T. Szymczak Atty. Trust Acct. Re: 5 St. Clair Avenue	\$2450.00
104.01	51		Derek & Maura Keyes 135 Daniel Avenue	\$2264.87
114	53		Home Focus Services, LLC Re: 268 Ridge Road	\$2658.00
144	15	C004D	Howard F. Koval Re: 130 Orient Way-3D	\$1132.97
135	3		Sean P. & Lori Flaherty 181 Sylvan Street	\$2919.53

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That the following warrants be issued in the amount indicated for the purposes stated:

1. In the amount of \$35.00 payable to Erli Lemly – refund for Girl’s Volleyball.
2. In the amount of \$140.00 payable to Explore Science Inc. – payment for Day Camp 7/11.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

RESOLVED: That bills in the amount of \$1,177,148.78 payable from the Current Account, all as detailed as follows on the attached sheets, be passed for payment, warrants drawn and charged to the proper accounts. A complete list of these bills is on file with the Borough Clerk.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS the Borough of Rutherford has received the 2007 NJ Homestead Rebate for the following property owners and:

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WHEREAS the following property owners are entitled to a refund of these monies as their 2007 property taxes are now paid:

NOW THEREFORE BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized to issue warrants totaling \$12,104.81 as follows:

BLOCK	LOT	NAME & ADDRESS	AMOUNT
32	15	Bender, James R. Jr. & Grace 90 West Newell Avenue	\$1000.00
56	1.01	Bustamante, Roberto & Ana 345 Mortimer Avenue	\$ 633.12
104	4	Cicchine, John 102 Daniel Avenue	\$ 222.50
34	18.02	DaCruz, Ricardo 70 Donaldson Avenue	\$1013.68
104.01	71	Dave, Minesh & Neelam 150 Wheaton Place	\$1595.12
27.01	12	Hatler, George & Betty Ann 23 West Pierrepont Avenue	\$1417.06
114	72	Hirst, Chas. Jr. & Barbara Cobb 124 Woodland Avenue	\$ 674.05
137	5	Lynch, Richard E. 99 Sylvan Street	\$1700.26
86	27	Mamone, Vincent & Janet 88 Montross Avenue	\$ 880.57
151	18	Ottavio, Rodrigo & Fernanda 260 Feronia Way	\$1000.00
43	17	Sabatini, Rhonda, L. 60 Morse Avenue	\$ 429.35
18	3	Trinidad, Carmelo & Dania 204 West Passaic Avenue	\$1539.10

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Department of Veterans Affairs has certified that the following property owner is 100% disabled as a result of a wartime service-connected disability as of February 15, 2008;

NOW THEREFORE BE IT RESOLVED that in accordance with N.J.S.A. 54: 4-3.30, ET SEQ. the Tax Collector and Tax Assessor shall allow said claim of 100% Total Disabled Veteran status and exemption of property taxes to Armand Torre, Block 158, Lot 17, more commonly known as 287 Feronia Way.

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For, **FINANCE**, Councilwoman Inguanti stated that it was nine months since she took office and became Finance Chairwoman, she learned a lot in that time. Councilwoman Inguanti said in her past reports she tried to spare the public some of the minutia of municipal finance; but she is going to share some of the process and what she has been through. While she appreciates Councilman Fecanin who spent two seconds writing down his thoughts she has spent months and that is with all due respect for the years he has put on the Council, but it was quite a learning curve for her. In January when the new Governing Body took office, they were looking at approximately 12% tax increase if they had done nothing. She thinks it was fairly unanimous among both sides represented that it would not be a good idea to come forward with double digit tax increase. They spent several weeks looking at the numbers, trying to be realistic in what they thought was fair assessments of what they would need to run the Borough in the areas they control. On March 4th they introduced a budget at 6.9% and about two days later the State cut the municipal aide by \$197,000. When they passed the introduced budget it included a line item for the sale of the cellular lease, she had hoped that it could be a place holder while they jiggered the numbers and looked for ways to save money or increase revenue. She had two or three meetings with Court Administrator Kathy Laudicina, she talked extensively with the council people in N. Arlington because they were looking to do a shared services agreement with the Court. She thought naively that it was something they could just do, but it's not, they have to do feasibility studies and get grants and it's fairly involved so that seemed to be impractical in terms of really acquiring additional revenue this year. With the loss of the municipal aide from the State and with not being able to find easy sources of increasing the revenue she reluctantly agreed to keep the sale of the cellular lease in the budget. This was all the while Encap was unraveling, they had to work with attorneys because they were looking at potentially very contentious issues regarding a very aggressive developer who when his attorney called her said he thinks they will just put all the affordable housing for the Meadowlands down at Encap, how about 20,000 units? She was speechless, she thanked him for the phone call and hung up and she knew she had gone from being a stay at home mom, three kids with reasonable interest and civic life to swimming with the sharks and she knew they needed help. So she sought out advice from the good folks in N. Arlington because they had been up against it for a considerably longer time with Encap and they

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recommended the attorney they did hire and her thought when hiring was that they were going to be assessing and that Encap was going to be engaging with a new developer, with deep pockets and he would fund the escrow account and those legal costs would be covered, that is how it is supposed to work. She said a few weeks later the New Jersey Meadowlands Commission with no warning to the municipalities involved, declared the contracts in default and pulled the rug out from under them and soon after that Encap declared bankruptcy so that meant hiring a bankruptcy attorney. These are all things that she certainly couldn't predict as they worked on the budget. Include in that the unfunded mandates from the State regarding employee benefits and other programs, keep in mind that they also had significant hangover issues from the previous administration. This presented them with certain choices and if she has learned nothing over the last several months it is that no budget is perfect, no budget answers every need or every question. It is a process of trade-offs, concessions, compromise and doing the best that they can. One of the concessions that she made was the idea of selling one of the cellular leases, it gives the Borough about \$100,000 a year in income. By selling one lease they will be removing about \$30,000 of income of recurring revenue for a one-time payment of approximately \$330,000. To her it seemed a reasonable trade off considering that the cell technology could, over the next few years, become antiquated and if it doesn't they still have two leases generating approximately \$65,000 in revenue to the Borough with the option to acquire more cellular towers if they wanted. Although she is not nutty about that either. The other decision was to avoid more capital improvement debt; they have approved approximately \$5,000,000 in debt which was approved but not issued as bonds, it will probably be issued as bonds sometime next year. Of that money approximately \$2,000,000 give or take, was sort of sitting there, it had been attached to projects and some of the projects were defunct, some had been achieved through other means, some were desperately needed to be accomplished. They were continuing to pay interest on the monies. This prompted a desire to do a review of all of the capital improvement plans and accounts, she spent several hours with Ed Cortright going over every account, there was \$2,000 set aside in the Recreation Improvement Account. She mentioned such to Councilman Sasso and he said they need new soccer goals the other ones are falling apart and endanger of injuring a child or coach, and he asked if they could order new soccer goals. She said sure the money is there for recreation improvements. What she did was spend several days combing through that information and she came up with a capital improvement memo for review by the Council so that working together they could set a realistic goal. She was aided in this by Borough Clerk Kriston, Ed Cortright and the Borough Engineer Berge Tombalakian and what Berge discovered in going through the files and trying to piece together where there was money and where things were completed and not completed was that they were seriously delinquent in paperwork required by the Dept. of Transportation, by County, by the State. She said this is very serious when they go to apply for continued grants and the paperwork is not accurate; they count as points against them in terms of being awarded monies. Berge spent several days going through and interestingly she received that day an email from him addressed to herself and Ed Cortright and this is what he wrote:

"Since CMX is not being responsive in this closeout, I am going to take a stab at it". Councilwoman Inguanti said to keep in mind that this has been going on since April. "Attached please find the following: Draft estimates, Certificate No.12 based on information provided in the last Certificate No. 11 dated November 30, 2004. This is just

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a reconciliation estimate to close out the project; -A reconciliation change order – A draft CFO certification for your use – A draft PD-1 final voucher. This is provided for your use and review. I looked at all the cancelled checks that you provided and it totals \$811,753.71 including the settlement agreement payout of \$21,260.30 from September, 2006. A summary is provided on the PDF of the estimate certificate on the right side of Page 1. Could you check in your files if this amount is correct? If it isn't I will correct my info accordingly. Let me know if this amount is correct or needs to be revised. I am going to try to sit down with NJDOT next week to go over this. Hopefully we improve our chances of getting the \$77,500 that is due the Borough."

Councilwoman Inguanti said this is just one of many things like that, just sitting in a pile not being dealt with. Another issue that she found was that they had a lingering grant for \$100,000 to do ADA improvements to the building. There had been preliminary steps, there had been a preliminary architecture report, engineering report but it hadn't been followed through on. When she instructed the CFO to reach out and find out what the status of the grant was, he said it was a good thing that she did that because they were actually within days of losing that grant. She said she received today from the Borough Engineer, the architect for the ADA project at Borough Hall has some preliminary drawings that they would like to review with the Borough to finalize. She would like to do it this week if possible because they have to have that job under construction by 12/31/08.

Councilwoman Inguanti said again hours of time straightening out things that had been left by the previous administration. Next came the discovery that there were squirrels in the attic of the building eating stuff and scaring Mary Kriston any time she had to go up there. This opened up quite a can of worms because she just happened to be sitting at Mary's desk going through her mail one day in walked John Uhl and she found out that the electrical system of the basement in the building was problematic. The irony is that this is also where the Fire Marshal's office is located. Councilwoman Inguanti also found out that the computer system is being held together literally by rubber bands and hooks and things strung up to the ceiling. So she asked but they have all these grants and money and all the Encap money why wasn't that dealt with, it wasn't a priority. She suggested to the Council that they form a Technology SubCommittee to improve the computer system to make it more efficient. They have Borough Employees whose computers are running on Windows98, Microsoft doesn't support Windows98 any more. Just the past week the system crashed, it took about a day and half to get it up and that was with crossed fingers, bleeding knees because the original estimates were that it was going to be a week. So she kept chipping away, finding new things that needed to be dealt with and that were really emergent. Spending time in Ed's office trying to stretch the Capital Budget and one thing kept bugging her and it was from the night that they introduced the budget. It was that they didn't provide for roads, sidewalks, or curb improvements and this was of particular importance to Councilman Fecanin. Councilman Fecanin was right. She said they should include every year a little something for roads, curb cuts and sidewalks. So once again she called the Borough Engineer and said look they have this Community Development Grant to do improvements to Grand Avenue, can they sharpen their pencils a little bit and make that money stretch maybe alter the project a little bit so that they can loosen up some money in other places to do the improvements

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they need to do to provide for them. They need to especially get on a schedule with sidewalks and curb cuts and curbs especially and he did. She said they have \$50,000 slated for curbs, \$25,000 to do the section of Ridge Road which is just an abomination. It is not a lot but they are also doing a major renovation and improvement to Grand Avenue.

Councilwoman Inguanti said the next choice they were faced with was doing estimated tax payments. Doing that provides, along with the operating capital, the operating budget they need to continue the operations of the Borough. If they are late in doing the budget they can either do estimated tax payments or they can do a tax anticipation note. They also reached out to the Board of Ed and asked for their help, who has a significant surplus. Rutherford used to have one when the Republicans were in office before it was spent down to about \$250,000 by the previous administration. The Board of Ed worked with them and said during the summer they can float some of the payments they have because the Borough is the collecting agent for the monies, the tax monies and they distribute it to the Board of Ed and the Library. So they asked them for help, they don't want to do a tax anticipation note, which costs the Borough an extraordinary amount of money in interest the following year. The tax anticipation note this year in interest she believes was in the neighborhood of \$300,000 - \$350,000. By doing estimated taxes, they avoid that; the other issue with tax anticipation note is that it could affect the bond rating. They didn't want to do a tax anticipation note because they intend, depending on what happens to the market, but they intend to issue the bonds next year for the Capital Improvement monies that they have been acquiring over the last several years. This year the Governing Body was responsible for more than a \$300,000 payment because the Governing Body last year chose not to do estimated taxes. The next thing was they decided to apply for extraordinary aid, thankfully they received \$200,000 and it was a wash because the municipal aid that they took was about \$197,000.

As she said earlier they had to hire Bankruptcy Counsel for Encap when the State finally decided the project was not salvageable. The lien sale was scheduled for September 17 and there was a discrepancy with the interest payments fortunately our tax collector caught the discrepancy in time because the way things are done is that it has to be to the penny and if it is not, apparently it is some huge crisis. Of course the fact that Encap was a textbook case of malfeasants, a complete lack of attention to, not even detail just basic stuff all along they have had repeated calls of tremendous interest in acquiring the tax lien. It is kind of a no-brainer for a fairly small investment in terms of what people with deep pockets can do; they receive an 18% interest payment once the lien is paid off. Which brings her to the lawyer fees, they budgeted approximately \$125,000 for legal fees, it wasn't enough. At the time they thought Encap was going to go into an escrow and if Highland Cross comes up that will be in escrow and try to mind their p's and q's and keep things under control; well it is impossible. Lawyers are seemingly everywhere and sometimes she wonders if that is why there is so many lawsuits but it's sort of supply and demand thing. To date they have spent approximately \$225,000, they will probably end of spending, she thinks upwards of about three once all is said and done. Some of that may very well end up in an escrow account and she also suspects, she hopes that they will be provided with a redevelopment fund when the Encap debacle

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gets straightened out at the State level and some of the legal fees could potentially come out of that. Almost all of the legal fees, they are dealing with issues that they did not create; personnel issues-significant personnel issues then again are from actions taken by the previous Mayor and Council. They also inherited an inordinate number of tax appeals, she thinks the final count was 133 from the reval that was conducted at the height of the market. The reval was required and unfortunately it was done at the height of the market and now as they all know most of their housing values have gone down. So people are, and appropriately so, appealing their taxes and they are winning and winning at last count to the tune of about \$400,000 that we had to give back. The town has lost several million dollars in the assessed value of the tax base. This is just like a little of how much she has been doing and what Ed Cortright has been doing and Mary Kriston, the Borough Engineer and the Dept. Heads. She said she's sat on the other side of the dais and she always appreciated the fact that the former Mayor was always considerate of the Dept. Heads and while they disagreed on a lot of things, she has to say in regard to the Borough employees in general, it is one thing that she absolutely whole heartedly agrees with. There was a lot of fear, she thinks, when they came into office, people said the Mayor is going to come in and slash the jobs, privatize everything and she never wanted to do that. They came to the Borough employees and said it is a tough year, we need your help, we need to cut overtime, we need to keep the operating budgets low or zero increase, we need to find places to cut and they did. Over the last couple of months as we were really winding up the capital budget, she went to them again and said we really need to sharpen the pencils on this. Coming in late with the budget, they had to wait for the extraordinary aid, there is a lot of things they need to wait for, so what she will endeavor to do and she will try to do is next year come in much quicker with a budget and that any issues in the capital budget, especially the Fire Dept. make some allowances for them and they will try to get those things right off the bat. They were very helpful and one thing that was very important to them, they said if that means they get a computer system that doesn't crash and allow them to operate more efficiently it would be worth it. She promised them that is something that she would do her level best to keep in the budget.

Councilwoman Inguanti said those were the choices that they made. She repeatedly asked her colleagues for their thoughts, she tried to respect things that seemed important to them. She looks at it like it is not her budget, she may have used the word over the last ten minutes that she has been talking but this is their budget and everyone's budget. So she explained to all her thinking, the thinking of the Dept. Heads, the professionals, their goals. In December 12, 2006 in a meeting of the Mayor and Council a work session she believes it was prior to a regular meeting, there was a presentation. It was right after the articles started coming out in the Bergen Record about what a disaster Encap was and the Borough Attorney at that time, their Redevelopment Bond Counsel Mr. Baumann was asked to make a report to the Council and answer any questions they had. She read directly from the transcript, Mr. Baumann speaking.

"For years, December 04, I guess when we penciled the financial agreement we provided in there the structured payment terms, amortization and other terms and conditions concerning the pilot balance, shall be determined by Encap in its sole discretion and as with consolation that the Borough provided. This is the important language

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provided however the pilot bonds shall be non-recourse to the Borough and shall be structured so as the pilot bonds do not count against the Borough's debt limitation. You may recall that our role when we were undertaking this project was to negotiate a financing arrangement that A) assured the Borough that there was no circumstances where the failure of that project to succeed could have an adverse effect on us."

Councilwoman Inguanti said well, it has had an adverse effect on them. Moving ahead.

Attorney Baumann-She would just like to report that Attorney Baumann works for the law firm of McManimon and Scotland as did their Borough Attorney, Anne Marie Rizzuto. Quoting from Mr. Baumann "This transaction could also go through the New Jersey Economic Development Authority. It's just been selected to go through the Bergen County Improvement Authority, partly just to keep it in the family, in the County. But it could have just as well gone through the NJEDA and the Local Finance Board."

Attorney Rizzuto "That transaction was approved."

Well that was because the NJEDA didn't require the Local Finance Board review.

They were speaking of an improvement that happened in the City of Elizabeth.

Councilwoman Inguanti said she thought that was interesting given the recent events where the attorney for the BCIA is under indictment.

Moving ahead Attorney Baumann "Encap should produce enough benefit to the Borough's existing taxpayers. We took some of our pilot payment money upfront to help offset current taxpayer's and we have a program that allows us to enjoy those benefits over the next 30 years for future taxpayers. So we struck a balance, we think for the current taxpayers and the budget. As we went through it in the years we received pilot payments and we have future benefits to the taxpayers. So if the project gets built, we do great, we get more money off the project than we pay in services. If the project doesn't get built then we are no different then we are today."

Attorney Rizzuto "Oh no, we're better except the landfills are remediated. Right in terms of ratables if it is undeveloped we are hurt, if it gets developed we do better but in each case the landfills get remediated. That was the goal when this project began."

She said so even at that point, they were applying the same principles, the trade-offs, the compromises only they were doing it with a multi-billion dollar land deal. This land hadn't been developed and this is why the Local Finance Board rejected it. They are asking for pilot payments and they haven't even broken ground on it. The land wasn't clean. They were supposed to get \$186 million from Encap over 30 years. The \$6.5 million they did get is gone, it is all spent, there is little or no surplus, they acquired massive debt over the last eight years and they still had double digit tax increases in 06 and 07. One thing that the previous Governing Body did do or they tried to do was go to the Local Finance Board. We are asking tonight for permission to go to the Local Finance Board with this Governing Body because they have the \$500,000 in tax appeals that our citizens and property owners are winning. We are endeavoring for the benefit of the taxpayers, to put those out for bond and have those payments spread out for three years next year in 09-11. Again they feel it is a reasonable compromise to try and alleviate the

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tax burden, to make the increase a more manageable pill to swallow. The previous administration last summer had wanted to restructure the debt, which is not a bad choice, unfortunately it was rejected and again she read from the transcript of the Local Finance Board. Present at the hearing were Mayor McPherson, Mr. McManimon, Mr. Baumann, and Mr. Wielkocz representing the Borough, there may have been others; Mr. Whitecolts was the Borough Auditor. And this was before Susan Jacobucci at the LFB, a woman who she thinks there should be a statue erected to in the center of Trenton.

Mr. Wielkocz says "And if I might to back up what the Mayor just said, by doing this we give ourselves some breathing room." Councilwoman Inguanti said what they were asking to do was to take all of the debt basically push out the payments for two years because the bill was coming due. All the debt, almost like a balloon payment was coming due in regards to the debt that had been acquired. One of the most significant debt instruments was the lease agreements they had with the Bergen County Improvement Authority, which is to buy cars. Now there are benefits to going to them, no doubt about that, you don't have 5% of the bonding, the amount that you are borrowing. It's like a bank, you take the money out. There are benefits to it but when money is too easy to get into debt, just like a credit card you can get yourself into trouble and she thinks that was what happened. They had millions of dollars in BCIA debt; so they were trying to restructure the entire debt.

Mr. Wielkocz says "And if I might to back up what the Mayor just said, by doing this we give ourselves some breathing room. If we were to just apply for Extraordinary Aid and hope to get this pot of money to fill the hole this year, what are we going to do next year, there is still a problem. You are replacing revenue that's gone, with revenue that's going to be gone next year. At least this way we are able to deal with the appropriations side."

Ms. Jacobucci questions "Do you know that, that the revenue is not going to be there next year?"

Mr. Wielkocz "If we're relying on Extraordinary Aid to fix our

Ms. Jacobucci interrupts "I'm talking about, you said the hole was mainly created other than the ordinary hole, by Encap of \$1.8 million. Remember all the 6.5 million, well it wasn't there last year. It was supposed to go down to \$200,000, that was contractual. They actually never even gave us that. The 1.8 million that you aren't getting this year, that you've gotten in the past, right?"

Right.

Ms. Jacobucci, "I assume the last three years you've gotten the \$2 million or whatever it is.

Mr. Wielkocz "Different amounts, but a much larger number than obviously than their getting this year."

Ms. Jacobucci "And you have some projects that are coming on and your saying what are you going to do next year, and my question to you is, what are you going to do the year after?"

Mr. Wielkocz "We believe that what we've laid out here is a five year pretty comprehensive plan of utilizing the debt restructuring and then the re-issuance of debt into the budget taking into account the increases that they are going to be facing with health benefits and State pension and some of the other things that they really don't have a whole lot of control over. And to be able to provide only incremental increases in the

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tax levy to the residents while not banking on this project that may not happen. If it does happen that it is to the benefit of everyone in Rutherford, if it doesn't happen, we've not taking it into account so that we're back here a year from now or two years from now with maybe even a bigger problem. While we understand it doesn't make good business sense, sometimes or most times to pay more tomorrow than you could pay today, but sometimes you have to make a hard decision and sometimes you have to look at the cost benefit of what the dollar is worth today and what it is going to be worth 15 years from now. Again you wrap all this together on a present value basis, its \$100,000 and over that 15, 16, 17 year period annually that's not a heck of a lot of money to be able to provide a significant tax relief to the residents today and we understand that it's not something that you like. I got news for you, we all like it. If we had our druthers we'd be getting the pilot payments and we wouldn't have to come down in the first place and have this discussion.

Mr. Light, who is a member of the Local Finance Board says, "You know what, I think we've heard enough. We have to get it on the floor to make a decision. We're saying the same thing over and over again. I'll offer the application to get it on the floor for a vote unless they want to withdraw it."

Mr. Fox, "Second"

Ms. Jacobucci, "Roll call"

Ms. MacNamara makes the roll call; Ms. Jacobucci "No"; Mr. Light "I have to vote no also, it's not a good financial plan"; Mr. Fox "Yes"; Mr. Ewing "Abstain"; Ms. DelGado "No"; Ms. Jacobucci "Thank you".

Mr. McManimon "Thank you very much".

Councilwoman Inguanti said the idea of selling a \$30,000 revenue source, the cell tower or the lease agreement is some how an absolutely incredibly irresponsible act on the part of this Council, on the part of herself as Finance Chair is ludicrous. She said when you take into account the fact that the previous Governing Body rolled the dice on a multi-million dollar land deal with pilot payments and tax agreements and abatements going out for 30 years. She reminded them that this is a development that was slated to be put on a landfill, not even a landfill, it wasn't a landfill for landfills are regulated, it was a garbage dump. Councilwoman Inguanti said they don't know what is out there, they put a cover on top of it, they put dirty dirt on top of it as they found out because no one was paying attention and apparently they are supposed to believe that the DEP, the NJ Environmental Infrastructure Trust Account. She said all these people and no one talked to each other, everyone was operating and she actually believed that members of the Council thought they were doing the right thing. Councilwoman Inguanti said they thought that they were getting the landfills remediated but that doesn't change the fact that they engaged in a very speculative financial deal, for all the right reasons, they wanted to benefit the taxpayers of Rutherford. So she has to say (and maybe it is because she is a novice at it, she is naive, she doesn't think she is a politician by nature, at least she hopes she is not) and she never expected to be shut down on the budget. Councilwoman Inguanti said she tried to be very open with her colleagues, she tried to be very respectful of them, she tried to make it known to them that they were perfectly free to discuss anything with Mr. Cortright if they had problems and she thinks that they put forward a fairly realistic budget. She asked is it perfect no, in the one area where they are having trouble is legal, as she delineated but she reminded her colleagues that last

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year they budgeted \$240,000 for legal and spent \$397,000 on legal and that does not include the \$187,000 that they are supposed to pay to McManimon and Scotland for the legal advice that got them rejected and that brought them Encap. Councilwoman Inguanti said that money should rightfully be coming out of an escrow account funded by Encap but as they all know that is not going to happen. She said a week ago they got a letter from McManimon and Scotland saying they want their money, did we put them on the bankruptcy lien because they would like timely payments for legal advice that put the Borough in such a difficult financial position. She continued saying the Encap didn't pay their taxes last year, it hasn't paid them this year, they didn't pay the pilot payment last year, they are talking about hundreds of thousands of dollars. Councilwoman Inguanti said she thinks the budget is good and realistic, she wished the tax lien sale would have happened Sept. 17 and she believes it will happen and she thinks the sale of the cell tower lease is a responsible trade-off, it is a \$30,000 a year of revenue that they are sacrificing for infusion of approximately \$335,000. She thinks it's responsible given the past practices of the Council, and it is incredibly reasonable.

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Mayor Hipp opened the public hearing on the 2008 Municipal Budget.

Sharon DeVecchio, 237 Mortimer Avenue wanted to applaud and thank Rose Inguanti for an unbelievable impact of information in the last 20 minutes. Ms. DeVecchio said most of the people know her for attending many meetings, probably more than some of the Council people and she has to say that a lot of everything she said was truthful, it was direct and the impression that she feels not just as a taxpayer but as an employee, it's heartbreaking and emotional. She said there is a lot going on and a lot of the Borough employees are very nervous, there's a lot going on in this town, they have a lot of financial issues across the board, across the river, and she just thinks we have some tough days ahead but she has faith that the Borough employees will pull together and do everything they can to make things nice and smooth including bagging of leaves.

Kim Birdsall, 44 Summit Cross said with all due respect to the hard work that was done for the budget and the learning curve that goes along with that, she appreciates the history but she is concerned about the bottom line, is the budget accurate? Ms. Birdsall asked about the anticipated revenue numbers that they talk about, where's the proof that the revenue will be coming down the line, are the increases and decreases that are projected in the budget accurate? She said that there seems that there is none or little money for roads, infrastructure and of course budgets are about compromise but what is the status of the services that they will be receiving in Rutherford. Ms. Birdsall asked why is there still going to be an increase in taxes when there is a decrease in those services and she points to things such as the mentioning of Ridge Road being fixed but what about the other roads within town, as well as leaves. She said she believes Rutherfordians deserve a long term plan and budget, not just a band aid approach to make things look good now but on the back-end there will be repercussions.

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Rick Inguanti, 48 Clark Avenue said he came in the midst of Councilwoman Inguanti's speech, he applauds her diligent work on this, it is incredible and he thanked her on behalf of himself and his family and the town for it. Mr. Inguanti said he was flabbergasted when Rose came home, (he is married to the Councilwoman) and she told him that the amendment to the budget was voted down. He said historically he always thought that at a local level a balance would be a good idea of Republicans and Democrats. Mr. Inguanti said if this cuts purely along party lines, this is very injurious, if they are going to step up and be vocal in their opposition, he is waiting for them to do so to have a real honorable dialogue.

As no further members of the public wished to speak, Mayor Hipp closed the hearing and asked if any member of the Governing Body wished to respond to the public.

Councilwoman Inguanti said she did not put her husband up to that, nor did she ask Sharon DeVecchio to speak. She said in regards to Ms. Birdsall, sometimes one has to do a band aid when they are bleeding, two years of double digit tax increases and that is what she said when she was walking door to door campaigning last year. Councilwoman Inguanti said the first year they had to try to stop the bleeding because something is wrong when you come into power with a \$2,000,000 surplus, you get \$6.5 million in pilot payments, you incur approximately \$10,000,000 of debt, you get a lot of grants there was good work on the grants yet in one year at least \$700,000 in extraordinary aid. She said that aid was free money which is all supposed to go to tax relief and still have to do double digit tax increases. Councilwoman Inguanti said she would like to repair all the roads of course it is not practical to do that, they have to do a little at a time; road repair is generally done a year out of sink, approve the budget, get the money and there needs to be a plan, then bid it out, it takes a long time as things in government do. She said this year they did Mortimer Avenue, that took an extraordinarily long time because it was slated, specked out, it was done and they waited for ever and ever for PSEG to finish fixing some of the gas lines there, but it finally did get done. Councilwoman Inguanti said she doesn't know if they are going to get to the Ridge Road completion, there is also a schedule in Rutherford at this time, this is thanks to the County, thank you Freeholder McPherson for any role she had in that, Jackson Avenue/Riverside is slated to get re-paved. She said that is going to happen and there is also road work scheduled to be done to Grand Avenue and it is with again the Borough Engineer operating on a very tight, sharp pencil they managed to squeeze out a few dollars and her hope is that when they do Grand then finish the project they will be able to send the guys up to Ridge and do that portion of Ridge. Councilwoman Inguanti said for the future she knows that a priority of hers is to fix East Passaic which is kind of awful, there is a significant issue with Stormwater management in that part of town, it is affecting the office building on Orient Way, again it is more than just putting down asphalt. There is also a significant issue with West Passaic, the curbs along West Passaic especially as you get further down the hill, are just dreadful, the roads are gouged out and it is just stormwater and when the water gets in it gouges out and then it is just exponential in terms of the damage it gets. She believes the numbers are fair and accurate, they are achieving savings in a lot of line items, the one line item that is going over is legal and they are almost $\frac{3}{4}$ of the way through the year, in terms of their budget.

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Councilwoman Inguanti said people keep talking about the services being slashed and her garbage is being picked up and her streets get cleaned, her kids are being educated, she doesn't see the huge downturn in services. She said it is the same Borough employees doing the services they were doing last year; the leaf bagging is because of the Stormwater Act, again they had four years to ramp up the program; last year the Mayor and Council choose to cut back on services like white metal pickup, stone pickup, log pickup, things of that nature during leaf season. Councilwoman Inguanti said she completely agrees with that, she thinks that was a reasonable thing to get the leaves picked up faster, clear the streets and try to comply with the Stormwater Act but if they don't comply with it, these fines the DEP could potentially serve are tens of thousands of dollars, they are not like parking tickets. Councilwoman Inguanti said they have been massaging the facts to comply with the Stormwater Act, they have to comply now because they are going to start checking and that's the regulatory climate they live in.

She said they are being forced with any development, they need more ratables in town, they need more revenue, they need that through development through responsible development, good development, and unfortunately because of decisions, because of radical leftists and groups like ACORN, radical housing rights advocates, like the people at the fair share organization who have the ear of the Governor and he has mandated that their will be 115,000 units of affordable housing in the State come hell or high water. Councilwoman Inguanti asked why a man who is very smart in the middle of a housing downturn in the middle of this gia-normous economic crisis wants to build affordable housing and when pretty soon they are just giving them away. She said when Donald Trump's lawyer called her and said they might just do 20,000 units all of them right there, he wasn't too far off, that is what they are looking to do, these are the issues they are facing. Councilwoman Inguanti said these are things they need to plan for, a \$30,000 cell tower lease is like a pea on a watermelon, it is nothing in terms of the overall budget and in terms of the problems they face as a Borough, as a Governing Body, as Rutherfordians, they have probably one of the most powerful law firms going against them in Highland Cross, and they are using the builders remedy to try to force them to do what is beneficial for them. She said they have to be united and they need to get the budget done with, she can assure them she would not, it was like some crazy scheme, like no they are never going to get the money from Encap on the lien; the lien sale is not an endorsement of land deal of the development, the lien sale is simply buying the tax obligation, paying off the taxes and it required whoever ends up buying the land from Encap to pay whoever comes forward and 18% fee. She said it is the way people who have a lot more money than she does, that is the way they make more money in a very easy way, buy up liens. Councilwoman Inguanti said she appreciates that people appreciate how much time and work when into the budget but she doesn't know if it is possible for anyone to fully appreciate how difficult it has been and she has to say she was pretty astounded when Councilman Sommer voted no because she thought he would have the courtesy to call her and ask her if he had questions and she could have answered them. She said this is reasonable and had been assured by the CFO that at the end of the year there is always re-jiggering of accounts which they are allowed to start doing that by November 1 and they will. Councilwoman Inguanti said they can not have everything all at once and the budget is an example of that, they can't fix all the roads they want to fix when they are trying to keep another double digit tax increase from happening. She said if they set the

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tax rate at 4.14%, the municipal tax rate is 3.39% that is where it is going to stay, they can't change it to 11%, it might mean cutting a little here or there, that might happen. Councilwoman Inguanti said she hopes that it doesn't.

Councilman Genovesi said in response to the band aid comment, it is funny, Mayor that how the same folks that caused the problem to begin with will then turn around and finger point as if they had not complicity in the matter. He said a side from that his colleagues are free to vote as they wish and someone that was made to explain each and every vote last year, especially by Councilman Fecanin, he appreciates the individual opinion of each member of the Council. Councilman Genovesi said he voted against the budget last year because it never adjusted itself for the \$1.8 million in Encap revenue loss, he said that to his colleagues in March last year, in the summer last year and in the final vote. He said it was never adjusted to reflect that the revenue would not have been realized in 2007 and he did that before the LFB had their review and he was glad to see they agreed with him. Councilman Genovesi said they did a good job on the budget and Councilwoman Inguanti worked very hard, CFO Cortright, the Mayor, the Dept. Heads have all worked hard on this and he supports the budget and he continues to support it. He said projects got done this year through a lot of funds that were authorized but not issued, Police Dept. was a prime example of that, there was a lot of things they were able to do that had minimum impact on the taxpayer so he thinks it is an unfair characterization to say that they've cut and slashed and people have lost services, he agrees with Councilwoman Inguanti and find that perhaps the leaf issue is something that they could point to but aside from the leaf issue he'd be hard pressed to have anyone to provide the Mayor with any details of services that have been cut.

He said on that note Rutherford does need an economic catalyst, they need to continue to power locally economic engine and he continues to urge and support the increase in commercial property development in the Meadowlands. Councilman Genovesi said some people like to talk about the master plan but it is just that he does not necessarily consider it a real avenue to arrive at as the end goal is increased revenue from commercial property taxes through expansions in the Meadowlands. He said otherwise they will continue in the perpetual cycle of coming in with a little tax increase, no tax increase, they are never going to make any positive growth, so although he is firmly against high density housing, has always been, he does believe as a pro-business person that he does want new business and he appreciates the business that is located within the Borough currently but he really believes that the future avenue for revenues and ratables is commercial expansion within the Meadowlands. Councilman Genovesi said anyone who has actually looked at the budget and not just decided to comment would look on the revenue side and see massive losses; Consolidated Tax revenue \$84,651 loss; Extraordinary Aide \$300,000 loss this year; Homeland Security \$70,000; Municipal Property Assistance \$36,000 loss; Promotional Aide Program almost \$78,000 loss; recycling revenue helped with \$189,000 deposited and interest on taxes brings in another \$144,000. He said on the expenditure side pensions a little over half a million dollars in pension increase; group health insurance almost another half a million dollar increase; joint insurance funds both combined almost \$300,000 increase; fuel oil-Councilman Fecanin mentioned that it was only increased by \$1,000 that was because CFO Cortright had already pointed out at prior meetings that they over budgeted the year before so they

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didn't have to this year; increase of \$18,000 in electrical; an increase in \$20,000 in telephone which they are trying to correct right now with the resolution that they worked on; \$95,000 increase in dumping fees; \$21,000 increase in Passaic Valley Sewerage Commission; they were able to cut \$120,000 in legal; \$20,000 in engineering; and cut \$85,000 in special events coordination. Councilman Genovesi said that is a lot and considering the amount of work and these figures they had to deal with, he thinks Councilwoman Inguanti is right and thinks she has done a tremendous job and he continues to support her and the budget.

Councilwoman Keyes said she doesn't believe anyone is arguing or depicting Councilwoman Inguanti's dedication and work in the budget; she has done a very thorough job working on the budget but some of the characterizations she does take offense to. She said when they say they took in with the Encap project \$6.9m and they don't know what happened to it, they reduced property taxes with it, that is where that money went. Councilwoman Keyes said that like the current Council, they had the same issues they have today, pension increases, utilities increases, this is not something new and she doesn't understand that when they were elected that they thought they were coming in to a clean slate, it is unreasonable. She said there were a couple of points that were made early on that Ms. Rizzuto also worked for McManimon and Scotland when the Encap deal was struck she did not work for McManimon and Scotland, she believes she only worked for them in the last six months she was Borough Attorney.

Councilwoman Keyes said that the estimated tax bills that were mentioned, that is something that every sitting administration looks at, every year and whatever the reason they had decided not to send them out, they were able to strike their budget in time to get the bills out. She said they also did road improvements; 47 roads were done over the last eight years and they made it sound like there were no road improvements done and she is sure Councilman Fecanin can talk more about that. Councilwoman Keyes said she thinks the reason they are stuck on the cellular lease for the amendments is that she is against selling off of Borough property, but she believes the Mayor was as well back in August when he said that prior administration then selling off property and he called it asset amortization. Councilwoman Keyes continued saying she believes over the last seven or eight years there were five or six years with a zero tax increase, lots of people like to forget that and yes there were two tax increases in the last two years, no one can deny that of course as they are all sitting there but it astounds her that people would think that these things may have been done on purpose, that they didn't do their best to try to reduce the burden to the taxpayers.

Councilwoman Inguanti responded that she never said roads didn't get paved, of course roads got paved, roads got paved back in the 90s too when they got told repeatedly that no roads ever got paved during the Republican administration. She said she does have a legal announcement that she believes has AnneMarie Rizzuto listed as working at McManimon and Scotland from July 2006, she can retrieve that but it doesn't reassure her that after the legal advice she gave, she was hired by McManimon and Scotland. Councilwoman Inguanti said she also thinks the Council did the best they could and did their best and tried and she thinks it is unwise to have zero tax increases and use one-time revenue sources, it is understandable to some degree what happened; Encap

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was supposed to be a cash cow and the money was used to lower taxes, she appreciates that. Councilwoman Inguanti said she thinks a cursory examination of the business plan of Encap which she engaged in as just an interested citizen, would have illuminated for the Council the fact that it was pretty specious. She said the company that conducted the real estate appraisal or assessment of what would be a reasonable market rate for those apartment buildings, the condominiums, there's 800 slated to be built in Rutherford by a firm out of Pennsylvania. Councilwoman Inguanti said they used as their barometer the same market as the Hudson River and there is a whole heck of difference between being in a 20 some odd story building on the Hudson River with views of Manhattan and being on a landfill in the mud flats of the Hackensack which at that point is not even like a river any more. She said that is what they did and that is why they were coming up with \$700,000 to \$800,000 and at some point in the market at that point back then it would have done that and she has said at Planning Boards meetings that it is almost impossible for a Governing Body to engage in these kinds of negotiations because they are forced to make decisions with taxpayer dollars and taxpayers futures on speculative real estate markets and they see how difficult that is and so she appreciates that but the tax increases she thinks that happened over the previous years were avoidable had there been more restraints used in spending. She thinks the assumption was that Encap was going to keep providing revenue and there were those of them in the audience who were right and she doesn't have a crystal ball, she just spent a lot of time reading and looking at the facts and she knew it wasn't a good deal and she knew they shouldn't be crafting the budget around money that wasn't contractual; in 2007 the Encap money went down to \$200,000 they knew that and nothing was done to replace that money or to make allowances for that money in the future.

Councilman Fecanin said respectfully to Councilwoman Inguanti, he appreciates all that was said and sitting here hearing the only thing she didn't blame the past administration for was the market failure now, the stocks and bonds, the banks going under. He said he is not going to go back to the previous administration before them that sold off Fairleigh Dickinson property and they had to spend \$38 million to put into the school system when there was a plan by the Board of Ed and the Mayor didn't want to do it. Councilman Fecanin said they can't talk about the past, they can't talk about 10 years ago but they only did four roads in eight years, they did 40; it depends on what you want to do for the infrastructure of the town, they had a different view. He said he wanted cleaned roads, safe road for the residents, for those going to school and for people coming to the town saying we have beautiful roads; he goes up north Bergen County and there is potholes all over. He said he is proud that they did all this work in town and yes it did cost a lot of money but those are the choices they made and now with the current administration they can do the choices they want and if they agree then they agree. Councilman Fecanin said they can't blame them for everything for the last eight years and like he said the only thing they didn't get blamed for was the stock market and real estate; he appreciates all the work that was put into the budget and he still votes no.

Councilwoman Inguanti said she would like to agree with Councilman Fecanin in that she is not blaming the previous administration for the meltdown in the market.

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Councilwoman Inguanti reported the following: The 2008 Budget Amendment reduces the introduced Municipal Budget Tax Levy by \$504,000. The following is a summary of the changes to the Introduced Budget accounting for this \$504,000:

INCREASES TO 2008 TAX LEVY:

1. Reductions in State Aid	\$197,162
2. Increase in Police Department Terminal Leave Costs	36,204
3. Increase in Fire Department Budget for increased clothing Allowance (\$7,050) and Officers Allowance (\$3,660)	10,710
4. Increase in Recycling Costs for part of cost of Leaf bags	10,000
5. Adjust for Sale of 1 cellular lease	50,717

DECREASES TO 2008 TAX LEVY:

1. From Extraordinary State Aid	\$200,000
2. From Added Recycling Revenues	109,000
3. From Joint Insurance Dividend	2,750
4. From Additional Delinquent Tax Interest from ENCAP	100,000
5. From Premiums Received at Prior Year Tax Sale	7,600
6. From Increase in Delinquent Tax Revenue	60,000
7. From Partial Reduction in Administrator's Salary (This leaves 3 months salary)	44,000
8. From Across the Board Reductions in Overtime	103,426
9. From Reduction in Reserve for Uncollected Taxes	181,678

In addition, the Borough received the following grants after the Budget was introduced, and they are reflected in the Budget Amendment:

Clean Community Grant	\$19,358
Municipal Alliance Against Drugs	13,500
Hybrid Vehicle from NJMC	20,000
Felician Donation for July 4 th	2,000
Comm Devel Grant for Grand Ave	57,608
NJ DEP Stormwater Grant	24,058
NJ Div of Highway Traffic Safety	3,942

The 2008 Municipal Tax Levy as amended is \$19,110,631 verses \$18,349,278 from 2007 which reflects a 4.14% increase. Over all, the School, County and Municipal Tax Levy is \$58,238,283 verses \$56,325,462 from last year or an increase of 3.39%.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to enter into Cooperative Pricing Agreements; and

WHEREAS, the Plainsboro Township, hereinafter referred to as the "Lead Agency" has offered voluntary participation in a Cooperative Pricing System - Contract #05-6CPSMM for the purchase of Toll and Long Distance Telephone Service;

WHEREAS, the Borough of Rutherford, County of Bergen, State of New Jersey, desires to participate in the Cooperative Pricing System of Mercer/Middlesex County - Contract #05-6CPSMM;

NOW THEREFORE, BE IT RESOLVED, on the 18th day of August, 2008 by the Rutherford Mayor and Council, County of Bergen, State of New Jersey, as follows:

This Resolution shall be known and may be cited as the Cooperative Pricing Resolution of the Mercer/Middlesex County Cooperative Pricing System for Toll and Long Distance Telephone Service

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, PL 1999 c. 440 amended the Local Public Contracts Law and created a new category of contracting called Competitive Contracting; and

WHEREAS, N.J.S.A. 40A: 11-4.3(a) requires that in order to initiate competitive contracting, the Governing Body shall pass a Resolution authorizing the use of competitive contracting each time specialized goods or services enumerated in N.J.S.A. 40A: 11- 4.1 are desired to be contracted; and

WHEREAS, N.J.S.A. 40A: 11-4.3(b) requires that the competitive contracting process shall be administered by a purchasing agent qualified pursuant to N.J.S.A. 40A: 11-9, or by legal counsel of the contracting unit, or by an administrator of the contracting unit; and

NOW, THEREFORE BE IT RESOLVED, that (in the absence of a Purchasing Agent and a Borough Administrator) the Borough Attorney be and is hereby authorized to initiate competitive contracting for the aforesaid project in conformance with Local Public

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Contracts Law Competitive contracting process; resolution; administration, N.J.S.A. 40A: 11-4.3 (b).

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Under the Consent Agenda, Councilman Genovesi moved to accept the request for seasonal clerical help in the Tax Assessor's Office, seconded by Councilwoman Inguanti with all members present voting aye.

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Councilwoman Inguanti moved to approve the following Resolution, seconded by Councilman Genovesi:

WHEREAS THE BOROUGH OF RUTHERFORD IN THE COUNTY OF BERGEN, NEW JERSEY (the "Borough") desires to make application to the Local Finance Board for approval of a proposed refunding bond ordinance introduced and adopted on the first reading on September 23, 2008 and authorizing the payment of amounts owed by the Borough to the owners of various properties for taxes levied in the Borough; and

WHEREAS THE BOROUGH believes that:

- A. it is in the public interest to accomplish such purpose;
- B. the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Borough and will not create an undue financial hardship upon the Borough;

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND THE BOROUGH COUNCIL OF THE BOROUGH OF RUTHERFORD IN THE COUNTY OF BERGEN as follows:

Section 1. The application to the Local Finance Board is hereby approved, and the Borough's Council, Chief Financial Officer and Auditor along with other representatives of the Borough, are hereby authorized to prepare such application and to represent the Borough in all matters pertaining thereto.

Section 2. The Borough Clerk of the Borough is hereby directed to prepare and file a copy of the proposed bond ordinance with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approval as provided by the applicable New Jersey Statutes.

Mayor Hipp asked for discussion by the Council.

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Councilman Genovesi said they had discussed in the work session that it was a three year program, he asked if there was a way they could do a five year? Councilwoman Inguanti responded that they did ask for that and there is not.

No further discussion was requested.

The Borough Clerk read roll call with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Mayor and Council of the Borough of Rutherford have been advised of the proposed amended settlement of a Tax Appeal filed on behalf of Parnes Realty Co., LP under Docket Nos.:007143-2006, 000889-2007 and 006238-2008 for the years 2006, 2007, and 2008; and

WHEREAS, the said Governing Body has been advised as to the merits of the subject Tax Appeal by legal counsel, expert appraisal personnel hired by the Borough as well as the Borough Tax Assessor; and

WHEREAS, the proposed Tax Appeal settlement components are as set forth in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, it is in the best interest of the Borough of Rutherford to settle the subject Tax Appeal in accordance with the settlement proposal set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that settlement of the said Tax Appeal be finalized in accordance with Schedule "A" attached and with respect to same, the Mayor, Borough Administrator and/or any other appropriate official is hereby authorized to perform any act in order to effectuate the purposes set forth in this Resolution.

BE IT FURTHER RESOLVED that the Certificate of Availability of Funds pursuant to N.J.S.A. 40A:4-57 has been certified to by the Chief Finance Officer and is attached hereto and made a part hereof.

*

Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Mayor and Council of the Borough of Rutherford have been advised of the proposed amended settlement of a Tax Appeal filed on behalf of Glenwood Development Co., LP under Docket Nos.:007145-2006, 000887-2007 and 006239-2008 for the years 2006, 2007, and 2008; and

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WHEREAS, the said Governing Body has been advised as to the merits of the subject Tax Appeal by legal counsel, expert appraisal personnel hired by the Borough as well as the Borough Tax Assessor; and

WHEREAS, the proposed Tax Appeal settlement components are as set forth in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, it is in the best interest of the Borough of Rutherford to settle the subject Tax Appeal in accordance with the settlement proposal set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that settlement of the said Tax Appeal be finalized in accordance with Schedule "A" attached and with respect to same, the Mayor, Borough Administrator and/or any other appropriate official is hereby authorized to perform any act in order to effectuate the purposes set forth in this Resolution.

BE IT FURTHER RESOLVED that the Certificate of Availability of Funds pursuant to N.J.S.A. 40A:4-57 has been certified to by the Chief Finance Officer and is attached hereto and made a part hereof.

*

Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Mayor and Council of the Borough of Rutherford have been advised of the proposed amended settlement of a Tax Appeal filed on behalf of Willow Gardens Co., LP under Docket Nos.:007141-2006, 000888-2007 and 006245-2008 for the years 2006, 2007, and 2008; and

WHEREAS, the said Governing Body has been advised as to the merits of the subject Tax Appeal by legal counsel, expert appraisal personnel hired by the Borough as well as the Borough Tax Assessor; and

WHEREAS, the proposed Tax Appeal settlement components are as set forth in Schedule "A" attached hereto and made a part hereof; and

WHEREAS, it is in the best interest of the Borough of Rutherford to settle the subject Tax Appeal in accordance with the settlement proposal set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Rutherford that settlement of the said Tax Appeal be finalized in accordance with Schedule "A" attached and with respect to same, the Mayor, Borough Administrator and/or any other appropriate official is hereby authorized to perform any act in order to effectuate the purposes set forth in this Resolution.

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BE IT FURTHER RESOLVED that the Certificate of Availability of Funds pursuant to N.J.S.A. 40A:4-57 has been certified to by the Chief Finance Officer and is attached hereto and made a part hereof.

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As Liaison for the **Bergen County Film Commission**, Councilwoman Inguanti reminded all that they are sponsoring a Film Festival on September 25 – 29, 2008; On Friday from 10:00 – 1:30 they are going to show "Gone With The Wind"; she is very hopeful that the new energy at the William Center will really help revitalize the downtown and make it a destination place for a lot of people. Councilwoman Inguanti said in the interest of bi-partisanship, this is one of the things she agreed with Freeholder McPherson about, the creation of Bergen County Film Commission. She said a schedule for the event is available on-line.

Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Mayor and Council desire to support the Bergen County Film Commission which is now housed in the William Carlos Williams Center; and

WHEREAS, the Bergen County Film Commission is hosting the First Annual Film Festival September 24-29, 2008; and

WHEREAS, this festival will be beneficial to the downtown businesses and Rutherford citizens,

NOW, THEREFORE, BE IT RESOLVED that the Chief Financial Officer be and he is hereby authorized and directed to issue a check payable to the Bergen County Film Festival in the amount of \$3,500 with an offsetting charge to the 2008 Budget.

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For **POLICE**, Councilman Genovesi stated that he did not receive a monthly report so he would read both at the next month's meeting.

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Under the Consent Agenda, Councilman Genovesi moved to accept the request to hold a block party on Myrtle Street Saturday, October 11th (r/d 10/12), seconded by Councilwoman Inguanti with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved to accept the resignation of Richard FitzSimmons from the position of School Traffic Guard, seconded by Councilwoman Inguanti with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved to accept the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, certain organizations have applied for a Raffle/Bingo License and have been approved by the Police Director and paid the required fees;

NOW, THEREFORE, BE IT RESOLVED that License be issued to:

Aquinas Club of St. Mary's Grammar School

Off Premise 50/50

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Under the Consent Agenda, Councilman Genovesi moved to accept the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, an application has been filed for a **person-to-person** transfer of a Plenary Retail Distribution License No. **0256-33-016-001**, presently held by Rutherford Hotel Inc., 801 Rutherford Avenue, Rutherford, NJ; 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;

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

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 license business;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Rutherford does hereby approve, **effective September 23, 2008** the transfer of the aforesaid Plenary Retail Distribution License to **Moody National REN Meadowlands MT, LLC at 801 Rutherford Avenue** and does hereby direct the Borough 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 Moody National REN Meadowlands MT, LLC, 801 Rutherford Avenue, Rutherford, NJ 07070, effective September 23, 2008.

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For **PUBLIC WORKS**, Councilwoman Inguanti stated that she did not receive a monthly report but that things are moving ahead at the DPW, they have been working very hard on the leaf collection issues and they are reformulating a new collection schedule for next year which will try to provide a little better service in terms of the additional pickups for white metal and stone and rock more efficient, she is looking forward to them to do that over the next couple of months.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, the Borough's Surplus Auction was held on Monday, June 16, 2008; and

WHEREAS, among items for auction were two (2) retired sanitation trucks and a de-commissioned vacuum body; and

WHEREAS, none of the aforementioned items received any bids; and

WHEREAS, in July, the Department of Public Works Superintendent Chris Seidler received a proposal from Nick's Towing Service to purchase these three pieces of equipment for \$3,300.00; and

WHEREAS, pursuant to Local Public Contracts Law 40A:11-36 if no bids are received, the property may then be sold at private sale without further publication or notice thereof, but in no event at less than the estimated fair value; or the contracting unit may if it so elects reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property between a willing seller and a willing buyer less the cost to the contracting unit to continue storage or maintenance of any personal property not needed for public use to be sold pursuant to this section; and

WHEREAS, Department of Public Works Superintendent Chris Seidler recommends that the Borough accept this proposal (See, attached letter); and

NOW, THEREFORE, BE IT RESOLVED, The Mayor and Borough Clerk are authorized to execute such agreements and other documents as may be required on behalf of the Borough of Rutherford to complete the transaction.

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Under the Consent Agenda, Councilman Genovesi moved to grant permission to use the mini bus on October 8, 2008 for the Golden Age Club Luncheon, seconded by Councilwoman Inguanti with all members present voting aye.

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As Liaison to the **Nereid Boat Club**, Councilwoman Inguanti announced that on October 12th the Boat Club and the Passaic River Rowing Association will co-host the 8th Annual Head of the Passaic Regatta on the Passaic River. She said this event has grown from a small local regatta to one that attracted over 500 rowers and hundreds of spectators from throughout the tri-state region. Councilwoman Inguanti said they are thrilled to host it again and they are trying to showcase the Passaic River and people should be aware that there is a fairly substantial improvement scheduled for the Nereid Boat Club. She said this is apparently a big deal, the Feds are involved, they really want to use this as a test case for cleaning up the River and restoring the bank which is very exciting.

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For **FIRE**, Councilwoman Keyes provided the Fire Dept. statistics from January through August, 2008; 429 incidents; 11 structure fires; 5 vehicle fires; 20 other either brush or trash; 215 false alarms; 149 other types of alarms; no civilian injuries; 1 firefighter injury; estimated dollar loss over \$138,900; 29 mutual aide calls; total manpower time 3,747 hours. Councilwoman Keyes said recently the Rutherford Volunteer Fire Dept. has been the subject of news articles locally and in the Bergen Record and she stated that all members of the Fire Dept. particularly the Chief's of all the Companies are very much appreciated by the Council. She confidently said that they are held in the highest regard because they as Council Members recognize the dedication, the commitment and the absolute determination of those men who protect the residents of the Borough day in and day out; without prejudice or political agendas. Councilwoman Keyes said as the Fire Liaison it has been her privilege to interact with the Chief's and the officers and understands first hand how they collectively and diligently arrive at the many decisions that they need to make in the course to perform their duties, decisions that are necessary to protect themselves as well as first hand and foremost protecting the families and homes 24 hours a day seven days a week and she said again they are volunteers. She said their families give up having them at the dinner table and some nights not even seeing them when they wake up in the morning; they should be holding the men up on a pedestal instead of second guessing their decisions and their rights to make them.

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Under the Consent Agenda, Councilman Genovesi moved to authorize the Borough Attorney to amend the Fire Department Ordinance to reflect the increase in the uniform allowances, seconded by Councilwoman Inguanti with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved to grant permission to Rescue Co. #5 to attend a Wetdown in Allendale on September 27, seconded by Councilwoman Inguanti with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved to grant permission for Rescue Co. #5 to attend training classes at Hunterdon Cty. on October 25, seconded by Councilwoman Inguanti with all members present voting aye.

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Councilwoman Keyes announced that Chief Gentile has requested the presence of the Council and residents to be present at the Memorial Service for the Fallen Firefighter's on Sunday, October 5 at 1:00 p.m. at Firefighter's Park.

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As Liaison for **Community Development**, Councilwoman Keyes said the Council supported a resolution for the Kip Center application for \$29,000 for the Kip Kafé, which is something they do every year, it doesn't come out of the Community Development Funds that are allocated to the Borough they simply endorse their resolution. She said they did the same for the Women's Club application of \$35,000 and they are looking to renovate the bathrooms to be handicap accessible; they are also looking to apply for \$93,000 in additional Community Development Grant money for improvements to Darwin Avenue.

Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, a Bergen County Community Development grant of \$29,570 has been proposed by 55 Kip Center, Inc. for the Kip Kafe in the municipality of Rutherford, and

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body, and

WHEREAS, the aforesaid project is in the best interest of the people of Rutherford, and

WHEREAS, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Rutherford hereby confirms endorsement of the aforesaid project and

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BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, a Bergen County Community Development grant of \$35,000 has been proposed by The Women's Club of Rutherford for converting an existing bathroom to a handicap accessible bathroom in the municipality of Rutherford, and;

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Governing Body, and;

WHEREAS, the aforesaid project is in the best interest of the people of Rutherford, and;

WHEREAS, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid project, and;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Rutherford hereby confirms endorsement of the aforesaid CD funds.

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

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Under the Consent Agenda, Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, a Bergen County Community Development Grant of \$93,000 has been proposed by the Borough of Rutherford for the Improvements to Darwin Avenue in the Borough of Rutherford, and;

WHEREAS, pursuant to the State Interlocal Services Act, Community Development funds may not be spent in a municipality without authorization by the Mayor and Council, and;

WHEREAS, the aforesaid project is in the best interest of the people of Rutherford, and;

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WHEREAS, this resolution does not obligate the financial resources of the municipality and is intended solely to expedite expenditure of the aforesaid CD funds, and;

THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford hereby confirms endorsement of the aforesaid project; and,

BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to the Director of the Bergen County Community Development Program so that implementation of the aforesaid project may be expedited.

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As Liaison for the **Board of Health**, Councilwoman Keyes said regarding the bat situation; over a 19 day period of time in August there were nine live bats calls that were handled. Of the nine, six were captured and send to the State Health Dept.; one of the six tested positive for rabies. In 2007 54 tested positively State-wide for rabies. She asked all to be very diligent and aware of any type of strange noise in the attic or house and please call the Borough Health Officer Brian O'Keefe. She said there is a free influenza vaccination program being offered to residents 65 of age or older and will be held on Monday, October 27 between the hours of 3:30 – 5:30, proof of age is required; a second vaccination program will be held on Wednesday, October 29 between 4:30-6:30 for other adult residents; also a Multi-Phasic Blood Screening Program for 18 year of age or older Friday, October 17 and Saturday, October 18 and appointments are required so please call the Health Dept.

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As Liaison for **Historic Preservation**, Councilwoman Keyes happily reported that the Council has approved an Eagle Scout Project at Sunset Memorial Park. She said that is something the Borough has been wanting to do for many years, the project is going to be funded partly by the Borough and also by the Eagle Scout himself in the way of fundraising; there will be new plaques put in where they have been removed, there will be walkways, and other improvements to the park. The scout, Gavin Davis came before the Council and gave a lovely rendition of what he anticipates the Park to look like and he was completely endorsed by the Council and they are excited to see that come to play. Councilwoman Inguanti said in regards to the Sunset Park improvements, she was speaking with the family and they actually went out with a metal detector and found monuments that they thought were missing from the tree plaques, they actually found four or five. Councilwoman Keyes said it equates to a savings of \$2,000 that they won't have to spend which is good.

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For **BUILDINGS & PUBLIC UTILITIES**, Councilman Fecanin stated that the monthly report is on file with the Borough Clerk.

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For **HUMAN RESOURCES**, Councilman Sasso apologized that he didn't have all the information for the monthly item but announced the fall rec program have started which includes soccer for boys and girls for kindergarten through 8th grade along with softball still being played and a host of other activities. He thanked all the volunteers, parents, the Recreation Dept., Park Rangers and the DPW.

Councilman Sasso announced that the Governing Body approved to be a host site for American Cancer Society's signature fundraising event which not only has the support of the Governing Body but also the support of Principal Hurley from Rutherford High School who is also very interested in having the schools involved. He said this will take place in the Spring of 2009, a Relay for Life Event being held throughout Bergen and Passaic Counties.

Under the Consent Agenda, Councilman Genovesi moved to accept the request to host the American Cancer Society's Relay for Life event in Memorial Park in the spring of 2009, seconded by Councilwoman Inguanti with all members present voting aye.

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Under the Consent Agenda, Councilman Genovesi moved to accept the recommendation for work schedule and salaries for Park Ranger and Alt. Park Ranger, seconded by Councilwoman Inguanti with all members present voting aye.

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As Liaison for the Board of Adjustment, Councilman Sasso announced a Notice to Property Owners for variance for dispatch office for taxi services and parking on One Madison Avenue, East Rutherford.

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MAYOR'S COMMITTEE REPORT

Mayor Hipp reported the **Highland Cross Redevelopment Project**, the owner's of the development have made an application to the Meadowlands Commission to redevelop the project and it includes hotels, retail and they are going to be seeking permission to build approximately 800 residential units as a mixed use environment and a portion of which will be affordable housing. The Mayor said members of the Planning Board, he and legal counsel met with the members of the Meadowlands staff and Executive Director Robert Ceberio to go over the status of the application. On August 6 the Meadowlands

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Commission sent Linque Development the letter concerning their application and asked for deficiencies. Mayor Hipp said as of then they were looking at the completion of the application submission sometime in the next two weeks and they will begin to hold public hearings on the development project anticipated in the middle to late November. The Mayor continued the Commission has agreed to hold at least two public hearings in Rutherford and he ask that they post this on the website and for all to be aware so they can attend and depending on the type of response they will either hold it in Borough Hall or the High School; no date for the second meeting has been scheduled and the process will take place over the next 45 – 60 days and then the Commission will take action; more updates will be provided as the information becomes available.

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Mayor Hipp said with respect to the **Encap Development Project**, as everyone knows it is in bankruptcy, they have until next Tuesday to submit a plan of reorganization to work out a method of going forward with the project. The Mayor said it is safe to say that the original deal that was struck is off the table; even the Encap experts agreed it would not be feasible so they are waiting for the new plans Encap has. Mayor Hipp said he doesn't want to comment on the betting line but they will know what happens on the 30th, there is a possibility that Encap may ask for an extension of time and Judge Winfield may grant it depending on the circumstances but as of then their counsel is monitoring the situation and is going to keep them up-to-date.

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Mayor Hipp said regarding **COAH**, he is working with the Planning Board in an effort to apply for substantive certification on behalf of the Borough and they need to have that application in by December 31st and if they are able to do so the Borough will be protected from "Builder's Remedy Lawsuits". The Mayor said to give an idea of the impact of such, if they have been reading the news reports recently they will know that Carlstadt and East Rutherford have been instructed to build a large unit of housing on the Hackensack River; they are going to be appealing it to the Supreme Court and in those two communities it is a major problem and they are trying to protect Rutherford from those types of lawsuits by seeking substantive certification. Mayor Hipp said as Councilwoman Inguanti eluded to; affordable housing is going to be a major issue in the region and they are working with the Planning Board and when that is over they will be presenting the findings and request to the Council for its review and consideration but they need to address this issue, round three affordable housing or gross share requirements are a change from prior rounds and those requirements along with recent legislation have imposed new obligations and have taken away certain options to municipalities such as Rutherford, which are essentially built out and they will be talking about that in more detail over the next coming months and into next year because it will have a major impact on the community.

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Mayor Hipp said in respect to **Green Acres** they have been meeting with them on several projects in town, most notably the Nereid Boat Club project - Rob Rodriguez was in the office and they spent the morning with him going over all the agreements the Borough has with non-profit organizations on the ball fields. The Mayor said they hope within the next couple of weeks to be able to schedule a meeting with Green Acres and Little League, RJF, and St. Mary's in order to begin reviewing all of those agreements and arrangements which Green Acres had originally said are null and void, so they need to fix that. Mayor Hipp said they hope to have more reports hopefully at the October meeting, but the process is to have a Green Acres meeting with the organizations, renegotiate the agreements to comply with the regulations and hopefully finish with this process sometime probably in the first quarter of next year.

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Mayor Hipp said last evening at the High School the DOT held its second hearing on the **Rte.3 Wall Project** which was attended by approximately 100 people, it was an informational hearing but there was a question and answer period for about a little over an hour. The Mayor said as a result of that hearing, he thinks the residents who were concerned about the issue came away with a lot more essential information that they will need in order to discuss it. Mayor Hipp said they will be holding a forum on that issue and he will be scheduling that over the next couple of days with the Borough Clerk, but it will probably be in about 30 days, so if anyone is interested in that issue be alert for further developments.

Mayor Hipp said they did receive notice that the Borough is being sued by what they call the Maple Shade litigation over the public drunkenness ordinance, they will be filing an answer and will get Counsel provided to the Borough by JIF and there will be further developments there but that is a public record that is available for public inspection.

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Mayor Hipp announced that Councilman Sommer was available via telephone at this point at 10:18 p.m.

Mayor Hipp moved to the resolution on the table regarding the amendment to the budget. The Mayor said for clarification the amendment to the budget requires a majority of the full membership of the Governing Body; there were two previous votes and although a majority voted in favor of the budget it required a minimum of four votes which is why Councilman Sommer who couldn't attend the meeting because of business called in to participate in the vote. Mayor Hipp asked Councilwoman Inguanti to make the motion.

Councilwoman Inguanti moved the following resolution to amend the budget, seconded by Councilman Sasso. Mayor Hipp asked for discussion from the Council, seeing none the discussion was closed:

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WHEREAS, the local municipal budget for the year 2008 was approved on the 4th day of March, 2008 and,

WHEREAS, the public hearing on said budget has been held as advertised, and

WHEREAS, it is desired to amend said approved budget,

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Rutherford , County of Bergen, that the following amendments to the approved budget of 2008 be made:

Recorded Vote	Ayes	Nays	Absent
(Insert last names)			

Anticipated Revenues:

	From	To
3. Miscellaneous Revenues – Section B: State Aid without Offsetting Appropriations		
Legislative Initiative Municipal Grant	77,844	0
Extraordinary Aid	0	\$200,000
Consolidated Municipal Property Tax Relief	618,260	533,609
Energy Receipts Tax	1,127,870	1,199,305
Municipal Homeland Security Assistance Aid	70,000	0
Municipal Property Tax Assistance	36,102	0
	From	To
3.Total Section B – State Aid Without Offsetting Appropriations	1,982,318	1,985,156

Anticipated Revenues

3 Miscellaneous Revenues – Section F
 Special Items of General Revenue Anticipated with Prior Written Consent of The Director of Local Government Services – Public and Private Revenues
 Offset with Appropriations:

Clean Communities Program	2,821	22,379
Municipal Alliance on Alcoholism & Drug Abuse	0	13,500
NJ Meadowlands Commission:		
2008 Grant for Hybrid Vehicle	0	20,000
Felician College Donation for July 4 th	0	2,000
Bergen County Community Development – For Improvements to Grand Ave.	0	57,608
NJ Dept. of Environment Protection – Municipal Stormwater Grant	0	24,058
NJ Division of Highway Traffic Safety	0	3,942

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Total Section F: Special Items of general Revenue Anticipated with the Prior Written Consent of the Director – Public and Private Revenues	215,410	356,076
3. Miscellaneous Revenue – Section G – Special Items of General Revenue anticipated with Prior Written Consent of the Director of Local Government Services:		
Other Special Items:		
Recycling Revenues – Fees and Permits	116,000	225,000
Joint Insurance Fund Dividend	0	2,750
Sale of Cellular Lease	400,000	333,000
Additional Interest on Delinquent Taxes	0	100,000
Premium on Tax Sale	0	7,600
Total Section G: Special Items of General Revenues Anticipated With Prior Written consent of Director – Other Special Items	1,359,777	1,512,127
4. Receipts from Delinquent Taxes	1,000,000	1,060,000
Total Miscellaneous Revenues	5,325,205	5,612,059
5. Subtotal General Revenues	6,575,205	6,931,059
6. Amount to be Raised by Taxes for Support of Municipal Budget:		
a) Local Tax for Municipal Purposes including Reserve for Uncollected Taxes	19,614,192	19,126,914
7. Total General Revenues	26,189,397	26,057,973

8. GENERAL APPROPRIATIONS

A) Operations Within Caps

GENERAL GOVERNMENT

General Administration		
Salaries and Wages	118,924	74,924
Municipal Clerk’s Office		
Salaries and Wages	218,640	165,254
Financial Administration		
Salaries and Wages	235,038	232,538
Assessment of Taxes		
Salaries and Wages	80,418	77,418
Police Department		
Salaries and Wages	4,562,959	4,572,920

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ANTICIPATED REVENUES – CONTINUED

	From	To
Fire Official		
Salaries and Wages	132,377	129,877
Fire Department:		
Other Expenses	270,241	280,951
Municipal Court		
Salaries and Wages	192,168	190,168
Public Works Department		
Streets and Road Maintenance		
Salaries and Wages	962,000	950,303
Recycling:		
Other Expenses	0	10,000
Employee Group Insurance	3,484,895	3,590,051
Construction Code Official		
Salaries and Wages	385,616	383,616
Total Operations – Item 8 (a) Within "Caps"	18,223,875	18,238,619
Total Operations Including Contingent Within "Caps"	18,225,875	18,240,619
Detail:		
Salaries and Wages	10,045,825	9,934,703
Other Expenses	8,180,050	8,305,916
(H-1) Total General Appropriations for Municipal Purposes Within "Caps"	18,349,875	18,864,619
8. General Appropriations		
(A) Operations Excluded from "Caps"		
Insurance:		
Employee Group Insurance	105,156	0
Total Other Operations Excluded from "Caps"	3,916,827	3,811,671
Public & Private Programs Offset by Revenues:		
NJ Meadowlands Commission for Hybrid Vehicle	0	20,000
Clean Communities program for Roads – Salaries	2,821	22,379
Felician College for July 4 th	0	2,000
Bergen County Office of Drug & Alco. Dependency	0	13,500
Bergen County Community Development for Grand Ave	0	57,608
NJ Department of Environmental Protection for Municipal Stormwater Grant	0	24,058
NJ Division of Highway Traffic Safety for Police Wages	0	3,942
Total Public & Private Programs Offset by Revenues	215,410	356,076

ANTICIPATED REVENUES – CONTINUED

	From	To
Total Operations Excluded from "Caps"	4,132,237	4,167,747
Detail:		
Salaries and Wages	21,438	44,938
Other Expenses	4,110,799	4,122,809
	4,132,237	4,167,747
(H-2) Total General Appropriations for Municipal Purposes Excluded from "caps"	6,282,946	6,318,456
(O) Total General Appropriations – Excluded From "Caps"	6,282,946	6,318,456
(L) Sub-total General Appropriations	25,132,821	25,183,075
(M) Reserve for Uncollected Taxes	1,056,576	874,898
9. Total General Appropriations	26,189,397	26,057,973

BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services for her certification of the Local Municipal Budget so amended.

BE IT FURTHER RESOLVED, that this complete amendment, in accordance with the provisions of N.J.S.A.40A:4-9, be published in the Bergen Record in the issue of September 26, 2008 and said publication contain notice of public hearing on said amendment to be held at the Municipal Council Chambers at 7:30 PM on September 30, 2008.

The Borough Clerk read the roll call: Councilman Fecanin, Councilman Sommer, Councilwoman Keyes voted nay; Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso voted aye with Mayor Hipp voting aye. The motion passed.

Councilman Sommer was disconnected after this vote.

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Mayoral Appointments:

Youth Advisory Council:

**Avani Singh
Nicole Kim
Lindsay Kriston**

Tryon Concession Building Committee

**Councilman Fecanin
Chris Seidler
Joe Wronko**

Richard Russo as Substitute Park Ranger. Confirmation moved by Councilwoman Keyes, seconded by Councilman Sass with all members present voting aye. **9/16**

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Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, with feelings of deepest regret, the Governing Body of the Borough of Rutherford must record the passing of ***Dorothy Clare***; and

WHEREAS, Dorothy served her community throughout her whole life including the Boy Scouts, Girl Scouts, Meals on Wheels, Starfish, St. Mary's Parish Council, The Lazarus Group, the Rosary Altar Society; and

WHEREAS, Dorothy was President of the Rutherford Blood Bank dedicating countless hours to this organization for many, many years; she was honored as Woman of the Year in 2004 by the 55 Kip Center and instrumental in the development of the Rutherford Senior Manor and a Charter Member of the Board of Trustees; and

WHEREAS, we, the members of the Governing Body, do realize the benefits which our community has derived from her many years of dedicated service,

NOW, THEREFORE, BE IT RESOLVED that we hereby subscribe upon our records this tribute to her memory, that the citizens of Rutherford may know and appreciate her contributions to the community and her many benevolent deeds and the respect and esteem in which she was held; and

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BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to her immediate family together with the assurance of our sincerest sympathy.

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Councilman Genovesi moved the following Resolution, seconded by Councilwoman Inguanti with all members present voting aye:

WHEREAS, with feelings of deepest regret, the Governing Body of the Borough of Rutherford must record the passing of **Fred Molan**; and

WHEREAS, Fred worked for the Borough of Rutherford from 1988 to 1996 in the Department of Public Works; and

WHEREAS, Fred served the Borough of Rutherford as a firefighter for 32 years from 1961 to 1993 and was Chief of the Department in 1977. Fred's life was dedicated to the best interests of the community; and

WHEREAS, we, the members of the Governing Body, do realize the benefits which our community has derived from his many years of dedicated service;

NOW, THEREFORE, BE IT RESOLVED that we hereby subscribe upon our records this tribute to his memory, that the citizens of Rutherford may know and appreciate his contributions to the community and his many benevolent deeds and the respect and esteem in which he was held; and

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted to his immediate family together with the assurance of our sincerest sympathy.

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Mayor Hipp announced the following change order was for a reduction of the cost of the Rutherford Library HVAC.

Councilman Inguanti made a motion to approve the change order for the HVAC renovations at the Public Library at a reduction of \$205.06, seconded by Councilman Fecanin with all members present voting aye except Councilman Genovesi who abstained.

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Mayor Hipp, in regards to the cell tower said he wanted to clarify that they are not selling an asset, an assignment of the rents is just that it is a period of time, they are not giving up the title. The Mayor said they are going to assign that to RFS Capital which is an assignment of rents for 40 years in return for that they are going to receive an upfront payment. Mayor Hipp said he is always concerned about taking revenue items as trying to plug up recurring budget expenses with one time sales, that's really not what is going on, it was in the original budget and he believes everybody supported it but the difficulty

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they have is that they had a one time expense of \$364,000 in interest payments due to tax anticipation notes issued last year. The Mayor said that came onto their budget, that will not happen in 2009 because they did not issue TANs and they were able to avoid doing that because of cooperation by the Board of Education and Superintendent O'Keefe's Office as well as Bob Brown. Mayor Hipp said they made a decision this year unlike last year to do estimated tax payments which helped the cash flow, so that is a \$364,000 expense that will not be in next year's budget and at least for the foreseeable future will not be in any future budgets. The Mayor said if the Council is able to repeat what they did this year, they are working on stabilizing the revenue and expense side and coming up with budgets which really have foreseeable recurring revenues that are able to pay for the recurring expenses without huge tax increases. Mayor Hipp said it is going to take some time to get there and he doesn't think anyone is happy with any type of increase but they are going in the right direction, this is one small reason for that.

Councilwoman Inguanti moved the following Resolution, seconded by Councilman Genovesi. Mayor Hipp asked for discussion from the Council, seeing none the discussion was closed.

The Borough Clerk read the roll call: Councilman Fecanin, Councilwoman Keyes, voted nay; Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso voted aye:

WHEREAS, pursuant to advertisement the Borough of Rutherford sought bids for a twenty (20) year and alternatively a forty (40) year assignment of its T-Mobile Cell Site lease for which the Borough annually receives rent; and

WHEREAS, under said assignment the lease would revert back to the Borough; and

WHEREAS, there were no bidders at the advertised time and date of the public auction; and

WHEREAS, the Borough may now negotiate an agreement with any interested firm or entity for assignment of its T-Mobile Cell Site rent; and

WHEREAS, RSF Capital, LLC of San Diego, California, has submitted a proposal in the amount of \$333,000.00 for assignment of the Revenues of the T-Mobile cell tower rents over a period of forty (40) years.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford hereby authorize the Mayor and Borough Clerk to enter into a contract with RSF Capital, LLC of San Diego, California, entity for assignment of its T-Mobile Cell Site rent, subject to approval of the Borough Attorney as to form.

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ORDINANCES – 1st READING

Mayor Hipp said they introduced a licensing requirement for landscapers at last month's meeting, as a result with communications with NJ Landscapers Association, they have decided not to license but instead to register them. The Mayor said it was determined that it was a substantial enough change and as an act of prudence they have decided to remove the initial ordinance and reintroduce the landscaper ordinance on first reading and the registration.

Councilwoman Inguanti said they discussed this at the last Council Meeting, it is part of the plan for dealing with leaf removal in compliance with the Stormwater, they need to have a process by which they know that the landscapers are working in town so that if there is non-compliance with the new ordinances they have some way of tracking it down. She said she believes this kind of ordinance was considered by the previous administration, she is somewhat loath to introduce new regulations for business owners but unfortunately it is something they must do and she feels they will try this year especially to use it as a year to educate and make clear what the new requirements are in regards to the Stormwater Act and hopefully with good volunteer effort on the part of business owners, landscapers that they will enjoy full compliance.

For **Ordinance on First Reading**, Councilwoman Inguanti asked the Clerk to read the ordinance by title only.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD TO ESTABLISH CHAPTER 82B FOR THE REGISTRATION OF LANDSCAPERS.**

Councilwoman Inguanti moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the Ordinance for Council discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call: all members present voted aye.

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Councilwoman Keyes said the Ordinance increases the clothing allowance of \$100 for the Firefighters from \$625 to \$725 which is the uniform allowance and there is also a yearly sum \$360 to each active special duty firefighter in good standing who have performed not less than 50% of their fire duty calls during the proceeding year.

For **Ordinance on First Reading**, Councilwoman Keyes asked the Clerk to read the ordinance by title only.

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The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH CHAPTER 33 ENTITLED FIRE DEPARTMENT.**

Councilwoman Keyes moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the Ordinance for Council discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call: all members present voted aye.

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Councilman Fecanin said for reading is regarding antennas, amendments to wireless communication towers and antennas Ordinance.

For **Ordinance on First Reading**, Councilman Fecanin asked the Clerk to read the ordinance by title only.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND CHAPTER 131 (ZONING) OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF RUTHERFORD SO AS TO AMEND REGULATIONS FOR WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS.**

Councilwoman Fecanin moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilman Sasso.

Mayor Hipp opened the Ordinance for Council discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call: all members present voted aye.

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Councilwoman Inguanti said the Ordinance for a bond to help spread out the payments that were required of the Borough in the tax appeals cases that taxpayers are engaging in, so they wish to go before the Local Finance Board and request the Bond Ordinance be passed so payments be spread out over 2009-2011.

For **Ordinance on First Reading**, Councilwoman Inguanti asked the Clerk to read the ordinance by title only.

The Clerk read the ordinance by title only as follows: **REFUNDING BOND ORDINANCE PROVIDING FOR PAYMENT OF AMOUNTS OWING TO OTHERS FOR TAXES LEVIED IN AND BY THE BOROUGH OF RUTHERFORD, IN THE COUNTY OF BERGEN, NEW JERSEY, APPROPRIATING \$500,000 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$500,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST THEREOF.**

Councilwoman Inguanti moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the Ordinance for Council discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call: all members present voted aye.

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Councilman Sasso said the Ordinance is to introduce a salary range for Park Ranger and Alt. Park Ranger.

For **Ordinance on First Reading**, Councilman Sasso asked the Clerk to read the ordinance by title only.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT AN ORDINANCE ENTITLED "AN ORDINANCE REGULATING THE EMPLOYMENT, TENURE AND DISCHARGE OF CERTAIN OFFICERS AND EMPLOYEES OF THE BOROUGH OF RUTHERFORD, UNDER THE PROVISIONS OF THE CIVIL SERVICE ACT (TITLE 11, N.J. REV. STAT.) OF NEW JERSEY, NO.3147-07 ADOPTED DECEMBER 18, 2007**

Councilman Sasso moved this Ordinance be passed on first reading and advertised according to law, seconded by Councilwoman Keyes.

Mayor Hipp opened the Ordinance for Council discussion; as no one wished to speak the discussion was closed.

The Borough Clerk read the roll call: all members present voted aye.

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ORDINANCES – 2nd READING

Councilwoman Inguanti stated the Ordinance is in regards to the change in the leaf collection schedule. She said some people have said they are glad everyone is going to bag their leaves and keep the streets cleaner and will keep parking spaces open but some people are really upset about it. Councilwoman Inguanti said she doesn't believe they have a lot of options, they have been discussing this with the Environmental Committee with the Recycling Coordinator, DPW Superintendent, members of the DPW; ideas looking at staffing and equipment issues and there were no good answers. She said leaf bagging is what a majority of the communities are doing and it is a difficult issue especially for the elderly but they will try to find volunteers and they will be providing a small number of bags to each household as a gesture on the towns' part that they know it is a big change.

For **Ordinance on Second Reading**, Councilwoman Inguanti asked the Clerk to read by title only the ordinance.

The Clerk read the ordinance by title only as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT THE CODE OF THE BOROUGH OF RUTHERFORD, CHAPTER 82A ENTITLED RECYCLING, YARD WASTE AND FOOD PACKAGE FOR THE DISPOSAL OF LEAVES.**

Councilwoman Inguanti moved this ordinance be passed on second and final reading and advertised according to law, seconded by Councilman Genovesi.

Mayor Hipp opened the Ordinance for public hearing. As no comments or question were raised, the hearing was closed

Mayor Hipp opened the matter for Council discussion.

Councilwoman Keyes said she agrees that they do need to move in the right direction to be in compliance with the Stormwater rules and regulations but she believes the timing is not sufficient; she believes the residents needed more time and she asked if there is a schedule available. Councilwoman Keyes said she is going to vote no because of the timing; she is in complete agreement they have to get into compliance but she wished they had done it differently.

Councilman Fecanin said he concurs with Councilwoman Keyes and as he did mention earlier he thinks the residents need more time than two months to figure out a plan. He said he is for the regulations but feels they should start it next year to give them time to digest and time to discuss the repercussions from this.

Councilman Genovesi said he continues to be against the Ordinance but he continues to support it because if they take an objective look at the DPW Dept., which is a great Dept. and with great personnel, they just cannot do the amount of work needed in seven days to pick up all the leaves in town. He said they are not in a position to be in compliance with the law, so he continues to understand the difficulty it puts residents in,

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himself included as he will be bagging his parents leaves, he doesn't see any alternative and given the conditions that have been set upon them, to not vote for it would be negligent by putting the town at further risk for infracting the law. Councilman Genovesi said he will support it but his personal feeling is against the Ordinance, the Council should support it because it is the right thing to do.

Councilwoman Inguanti said they are not looking to be draconian in terms of enforcement of the new Ordinance but she thinks what we are trying to do is lets do the bagging and next year maybe refine, retune it and see where there might be problems or where it may be to onerous for the residents, maybe there is other equipment we could buy but right now that is not an option. She said they are not looking do draconian enforcement but they still should comply with the new Ordinance; she believes it is education. She saw a landscaper blowing leaves into the storm drain and she is sure he thought he was doing the right thing because he was getting them off the street and that is why she thinks this year will be all about education.

Mayor Hipp said briefly he also thinks that the timing of this is difficult and he is sensitive to the concerns of the residents that feel that this is happening to fast. The Mayor said he wishes it had happened before now, the regulations went into effect in June 2004 and towns across the State have had basically four years to take action. Mayor Hipp said Rutherford is one of the remaining towns that hasn't done anything, starting in 2009 all indications are that DEP will commence fining and issuing penalties so unfortunately they don't have the luxury of waiting until next year to begin the process. The Mayor said instituting it now will probably reveal difficulties and problems in getting it done and he doesn't expect full compliance this year but if they start next year and don't fully comply, the name of the game is changed and they will give fines. Mayor Hipp said they gave five years to comply and they hope this year to be able to institute the program, work out the difficulties, the kinks and the problems but they are not able to comply with the regulations not withstanding attempts in as recently as last year to have six trucks out there; two to four front loaders going out every day because they picked up the leaves and the next day there was a pile of them on the streets. Mayor Hipp said there is no way no matter how many trucks they put out, no matter how much manpower you put out to comply with the regulations, they know that and other communities know that so most communities are going to some leaf bagging requirement and if they don't try it this year, they expose themselves to serious liability in 2009. The Mayor said he does appreciate the concerns that people have about getting this done this year but he believes it has to happen and he urges all members of the Council to support this Ordinance.

As no one wished to speak further the discussion was closed.

The Borough Clerk read the roll call: Councilman Fecanin, Councilwoman Keyes voted nay; Councilman Genovesi, Councilwoman Inguanti, Councilman Sasso voted aye.

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Mayor Hipp opened the second hearing of citizens.

Arie Moller, 80 Montross Avenue said he had a question on the Highland Cross public hearing; are they actually going to have a say in the matter or is the Meadowlands Commission going to dictate what happens there? Mr. Moller said from his understanding there is not much they could do as the Borough.

Dennis Letsche, 228 Prospect Place said he had two comments; one being there is a song "That Was Yesterday and Yesterday Is Gone"; the current Governing Body was elected to take Rutherford forward not backward and he thinks that tonight they did a lot of backwards and he would encourage the Body to take them forward, not backwards. Mr. Letsche said he doesn't care what the past administration did or the administration before that, it's done. He encouraged the Governing Body to move forward. Mr. Letsche said his question is on the budget; in the past meetings on the budget he heard comments along the lines of if they take out the school budget and take out what the State and County charge them then the budget is only 3-4%. He said over the past four years coming into this budget, if they were to take away the school and the County and the other assessments what would those municipal tax increases have been over the last four years? Mr. Letsche said he would guess it wasn't 33% but he would be curious if anyone could give that answer. He reminded and invited everyone to the October 11th Pumpkin Run.

Robert Genardi, 155 Montross Avenue said his question was as of next year, he doesn't think they could be in compliance with the Clean Water Act anyway because from what he understands they have and he asked Councilman Fecanin, approximately how many storm drains do they have in the Borough? Councilman Fecanin said he believes a little over 300. Mr. Genardi said he thinks they have about 1,300-1,400 around the whole Borough. He said because these all have to have adapter kits so the leaves can't get into the storm drains. Mayor Hipp asked Mr. Genardi to state his questions and comments and they will be answered afterwards. Mr. Genardi said his question is, since Mr. Fecanin worked with the DPW before he thought he would know; are they going to be in full compliance and how many bags are the homeowners going to get; if they have a half acre or 30 trees on their property 5-10 bags are not going to be enough. He said with the taxes they are paying, they should be getting a lot more than that and as far as resurfacing any roads now is not the right time to do it and the reason being is that asphalt has gone up about 22% so they should wait until it drops off a little bit.

As no further citizens wished to be heard, Mayor Hipp closed the hearing of citizens.

Councilman Fecanin said in response to Mr. Genardi, the number he gave was at the time when he left Buildings and Utilities, there was over 300 left to in compliance meaning labeled and retrofitted with fittings and thanked Mr. Genardi for pointing out his work.

Councilman Genovesi said a quick comment to Letsche's question the answer is 15% and 18% and this year would be 5%.

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Councilwoman Inguanti said she understands Mr. Genardi's questions regarding the storm water and she knows they are continuing to work on retrofitting with a few more to go. She said that is actually one of the problems they have with the leaves, is that when the leaves don't go down the drain it just makes flooding in the streets worse and what she is concerned about it is when the leaves are in the streets, the water builds up and if they get a cold snap they get icy. Councilwoman Inguanti said as a mother this is where she gets really concerned about the kids walking home from school and cars skidding on the ice so that is another reason she supports bagging of the leaves. She said she understands the issue with the asphalt too, she is mindful of that and it is unfortunate that the costs have increased so much, unfortunately it means doing smaller increments and maybe smaller, more targeted improvements. Councilwoman Inguanti said to Mr. Letsche she appreciates his comments and they are certainly not looking to dredge up the past but she thinks it is important to have things in context and she hopes she provided that.

Mayor Hipp said to Mr. Moller that in respect to his question about Highland Cross as he indicated earlier, there will be at least two public hearings on that application conducted by the Meadowlands Commission in Rutherford for the purpose of obtaining feedback from the residents about the proposed developments. The Mayor said that would include questions and concerns that residents have about the impact the proposed development will have on the community. Mayor Hipp said in addition to that the Meadowlands Commission will consider it as a statutory obligation to see the affect that this development will have within its region. The Mayor said the Meadowlands Commission has to submit this project, if it approves it, to the Mayor's Committee and they have a vote, he serves on that Committee as a Mayor of the Town and the Commission can override a negative by the Committee but it requires a super majority to do it, he believes it is 2/3s. Mayor Hipp said there is ample opportunity for input, there is ample opportunity for comment, for debate and discussion on the project, it is not going to be shoved down their throats, what may end up happening may not please people but he doesn't have a crystal ball and there are issues that they need to be discussed including in his judgment, affordable housing issues. The Mayor said if they do not deal with that in an appropriate way over the next several months they may find themselves in a very bad situation; so he urged all residents to pay attention to this, to attend the meetings, to gather information and be prepared for, he hopes to be a very fruitful and productive debate on the project. Mayor Hipp said they do not have the right to simply prevent Highland Cross from making an application and in effect nobody does even if it were before the Planning Board, they couldn't prevent them from coming before the Planning Board for example and making an application but they do have substantial input and he thinks a lot of say to what is going to be built there. The Mayor said it is going to require the residents of the community to basically come out and participate in addition to members of the Governing Body, members of the Planning Board who they are working with and he hopes they will be able to come to some consensus as what needs to be done out there over the course of the next several months.

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Mayor Hipp said with respect to Mr. Letsche, he said that he respectfully disagrees that they have gone backwards, last year they had a tax increase, just municipal tax increase of 15.7% and the year before was 18% and that was the tax levy. The Mayor said the year before that was much less and of course this year; he was not sure of which four years includes this year's budget or going back to 2005 but even there they had tax increases in 2004, he believes there was a slight municipal increase but it may have been 2005. Mayor Hipp said if they are looking at the aggregate, the question to him is, they could have zero tax increases for several years running and then they get hit with double digit significant tax increases which disrupts the average budget of the homeowner and over time things cost more not less and even though the Governing Body and Councilwoman Inguanti in particular has worked very diligently to bring in a budget which is responsible. He said there will be an increase, they were hit with increases not only from pension of a half a million which happens a lot and it is going to get worse next year, increases in the dumping fees, increases in sewer fees, so from 500 add approximately 200 to that. The Mayor said they were not subject to their control; there were some things that were subject to their control and he respectfully disagrees with some of the members of the Council and the previous administration, he believes it would have been prudent to avoid \$365,000 interest payment in this years budget by not issuing tax anticipation notes in 2007. Mayor Hipp said he also believes it would have been more prudent for last year's Governing Body when it negotiated the retirement of two police officer's not to give them lump sum payments, in the first instance \$300,000 and initially an additional \$200,000 so if they add those two items together that is another \$800,000 that was going to impact the 2008 budget. The Mayor continued that they had \$700,000 from the State and Utilities Authorities another basically \$800,000 from their own Government, that is about \$1.6 million increase; add to that a \$20 million decrease in the tax base and other increases. The Mayor said does he like going backwards, absolutely when it affects the present, it has to because they need to be guided by what has happened in order to go forward and there is going to be a great debate that's going to be ongoing, not just the current year but in the future years as to how they handle the budget but what they are looking to do is to look to find ways to improve the tax base, find ways of going into substantial energy to reduce costs that they can control like electricity, looking to generate revenue from other sources than taxes and grants and buyouts from the State so they could basically govern themselves without having to raise taxes substantially every year. Mayor Hipp said this budget is under the rate of inflation and he challenges anybody to go around to 566 municipalities and count how many towns have managed to do that in 2008; there aren't a lot of them Rutherford is one of the exceptions and it is because of the hard work as Councilwoman Inguanti said of the Dept. Heads and of sound fiscal policies that they are beginning to institute in order to bring it under control and it is not going to be easy but in his judgment they are moving in the right direction. The Mayor said they don't have another double digit tax increase in 2008 and he thinks that is important in of itself and he would love to see a less of an increase in 2009 and even less in 2010 if any increases at all but they need to stabilize certain things in order to get there.

The Borough Clerk said with the Budget Amendment being passed, could they set the special meeting of the Council and poll to see their availability for next week. Mayor Hipp asked the Council for Monday the 29th or Tuesday the 30th for introduction of the

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adoption of the final budget with the amendments that passed. The Mayor said if they do it on the 30th they have to get the budget approval to the Local Finance Board, they have to certify it for approval and they have to get it to the County Tax Board so that they can certify the added assessments; that has to be done no later than Friday otherwise they lose the opportunity to include added assessments which will have a severe adverse impact. Mayor Hipp said everything has to go perfectly if they do it; he asks that members of the Council to endeavor, all of them be there either in person or by phone on the 29th Monday so if there is any last minutes problems that need to be resolved administratively that the Dept. Heads could do it. The Mayor said either day, it has to happen but he asks members of the Council to make themselves available on the 29th so that it can get done. Councilwoman Keyes said that as she responded earlier in the day, she is not available on the 29th but she is available on the 30th. Mayor Hipp asked if she was available on the phone for the 29th to which she responded that she wasn't available. Mayor Hipp asked Councilman Fecanin who responded he is available both days. Mayor Hipp asked Councilman Sasso who responded he would be available. Mayor Hipp asked Councilman Genovesi who responded definitely not in person on Monday only by phone; but Tuesday in person most likely. Mayor Hipp asked Councilwoman Inguanti who responded that she never leaves. The Borough Clerk asked if Mayor Hipp heard if Councilman Sommer indicated whether he was going away; it was confirmed that he would be away so they would have to contact him by phone. Mayor Hipp said they have to make a decision, it looks like it has to be Tuesday but he wanted to see what they could do.

* * *

Councilman Genovesi moved the following resolution, seconded by Councilwoman Inguanti, with all members present voting aye:

WHEREAS, the Open Public Meetings Act requires that a public body adopt a resolution at an open meeting before going into closed session to discuss a matter which excludes the public as permitted under the Act:

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Rutherford will hold a closed meeting on Tuesday, September 23, 2008 at 11:10 p.m. in the Committee of the Whole Room to discuss the following matter:

- Personnel-Rec. Director Promotion Request
- Borough Administrator Position

The meeting re-convened to open session at 11:40 pm. There being no further business, Councilman Genovesi moved that the meeting be adjourned at 11:40 pm, seconded by Councilwoman Inguanti with all members present voting aye.

Borough Clerk