

August 18, 2009
Keyport, New Jersey

Minutes of the Regular Meeting of the Mayor and Council, Borough of Keyport, held on the above date in the Borough Hall Council Chambers, Keyport, N.J., pursuant to the adoption of the Annual Notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent, Two River Times and Newark Star Ledger and posted on the Bulletin Board in accordance with the Open Public Meeting Act, P.L. 1975, Ch. 231.

Mayor Bergen called the meeting to order at 6:32 P.M. Clerk Valerie Heilweil read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs (arrived 7:04PM), Mayor Bergen (arrived 6:35PM). Others present: Borough Administrator Ms. Wright, Borough Attorney, Eric Winston. Absent: Councilman Hill

RESOLUTION 172-09

1. Resolution No. 172-09 Closed Session Meeting Personnel, Contract Negotiation

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, Mayor and Council of the Borough of Keyport are of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss:

- Personnel
IUOE 68 status of Union Mediation
- Litigation
Burlew Case Update

NOW, THEREFORE, BE IT RESOLVED by the Governing Body that a meeting of the Mayor and Council shall be held forthwith from which the public shall be excluded in the Council Chambers, Borough Hall, for the purpose of discussing the above-mentioned items.

BE IT FURTHER RESOLVED that discussions on Litigation and Personnel be conducted at said Closed Session shall be disclosed when the matters discussed are resolved and this meeting shall continue in approximately 20 minutes.

Offered for adoption by Ms. Sefcik, seconded by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs

Nays:

Absent: Councilman Hill

Abstain:

Council went into closed session at 6:35 PM and this meeting was reconvened at 7:13 PM

Mayor Bergen called the meeting to order at 7:13 P.M. and the Borough Clerk read the Sunshine Law Notice. The Pledge of Allegiance was said and there was a moment of silence.

On Roll Call the following were present: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs. Others present: Mayor Bergen, Mr. Winston, Borough Attorney, Mr. Fallon, CFO and Borough Administrator Ms. Wright. Absent: Councilman Hill

APPROVAL OF MINUTES

July 14, 2009 – Regular Session

Offered for adoption by Mr. Kovacs, seconded by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs
Nays:
Absent: Councilman Hill
Abstain:

INTRODUCTION OF 2009 MUNICIPAL BUDGET

1. Resolution Introducing the 2009 Municipal Budget – Not Introduced

The Clerk reads the Budget by Title:

2009 MUNICIPAL BUDGET OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, FOR THE YEAR 2009

Mr. Walling made a motion changing budget to not make any layoffs.

Mr. Sheridan wanted to add \$20,000 for turn out gear for the Fire Department.

\$124,000 + \$20,000 = \$144,000 that would need to be added to the budget. The tax increase would be 4.2 cent or 6 ½ % increase in taxes.

Ms. Sefcik cannot support that. In favor of removing one patrolman and putting money in for the turn out.

Roll Call Vote: Ayes: Councilmembers Sheridan, Walling, Kovacs
Nays: Councilmembers Bolte, Sefcik
Absent: Councilman Hill
Abstain:

Motion fails because it must be a majority of the full Governing body in order to introduce the budget.

Mr. Walling spoke of the finance committee meetings.

7:23 PM Councilman Walling leaves the dais

7:24 PM Councilman Walling returns to the dais

Mayor talked about the fact that all Council (excluding Mr. Walling) voted for the lay-off plan. Mr. Kovacs talked about laying off officers that we paid to train and having other towns benefit from it. Ms. Sefcik talked about reducing the number of officers that would be laid off to one.

Mr. Walling voiced his unhappiness with receiving the Police Department chart that Ms. Bolte presented tonight at 6:45PM.

Mr. Kovacs asked about the legal budget. Says the mayor said we don't have enough money in budget. But Mayor says there is a shortage in the legal budget of the Planning Board.

Ms. Bolte explained what is happening in police arbitration. Should police take a wage freeze, everyone can be saved, but police are unwilling.

Mayor asked for any other resolution to the budget. Since there were none, he moved on to other business.

Budget was not introduced.

INTRODUCTION OF ORDINANCES

1. Ordinance no.6-09 – Inside Meter and Outside Register Mismatch

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING CHAPTER XIV, WATER AND SEWER, SECTION 14-1.7 BILLS AND PAYMENTS OF THE ORDINANCES OF THE BOROUGH OF KEYPORT SPECIFICALLY ADDING SECTION F – EXTRAORDINARY INCREASE IN BILLING DUE TO THE INSIDE METER AND THE OUTSIDE REGISTER MISMATCH

14-1.7 f. Extraordinary Increase in Billing Due to the Inside Meter and the Outside Register Mismatch. Any property owner who has a mismatch between the inside meter reading and the outside register reading will be issued a catch-up bill based on the inside meter reading. The bill will be calculated based on current billing rates. A reduction of the usage will be given for any billing quarters from second quarter 2006 forward where the usage was below the 450 cubic foot minimum. For example, if a quarter's usage is 310 cubic feet then a reduction would be given of 140 cubic feet on the catch up consumption. A cap on the amount of the catch up bill will be set at Seven Hundred Fifty Dollars (\$750.00) per unit. At that time the new touchpad meter system will be installed which eliminates the mismatch issue. This ordinance is retroactive for catch up bills from 2007 to the date this ordinance is adopted.

Motion to introduce Ordinance moved by Ms. Sefcik, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs
Nays:
Absent: Councilman Hill
Abstain:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Asbury Park Press for a Hearing to be held on September 1, 2009 moved by Mr. Sheridan, second by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs
Nays:
Absent: Councilman Hill
Abstain:

2. Ordinance No. 7-09 – FEMA Ordinance

The Clerk reads the Ordinance by Title:

CHAPTER XV – THE FLOOD DAMAGE PREVENTION ORDINANCE

Section 15-1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

15-1.1 STATUTORY AUTHORIZATION

The Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry. Therefore, the (governing body) of the Borough of Keyport, of Monmouth County, New Jersey does ordain as follows:

15-1.2 FINDINGS OF FACT

[1] The flood hazard areas of the Borough of Keyport are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

[2] These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

15-1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- [1] To protect human life and health;
- [2] To minimize expenditure of public money for costly flood control projects;
- [3] To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] To minimize prolonged business interruptions;
- [5] To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

15-1-4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the
- [3] Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 2.0

DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

"Appeal" means a request for a review of the Construction Official's interpretation of any provision of this ordinance or a request for a variance.

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

"Areas of special flood related erosion hazard" is the land within a community which is most likely to be subject to severe flood related erosion losses. After a detailed evaluation of the special flood related erosion hazard area will be designated a Zone E on the Flood Insurance Rate Map.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

"Development" means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

"Digital Flood Insurance Rate Map" (DFIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Elevated building" means a non-basement building (i) built in the case of a building in a Coastal High Hazard Area to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In Areas of Coastal High Hazard "elevated buildings" also includes a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

"Erosion" means the process of the gradual wearing away of landmasses.

"Flood or flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- [1] The overflow of inland or tidal waters and/or
- [2] The unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Insurance Study" (FIS) means the official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

"Flood plain management regulations" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- [a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved State program as determined by the Secretary of the Interior; or
- (2) Directly by the Secretary of the Interior in States without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

"Manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"New construction" means structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the municipality.

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

"Recreational vehicle" means a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Start of Construction" for other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the

actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

"Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

[1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

[2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

Section 3

GENERAL PROVISIONS

15.3-1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Borough of Keyport, Monmouth County, New Jersey.

15.3-2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Borough of Keyport, Community No. 340304, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

1.) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009.

- (a) A scientific and engineering report "Flood Insurance Study, Monmouth County, New Jersey (All Jurisdictions)" dated September 25, 2009
- (b) Flood Insurance Rate Map for Monmouth County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34025C0029F, 34025C0033F; 34025C0037F whose effective date is September 25, 2009

The above documents are hereby adopted and declared to be a part of this ordinance. The Flood Insurance Study and maps are on file at 70 WEST FRONT STREET, New Jersey 07735-0070.

15-3.3 PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be subject to the General penalty established in Section 1-5 of this Code, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Borough of Keyport from taking such other lawful action as is necessary to prevent or remedy any violation. involved in the case. Nothing herein contained shall prevent the Borough of Keyport from taking such other lawful action as is necessary to prevent or remedy any violation.

15-3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15-3.5 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

15-3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the Borough of Keyport, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 4.0

ADMINISTRATION

15-4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. Application for a Development Permit shall be made on forms furnished by the Engineer and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been floodproofed.
- [3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood-proofing criteria in Section 5.2-2; and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

15-4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Zoning Official is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

15-4.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Engineer shall include, but not be limited to:

15-4.3-1 PERMIT REVIEW

- [1] Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- [2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- [3] Review all development permits to determine if the proposed development is located in the floodway.

[4] Review all development permits in the coastal high hazard area of the area of special flood hazard to determine if the proposed development alters sand dunes so as to increase potential flood damage.

[5] Review plans for walls to be used to enclose space below the base flood level in accordance with Section 5.3-2 (4).

15-4.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA

When base flood elevation and floodway data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2-1, SPECIFIC STANDARDS, Residential Construction, and 5.2-2, SPECIFIC STANDARDS, Nonresidential Construction.

15-4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and

[ii] maintain the flood-proofing certifications required in Section 4.1 (3).

[3] In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 5.3-2(1) and 5.3-2(2)(i) and (ii) are met.

[4] Maintain for public inspection all records pertaining to the provisions of this ordinance.

15-4.3-4 ALTERATION OF WATERCOURSES

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

15-4.3-5 INTERPRETATION OF FIRM BOUNDARIES

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 4.4.

15-4.4 VARIANCE PROCEDURE

15-4.4-1 APPEAL BOARD

[1] The Planning Board as established by the Borough of Keyport shall hear and decide appeals and requests for variances from the requirements of this ordinance.

[2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Engineer in the enforcement or administration of this ordinance.

[3] Those aggrieved by the decision of the Planning Board or any taxpayer, may appeal such decision to the appropriate court, as provided in statute.

[4] In passing upon such applications, the Planning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

(i) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of Section 4.4-1 [4] and the purposes of this ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

[6] The Engineer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

15-4.4-2 CONDITIONS FOR VARIANCES

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 4.4-1(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

- (i) a showing of good and sufficient cause;
- (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
- (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 4.4- 1[4], or conflict with existing local laws or ordinances.

(6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 5.0

PROVISIONS FOR FLOOD HAZARD REDUCTION

15-5.1 GENERAL STANDARDS

In all areas of special flood hazards the following standards are required:

15-5.1-1 ANCHORING

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

15-5.1-2 CONSTRUCTION MATERIALS AND METHODS

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

15-5.1-3 UTILITIES

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

15-5.1-4 SUBDIVISION PROPOSALS

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

15-5.1-5 ENCLOSURE OPENINGS

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

15-5.2 SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 4.3-2, Use of Other Base Flood Data, the following standards are required:

15-5.2-1 RESIDENTIAL CONSTRUCTION

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to or above base flood elevation;

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

15-5.2-2 NONRESIDENTIAL CONSTRUCTION

In an Area Of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall:

[1] either have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to the level of the base flood elevation; and

[2] within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor,

including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

[1] be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[2] have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[3] be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 4.3-3 [2] [ii].

15-5.2-3 MANUFACTURED HOMES

[1] Manufactured homes shall be anchored in accordance with Section 5.1-1(2).

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

15- 5.3 COASTAL HIGH HAZARD AREA

Coastal high hazard areas (V or VE Zones) are located within the areas of special flood hazard established in Section 3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

15-5.3-1 LOCATION OF STRUCTURES

[1] All buildings or structures shall be located landward of the reach of the mean high tide.

[2] The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or manufactured home subdivision.

15-5.3-2 CONSTRUCTION METHODS

[1] ELEVATION

All new construction and substantial improvements shall be elevated on piling or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the piling or columns) is elevated to or above the base flood level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided or in SECTION 5.3-2(4).

[2] STRUCTURAL SUPPORT

(i) All new construction and substantial improvements shall be securely anchored on piling or columns.

(ii) The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

(iii) There shall be no fill used for structural support.

[3] CERTIFICATION

A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of SECTION 5.3-2 [1] and 5.3-2 [2] (i) and (ii).

[4] SPACE BELOW THE LOWEST FLOOR

(i) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this ordinance shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this section.

(ii) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the base flood elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading of 20 pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions.

(a) break-away wall collapse shall result from a water load less than that which would occur during the base flood and,

(b) the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.

(iii) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.

(iv) Prior to construction, plans for any breakaway wall must be submitted to the Construction Official for approval.

15-5.3-3 SAND DUNES

Prohibit man-made alteration of sand dunes within Zones VE and V on the community's DFIRM which would increase potential flood damage.

Motion to introduce Ordinance moved by Ms. Sefcik, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs

Nays:

Absent: Councilman Hill

Abstain:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Asbury Park Press for a Hearing to be held on September 1, 2009 moved by Ms. Sefcik, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs

Nays:

Absent: Councilman Hill

Abstain:

3. Ordinance No. 8-09 – Bond Ordinance for Sanitary Sewer System Upgrades

Mayor explained the Bond Ordinances.

The Clerk reads the Ordinance by Title:

BOND ORDINANCE PROVIDING FOR SANITARY SEWER SYSTEM UPGRADES IN AND BY THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$1,600,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,600,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING THE COST THEREOF

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

Section i) The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Borough of Keyport, in the County of Monmouth, New Jersey (the "Borough"). For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$1,600,000. No down payment is required as the purpose authorized herein is deemed self-liquidating and the obligations authorized herein are deductible from the gross debt of the Borough, as more fully explained in Section 6(e) of this ordinance.

Section ii) In order to finance the cost of the improvement or purpose, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,600,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section iii) (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is for the sanitary sewer improvements and inflow reduction project, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

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

Section v) The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section vi) The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a self-liquidating purpose of a municipal public utility. No part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,600,000, but that the net debt of the Borough determined as provided in the Local Bond Law is not increased by this bond ordinance. The obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$320,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

(e) This bond ordinance authorizes obligations of the Borough solely for purposes described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-47(a) and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. The Township hereby declares the intent of the Township to issue the bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Motion to introduce Ordinance moved by Mr. Sheridan, second by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs
Nays:
Absent: Councilman Hill
Abstain:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Asbury Park Press for a Hearing to be held on September 1, 2009 moved by Ms. Sefcik, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Walling, Kovacs
Nays:
Absent: Councilman Hill
Abstain:

4. Ordinance No. 9-09 Bond Ordinance Amending Bond Ordinance #23-08 providing for a Waterfront Park and Related Improvements increasing the appropriation by \$500,000

The Clerk reads the Ordinance by Title:

PROVIDING A SUPPLEMENTAL APPROPRIATION OF 500,000 FOR THE WATERFRONT PARK AND RELATED IMPROVEMETNS IN AND BY THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY AND AUTHORIZING THE ISSUANCE OF \$500,000 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

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

Section 1. The improvement described in Section 3(a) of this bond ordinance has heretofore been authorized to be undertaken by the Borough of Keyport, in the County of Monmouth, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the supplemental amount of \$500,000, such sum being in addition to the \$1,250,000 appropriated therefor by bond ordinance #23-08 of the Borough finally adopted September 16, 2008 ("Bond Ordinance #23-08"). The Borough also expects to receive a funding for a part of the additional \$500,000 in the form of a grant from the New Jersey Department of Protection for environmental remediation. Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvement since the project described in Section 3(a) hereof is being partially funded by a

State of New Jersey Green Acres Program (the "State Grant") appropriated under Bond Ordinance #23-08.

In order to finance the additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$500,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 1. (a) The improvement heretofore authorized and the purpose for the financing of which the bonds are to be issued is for the construction of a waterfront park and related improvements, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is \$1,325,000, including the \$825,000 bonds or notes authorized by Bond Ordinance #23-08 and the \$500,000 bonds or notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$1,750,000, including the \$1,250,000 appropriated by Bond Ordinance #23-08 and the \$500,000 appropriated herein.

Section 2. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 15 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$500,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$250,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement, all of which was estimated in Bond Ordinance #23-08.

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Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3(a) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Motion to introduce Ordinance moved by Ms. Sefcik, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan,
Nays: Councilmembers Walling, Kovacs
Absent: Councilman Hill
Abstain:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Asbury Park Press for a Hearing to be held on September 1, 2009 moved by Mr. Sheridan, second by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan,
Nays: Councilmembers Walling, Kovacs
Absent: Councilman Hill
Abstain:

COMMUNICATIONS AND PETITIONS

1. Application for a Raffle License from Keyport First Aid for an Off-Premise 50/50 Cash Raffle to be held on March 6, 2010 at 10PM

Motion to approve move by Mr. Sheridan, second by Mr. Kovacs with ayes by all present.

2. Letter from Monmouth County Board of Chosen Freeholders regarding the Monmouth County 2009 Resurfacing Program (CR4/CR6, Broad Street/First Street from Front Street to Bridge R-3)

Motion to receive and file moved by Mr. Walling, second by Mr. Sheridan with ayes by all present

3. Letter from Keyport First Aid requesting the waiving of local fees for their Super 50/50 to be drawn March 6th

Motion to approve moved by Mr. Sheridan, second by Mr. Walling with ayes by all present

4. Petition to Extend Licensed Premises from the Bulkhead Bar & Grille for the Keyport Country Jamboree on October 10th & 11th, 2009 from 12 noon to 7PM

Motion to refer to Administrator moved by Ms. Sefcik, second by Mr. Sheridan with ayes by all present

5. Letter from Espresso Joe's requesting the use of the Keyport Mini-Park every Friday & Saturday in September & October (excluding Sept. 12th, Keyport Festival, and October 9th & 10th, Country Jamboree weekend for the Keyport Fall Concerts (discrepancy on dates)

Motion to refer to Chief and Business Administrator moved by Ms. Sefcik, second by Mr. Sheridan with ayes by all present

6. Memo from Harbor Commission requesting that Council authorize two projects:

- A. Drive two pilings at the channel entrance to the boat launch ramp (labor only)
- B. Drive a third piling at the float at the fishing pier

Motion to approve and refer to Administrator and Borough Engineer, Don Norbut – Need waterfront development permit and Tidelands license. Check with DEP. Moved by Mr. Walling, second by Ms. Sefcik with ayes by all present.

7. Letter from Charles Merla requesting the return of any funds paid to the Borough pertaining to the building permits for their deck expansion

Motion to refer to Administrator and Attorney moved by Mr. Walling, second by Mr. Sheridan with ayes by all present.

8. Memo from Harbor Commission requesting permission to place a plaque at the pier honoring the memory of Jim Wienges, one of the original “Pier Boys” (concerned about Wm Ralph name of Pier)

Motion to refer to Administration moved by Mr. Sheridan, second by Ms. Sefcik with ayes by all present.

9. Letter from Brite Futures Learning Center requesting to hold a benefit car wash at their school from 9AM-4PM and email requesting the date be changed to Saturday, September 12th (needs to move date)

Motion to refer to Administration moved by Mr. Sheridan, second by Ms. Sefcik with ayes by all present.

10. Letter from KBA requesting permission for KeyportFest on September 12, 2009 (Rain date 9/13/09)to:

- A. Close Front Street (from Beers to Broad) between 7AM and 7PM
- B. The services of Public Works in helping to move tables, chairs, etc.

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- C. Close East Front Street (from Broad to Church) from 7AM to 5PM for the Soap Box Derby
- D. Authorize fireworks for this event 9PM

Motion to approve moved by Mr. Sheridan, second by Mr. Walling with ayes by all present.

11. Notice from Keyport Garden Club regarding Butterfly Garden and Grant from Hardy Plant Society/Atlantic Region

Motion to refer to Administrator, to contact Recreation department members and members of the Garden Club. Moved by Mr. Sheridan, second by Ms. Sefcik with ayes by all present

12. Application for a Social Affairs Permit from the Keyport Cultural Celebration Committee (KCCC) for the Keyport Country Jamboree & Chili Festival to be held October 10th & 11th, 2009

Motion to approve moved by Ms. Sefcik, second by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Kovacs
Nays: Councilman Walling
Absent: Councilman Hill
Abstain:

13. Letter from Clean Ocean Action regarding the Fall Beach Sweep to be held on Saturday, October 24, 2009 from 9AM-12:30PM

Motion to refer to Administration and Environmental Commission moved by Mr. Sheridan, second by Ms. Sefcik with ayes by all present

Mr. Sheridan thanked: Fire Department for the Fireman's Fair
 Police Department for National Night Out
 Recreation Commission for Movie Night

REPORTS OF DEPARTMENTS

1. Borough Clerk's Monthly Report for July 2009
2. Tax\Water\Sewer Collector's Report for July 2009
3. Monthly Report for Building Department for July 2009
4. Property Maintenance Report for July 2009
5. Minutes of the Keyport Recreation Commission Meeting of July 2, 2009
6. Board of Health Treasurer's Report for June and July 2009 and minutes of the June 10, 2009 meeting
7. Municipal Court's Monthly Cashbook Report for June and July 2009

On file in Borough Clerk's office for review.

Motion to receive and file all reports as read, moved by Mr. Walling, second by Mr. Sheridan with ayes by all present.

STATUS ON CHANGE ORDER

Presented by Don Norbut – Engineer

Mr. Norbut stated that adding \$400,000 to project costs relating to an environmental cap on the site relating to historic fill. Borough qualifies for BDA funding which will cover 75% of those improvements

DEP is accepting the asphalt of the parking lot as an environmental cap.

Stumbling block was a tank at the old sewage storage plant which has now been emptied of sludge. This caused a delay in the project.

Roadway is graded out now – just needs final grading. Schedule takes us through the end of October.

Mr. Kovacs asked if the sludge went into a fill; yes. Requests copy of waste manifest. Engineer will get that paperwork.

Mr. Kovacs would like to pull T&M bills from the bill list. He feels they are at fault for not knowing about the tank.

Mayor explains that there is no basis in the law to no basis in the law to get the work that was done, done for free.

Mr. Kovacs feels they should have done test booring.

COMMITTEE REPORTS

No reports

ADMINISTRATOR'S REPORT

No Report

ATTORNEY'S REPORT

No Report

UNFINISHED BUSINESS

NEW BUSINESS

RESOLUTIONS

3. Resolution no. 173-09 Authorizing the Execution of a Municipal Assistance/Shared Services Agreement with the County of Monmouth
4. Resolution no. 174-09 Authorizing Monmouth County Commodity Resale System
5. Resolution no. 175-09 Authorizing *Over the Limit Under Arrest 2009 Statewide Crackdown*
6. Resolution no. 176-09 Authorizing John Truhan Planning Services with NPP Grant Funds
7. Resolution no. 177-09 Appointing Property Maintenance Officer
8. Resolution no. 178-09 Awarding Community Forestry Management Plan
9. Resolution no. 179-09 Authorizing Disabled Veteran Exemption – Kmetz
10. Resolution no. 180-09 Authorizing the Borough Administrator to Apply for a Local Government Greenhouse as Reduction Grant
12. Resolution no. 182-09 Authorizing KBA to hold a firework display for KeyportFest, September 12, 2009 Rain date 9/13/09)
13. Resolution no. 183-09 Authorizing the Borough Administrator to Apply for a Municipal Recycling Service Improvement Grant
14. Resolution no. 184-09 Authorizing the Award of a Contract for the Purchase of Computer Hardware and Maintenance
15. Resolution no. 185-09 Authorizing Release of Performance Guarantee for PineBelt Nissan
16. Resolution no. 186-09 Authorizing Waiving of Fees
17. Resolution no. 187-09 Payment of Bills

Offered for adoption by Mr. Sheridan, seconded by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan Walling, Kovacs

Nays:

Absent: Councilman Hill

Abstain:

11. Resolution no. 181-09 Authorizing Change Order No. 1 to the Contract for Waterfront Park

Offered for adoption by Ms. Sefcik, seconded by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Sheridan

Nays: Councilmembers Walling, Kovacs

Absent: Councilman Hill

Abstain:

PUBLIC COMMENT PORTION

The meeting was opened to the public for comments or questions at 8:11 P.M.

Lou Lozito, 50 Beets Street, asked why there are multiple school boards and police departments in the same county.

Resident, 135 Osborn Street – spoke about the conduct of the Mayor and Council at this meeting. Resident suggested that the Borough put a hold on the Waterfront Park rather than reduce the Police force.

Mayor explained that the Waterfront Park money is debt service money and cannot be used for operating budget.

Roy Cadoo felt engineer should have known about the tank. Mr. Cadoo stated that the tower at Church and Elizabeth must come down.

Mayor explained there would have been an additional cost to do the test booring.

Mr. Cadoo complained about having meters outside and now we are bonding for this.

John Olsen, 7 East Front Street, stated that he attended all the BDA meetings and believes the boor testing would have been for free. Mayor stated that the tank alone was not an environmental contaminant. It only became a BDA issue due to the sludge.

Joseph Ruth, PBA President, stated that they are one of the lower paid police departments in the area. Officer Ruth stated that his life is at risk at his job every day. Mr. Ruth stated at the last meeting Mr. Fallon spoke of being below the cap. Does that include lay-offs; yes. Then why are we discussing layoffs.

Ms. Sefcik stated that they need to look at the perspective of all the residents.

Mr. Ruth talked about the health insurance plan that police have and asks why police should take anything less. Mayor explained that the State Health Benefit Plan would not save money but would have the cost would not increase as rapidly.

Mr. Ruth asked what the anticipated savings of the proposed Police lay-off. Mayor Bergen stated it would be \$120,000 savings next year.

Mr. Ruth stated that Keansburg has 32 full-time officers and they are not laying off. He asked how the increase in Court revenue benefitted the Borough. Mr. Ruth stated that the Court revenue was \$100,000 more than anticipated last year.

The Lieutenant list came out January 4, 2007. The Borough has not yet certified that list. Mr. Ruth asked how much grant money will be lost going below 19 officers.

Mayor stated that we have been receiving \$28,000 a year but he thinks that we can request that it continue. There were 1098 arrests last year.

Mark Hafner, Keyport PBA, feels that times are hard and that because of that crime increases. Mr. Hafner stated that the Police Department gave up raises in the past in order to have this great health plan, and now the Borough is asking the Police to take a lesser health plan.

Mr. Ruth asked if any specials are being laid off; no – they are hired as needed. Mr. Ruth stated they cannot be used to replace any officers.

Darlene Lozito stated she would rather have the police than the Waterfront Park

MD Abramowitz stated she is not worried about the tax increase if we keep our police.

Laurie Graham asked about the furlough plan when no budget has been introduced.

Mayor stated that the furloughs have been approved. Ms. Graham asked about the lay-off plans. Mayor replied that would go into effect September 1st, as of right now.

Sal Costanza, Union Representative, explained that our part-time employees are losing 40% of their pay and their health insurance. Mr. Costanza recommended that Council and Business Administrator go over some strategies or solutions.

Gus, Lloyd Rd, Aberdeen, stated he is a police officer in Aberdeen and feels this is penny-wise and pound foolish

Pat Hammond, Green Grove Avenue, stated she only hears of Police Officers getting laid off. He never hears of other Borough employees being laid off.

Mike Lane, 51 First Street, asked about the ballot question to reduce the Open Space Tax.

Mayor stated that the Borough can still do it but it would not be effective this year.

Mr. Lane asked Council to move on it as soon as possible. Mr. Lane asked about the Bond Ordinance for Sanitary Sewer upgrade. Would like more figures on the Change Order.

Mr. Lane asked about the date for First Street repaving; September 16 & 17. Will a letter go out to residents; yes

KBA budget ever passed; no. What is going in the tax bills; nothing there will be no assessment.

Mr. Lane asked about the Bayshore Watershed Commission putting up windmills. Does Council know about that? Mr. Lane will forward email received from Union Beach Council person.

Chief Mitchell – 32% of 8.5 million budget is the Police department – Chief stated that is a low figure. Councilwoman Bolte confirmed that most towns are in the 40% range. Chief feels eliminating a Lieutenant is irresponsible. Chief feels that the Police Department has bent over backwards to help the budget. Chief welcomes their being a study by the DCA on the structure of the Police Department. Chief feels that someone with experience should make these decisions.

Mayor stated that it was not the structure of the Police Department that was changed it was the fact that three officers retired.

Chief Mitchell stated he is retiring next year and both Lieutenants need to be primed to run the department.

There being no more comments or questions from the public, the meeting was closed at 9:29 P.M.

APPROVAL OF RESOLUTIONS

Motion on the Consent Agenda

Roll Call: Ayes: Councilmembers Bolte, Sefcik, Sheridan, Kovacs, Walling

Nays:

Abstain:

Absent: Councilman Hill

ADJOURNMENT

Motion to adjourn was made and carried with ayes by all present at 9:31PM.