

Minutes of the Regular Meeting of the Mayor and Council, Borough of Keyport, held on the above date via videoconference in Borough Hall Council Chambers, Keyport, NJ, pursuant to the Annual Notice on file with the Borough Clerk forwarded to the Asbury Park Press, The 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.

Members of the public who wished to participate in the meeting used the following dial in information:

Link: <https://us02web.zoom.us/j/86729884247?pwd=NlVmSkVhMUwxcTh1MGpJOGxuSnI2dz09>

Meeting ID: 867 2988 4247

Passcode: 722511

Dial in Number: (646) 558-8656

Mayor Kennedy called the Meeting to Order at 7:03PM. Borough Clerk Michele Clark read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present via videoconference: Councilmembers Goode, Fotopoulos, McDermott, Davidson and McNamara. Present in Council Chambers: Mayor Kennedy, Borough Administrator Jay Delaney. Borough Attorney Leslie London was present via videoconference. Councilwoman Pacheco was absent.

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

Mayor Kennedy requested a moment of silence

PROCLAMATION

Mayor Kennedy read the Black History Month Proclamation

MAYOR'S UPDATES

- Mayor Kennedy extended her gratitude to the Police Department and all of the members of the Emergency Response teams who assisted in an emergency situation last night that ended with the safe return of a juvenile. She thanked the Police Department, Fire Department, CERT Team and Sherriff's Office.
- Chief Torres and Captain Ferm assisted in a water rescue
- She thanked the DPW, who is down three full time personnel members, for all of their efforts during the storm
- Green Team meeting
- Mayors Wellness Campaign Initiative
- She thanked the Keyport School District for their assistance during the storm the last 24 hours

Mayor Kennedy – Regarding, **R67-21** Authorizing the Borough of Keyport to Release the Remaining Escrow Funds to Brian Hall on behalf of Buccaneer Realty, LLC, there will be a typo adjustment to the Block.

Regarding, **R70-21** Authorizing the Borough Administrator to Initiate the Hiring Process to Fill Vacancies within the Department of Public Works, is to fill positions due to two people resigning.

Regarding, **R68-21** Authorizing a Social Media Profile for the Municipal Alliance Committee, she confirmed with Council President Goode that this will be tabled.

PUBLIC HEARING:

PLACE-TO-PLACE TRANSFER (EXPANSION OF PREMISES) KEYPORT LIQUOR LICENSE LLC, Plenary Retail Consumption License No. 1322-33-012-008 to be Sited at 2, 6-10 W. Front Street

Attorney Leslie London gave an explanation and summary of the Public Hearing regarding the Place-to-Place transfer, which is an Expansion of Premises for Keyport Liquor License with a trade name of McDonagh's Pub.

Council President Goode – He asked if there is something that the applicant has to show or is the burden on Mr. Lane.

Attorney Leslie London – She said that the burden is essentially on Mr. Lane. Council should view the objections to see if they are valid objections and see if they are adequately addressed by the applicant.

Michael Lane of 51 First Street was sworn in by Attorney Leslie London.

Mr. Lane – He provided slides, which were displayed and he spoke to each slide.

Councilwoman McDermott – She asked if he was able to confirm if a survey was done.

Mayor Kennedy – She said that Mr. Lane was requesting that an applicant do a new survey.

Mr. Lane – He said that the application did not have a survey in it.

Jason Mandia, Attorney for Keyport Liquor License, was sworn in by Attorney Leslie London

Attorney Jason Mandia – He said that there was a survey and that there were two pages to the outline. He said that there was a survey page that showed the building where McDonagh's is and then there was a page that was shown in Mr. Lane's presentation that outlined Lot 11.01. The application was to license the entirety of 11.0. He said that there are no requirements for a survey. He said that he sent a more detailed photo today showing the outline of the area. He said that if Council had any issue with the sketch, they could attach it to the final application for submission. The application was for the full lot.

In regards to the sketch for the second floor, he said the building is already licensed on the first floor and the basement. When a full floor is requested to be licensed, they don't require an additional sketch for that floor. He said that Mr. Schwartz is 100% the owner of the applicant company. He is also 100% the owner of the land entities. He has exclusive control of all entities and areas sought to be licensed. He said as far as the mailing address, there is no regulation that says a landlord can't use a different address.

He said in regards to the two licenses, that there is an exception for restaurants and that exception is marked on this one license and it is also marked on the license for 6 Broad Street.

Council President Goode – He said that he is having issues with it expanding into the entire parking lot. He is concerned with patrons wandering around with alcohol.

Attorney Jason Mandia – He said that if anyone were to step outside the licensed area, then the owner would be responsible. The plan is to have a gate or security at that entrance. He said that right now there is already outdoor dining.

Council President Goode – He asked what is going on in the parking lot.

Attorney Jason Mandia – He said tables, but deferred to Mr. Kenny Schwartz to confirm.

Kenny Schwartz, owner of Keyport Liquor License, was sworn in by Attorney Leslie London.

Kenny Schwartz – He said that he always had someone at the podium. If necessary, he will have a professional security person. He said he has been there sixteen years and he has never heard of anyone going on the street with a drink.

Mayor Kennedy – She asked Chief Torres if there have been any issues with Old Glory and people leaving the premises with alcohol.

Chief Torres – She has provided a list of all of the calls for service for review.

Mayor Kennedy – She asked Council President Goode if there was additional fencing, would that reduce his concerns.

Council President Goode – He asked if the liquor store has a right or ability to park cars there. Mr. Schwartz said no. He asked Mr. Schwartz what he is planning on doing with the parking lot.

Kenny Schwartz – He said his plan is to do exactly what he did this past summer. He had picnic benches outside, which people loved while they sat and ate.

Council President Goode – He asked if he was abandoning the parking lot use.

Kenny Schwartz – He said that he thinks so.

Attorney Jason Mandia – He said that it was his understanding that it was more of a seasonal use.

Kenny Schwartz – He said that the benches are still there and he has not moved them.

Mayor Kennedy - She said that there have been other times that the parking lot has been used for larger scale events. She asked if Mr. Schwartz was looking to permanently close in the parking lot after he expands the liquor license into the parking lot.

Council President Goode – He asked if there would be a tent out there in the winter and opened in the summer, or if in the winter it will turn back into a parking lot. He said that he is trying to get a better understanding of the plan.

Kenny Schwartz – He said that he does not have all of the answers. He said that he put benches outside and people liked that.

Attorney Jason Mandia – he said that anything he runs out there would be subject to the Zoning Officer's approval and food with the Board of Health.

Council President Goode – He asked what is going on the second floor.

Kenny Schwartz – He said it is going to be a restaurant seating.

Council President Goode – He said that there is an open permit issue and asked if that was dealt with.

Administrator Delaney – He said that it was an open permit that was initiated for a notice of violation concerning insulation to include garage doors to enclose to a portion of the existing licensed premise. The zoning approval for that was issued late last week and that the building permits have been applied for. As of yesterday they were in the process of review.

Council President Goode – He said that the entrance to the church is less than 200 feet away.

Attorney Jason Mandia – He said that it does not change the existing license premise. He said that the prior applications indicated that it was not within 200 feet. He said it's how the ABC measures from front door to front door, which is how someone walks.

Councilman Fotopoulos – He asked if they would put fencing behind the existing liquor store.

Kenny Schwartz – He said that he is trying not to hurt the liquor store.

Councilman Fotopoulos – He asked how he would prevent people from drinking liquor on their property.

Attorney Jason Mandia – He said that it is not required, but it is the Boards discretion if that is something that they want.

Councilman Fotopoulos – He asked if they needed a site plan at this point or after they approve the expansion.

Attorney Leslie London – She said that if they make any approvals they could make it subject to any other planning or zoning review.

Councilman Fotopoulos – He loves the tables and the paint job that they did on the floor of the parking lot. He asked if they need to know what the plan is for the second floor.

Attorney Jason Mandia – They still need to get Zoning Officer approval. He said that the license is the first step.

Councilman Fotopoulos – His main concerns are impeding on neighbor's property.

Councilwoman McDermott – She is concerned and said that they should have a clear definition of the property boundaries. She said that maybe plantation planters would work. She asked if there would be a bar upstairs.

Kenny Schwartz – He said he is not sure, but maybe.

Councilwoman McDermott – She asked if there are any concerns from neighbors about the expansion.

Kenny Schwartz – He said no.

Councilwoman Davidson – She asked if Paws 'R Us walkway will be blocked by the expansion.

Mayor Kennedy - She said no, that is part of the Municipal Lot.

Councilwoman Davidson – She said that there should be a clearer drawing outline provided. She asked if there is an elevator to the second floor. Mr. Schwartz replied no. She asked if one would be put in. Mr. Schwartz said that he does not have any plans for it at this point.

Councilwoman McNamara – She said that overall she is in favor of what he has put out there to support and maintain the business. She would like to see a more detailed drawing. She asked what is the access to the second floor.

Kenny Schwartz – He said a staircase.

Councilwoman McNamara – She said that the entire entrance and exits are on W. Front Street and in the back.

Kenny Schwartz - He said on Front Street and through the Municipal Lot.

Councilwoman McNamara – She said that she likes the idea of the planters.

Mayor Kennedy – She thanked Mr. Schwartz for wanting to expand his business in Keyport. She asked if there was a way to get to the second floor from inside the pub.

Kenny Schwartz – He said yes, the stairs.

Mayor Kennedy – She spoke about the dumpster location. She said that last summer his outdoor area was such a huge hit and that they rented porta potties. She asked about the placement and if he could add them to the new drawing that Council is requesting.

Councilman Fotopoulos – He asked about the staircase location.

Kenny Schwartz – He said it is on the Broad Street side.

Councilman Fotopoulos – He asked if the second floor would be McDonagh's and not a different entity.

Kenny Schwartz – He said yes.

Council President Goode – He asked what the timeline is for the second floor.

Kenny Schwartz – He said right away.

Councilwoman McNamara – She asked if there are separate bathrooms on the second floor. Mr. Schwartz said there already are.

Councilwoman McDermott – She asked about the transporting of the food to the second floor.

Attorney Jason Mandia – The pub operation is going to be in the entire space. He asked Mr. Schwartz if the tenant on the third floor will remain and use the same stairwell.

Kenny Schwartz – He said, yes.

Administrator Delaney – He asked if the applicant can provide area measurements of the present licensed area.

Attorney Jason Mandia – He said that a survey was submitted as a part of the application. The building is approximately 43.5 x 90 on one side, 96 on the other.

Administrator Delaney – For lot 10, he said that would be approximately 3600 sq. ft.

Attorney Jason Mandia – He said they were approximating the second floor at about approximately 3900 sq. ft.

Administrator Delaney – He said the adjacent Lot 11.01 appears to be 60 x 75 and is an additional 4500 sq. ft.

Attorney Jason Mandia – He said it is 60 x 175 in one spot and 144 in another.

Administrator Delaney – He said it looks like the licensed area will be double in size.

Attorney Jason Mandia – He said a little less than double in size.

Administrator Delaney – He asked if there is any plan for outdoor area entertainment.

Attorney Jason Mandia – He said that right now there can't be, but he does not want to forego outdoor entertainment. He would comply with zoning and other Borough code.

Chief Torres – She requests more lighting in parking lot in the rear to be lit up a little more for the pedestrians leaving the area to go to their cars.

Attorney Jason Mandia – He said that can be added for safety.

Councilwoman McNamara – She asked Chief Torres if she has had any concerns other than lighting.

Councilman Fotopoulos – He asked if there were any limitations on the size of an expansion.

Elmer J. Graham, Jr., 22 St. Peters Place – He said that he thinks Mr. Schwartz should be granted his application. He said that it would help the Borough of Keyport.

Mike Lane – He can't think of anything in the Zoning Ordinance that there would be any restriction in regards to the liquor license or fencing. He said that it is in the ABC Handbook.

Linda Kiering was sworn in by Attorney Leslie London.

Linda Kiering – She read Appendix E of the ABC Handbook.

Mike Lane – He spoke about the fencing at Uptown, Old Glory and Burlew's. He said that we need a clear understanding of the area to be licensed. Planters were suggested, but there was a problem at Uptown Bar & Grill where people were socializing on both sides of the planters. He suggested a gate be placed in the fencing so that the Liquor Store can get in and out. He asked about the second floor and suggested a clear picture of the plans.

Attorney Jason Mandia – He said that the applicant has already stipulated that he will attend to any delineation by way of a fence or planters that Council sees fit or appropriate for the location.

Mayor Kennedy – She said that no one is opposed to enlarging the footprint of the liquor license, including second floor dining and possibly a bar. She said that fencing should be addressed. She said that the applicant has other dining and liquor establishments that have fencing or walls and that they are always done in an impeccable way. She thinks that if they had signage at the edge of the parking lot as well as the side door of Broad Street that says no alcohol can leave these premises, she thinks in summary everything else has been vetted out. As far as the second floor, we've already identified that at least they would have to adhere to our Noise Ordinance, occupancy levels and everything else that is already on the books as far as State Statute and Local Ordinances.

Attorney Leslie London – She said that it would be reasonable to request that the applicant provide a revised detailed sketch to address the concerns that have been raised. She recommended Trevor or someone else look at what is coming back in and that any inconsistencies, if any, are corrected in the revised application drawing.

Attorney Jason Mandia – He asked if they can use the sketch from Mr. Lane's presentation to the application.

Council President Goode – He asked if there was still a background check that Chief Torres has to do.

Chief Torres – She said that once the application is submitted it will be reviewed for any issues.

Attorney Leslie London – She reviewed what next steps were needed and referenced Appendix C.

Attorney Jason Mandia – Will be submitting a detailed sketch using the tax map and have the bathroom location laid out as well as the fence line.

There being no further comments or questions, the Public Hearing was closed at 9:24PM moved by Goode, carried by Davidson with ayes by all present.

PUBLIC COMMENT PORTION

The Meeting was opened to the public for comments or questions listed on the Agenda at 9:26PM moved by Goode, carried by McDermott with ayes by all present.

Elmer J. Graham, Jr. – Regarding, **R67-21** Authorizing the Borough of Keyport to Release the Remaining Escrow Funds to Brian Hall on behalf of Buccaneer Realty, LLC, he asked for an explanation. Mr. Delaney provided an explanation.

Regarding, **R69-21** Authorizing the Borough of Keyport Police Department to Participate in the Defense Logistics Agency Law Enforcement Support Office, 1033 Program to Enable the Keyport Police Department to Request and Acquire Excess Department of Defense Equipment, he asked for an explanation. Mayor Kennedy provided an explanation.

Andrew Kelsey, 29 St. Peters – He said that six months is not enough time to produce a report on parking and requested 12 months.

Councilman Fotopoulos – He asked Mr. Kelsey if he could provide a progress report at six months.

Andrew Kelsey – He said that producing preliminary reports would be worthwhile.

Councilwoman McDermott – She asked if the Councilmembers on the Parking Committee will be providing updates in their Committee Reports.

Council President Goode – He asked if seven members are too many for a Parking Committee.

Mayor Kennedy – She said that she didn't think so at all.

There being no further comments or questions, the Meeting was closed to the public at 9:34PM moved by Goode, carried by Davidson with ayes by all present.

CONSENT AGENDA

R64-21 Payment of Bills for the January 21, 2021 Bills List

R65-21 Payment of Bills for the January 26, 2021 Bills List

- R66-21 Payment of Bills for the February 2, 2021 Bills List
- R67-21 Authorizing the Borough of Keyport to Release the Remaining Escrow Funds to Brian Hall on behalf of Buccaneer Realty, LLC
- R68-21 Authorizing a Social Media Profile for the Municipal Alliance Committee
- R69-21 Authorizing the Borough of Keyport Police Department to Participate in the Defense Logistics Agency Law Enforcement Support Office, 1033 Program to Enable the Keyport Police Department to Request and Acquire Excess Department of Defense Equipment
- R70-21 Authorizing the Borough Administrator to Initiate the Hiring Process to Fill Vacancies within the Department of Public Works
- R71-21 Establishing a Parking Advisory Committee

APPROVAL OF RESOLUTIONS

Motion to approve items listed on the Consent Agenda, with the exception of **R68-21** Authorizing a Social Media Profile for the Municipal Alliance Committee, which is being tabled and correction of the Lot on **R67-21** Authorizing the Borough of Keyport to Release the Remaining Escrow Funds to Brian Hall on behalf of Buccaneer Realty, LLC and adding verbiage relating to resignations to **R70-21** Authorizing the Borough Administrator to Initiate the Hiring Process to Fill Vacancies within the Department of Public Works moved by Goode, carried by Fotopoulos.

Roll Call: Ayes: Goode, Fotopoulos, McDermott, Davidson, McNamara
 Nays:
 Absent: Pacheco
 Abstain:

COMMUNICATIONS BY CONSENT
(For Approval)

- 1. Application for Use of Borough Property from Sheila Miller for a wedding at the Waterfront Pavilion on Saturday, March 20, 2021 at 1PM

(To Receive and File)

APPROVAL and/or RECEIPT AND FILE OF COMMUNICATIONS

Motion to approve Communications by Consent moved by Goode, carried by McDermott.

Roll Call: Ayes: Goode, Fotopoulos, McDermott, Davidson, McNamara
 Nays:
 Absent: Pacheco
 Abstain:

APPROVAL OF MINUTES

December 15, 2020 Meeting Minutes

Motion to approve the Minutes was moved by Goode, carried by McDermott.

Roll Call: Ayes: Goode, Fotopoulos, McDermott
 Nays:
 Absent: Pacheco
 Abstain: Davidson, McNamara

NEW BUSINESS

Mayor Kennedy – Said that she reached out to Rebecca Kahane from the Recreation Committee about a snowman building contest.

Councilwoman McNamara – She said that Recreation put up a flyer today encouraging snowmen. She said that they wanted to give prizes totaling \$100 (\$50, \$35, \$15) and that the contest will go through Sunday.

Mayor Kennedy asked for a vote on approval of \$100 out of the Recreation line item for a snowman contest.

Motion to approve the Recreation Committee Snowman building contest moved by Goode, carried by Fotopoulos.

Roll Call: Ayes: Goode, Fotopoulos, McDermott, Davidson, McNamara
Nays:
Absent: Pacheco
Abstain:

UNFINISHED BUSINESS

NJNG Street Opening – 66 Main Street

Mayor Kennedy – She addressed rumors circulating. She said that it has been confirmed there is nobody living there and that there is no active CO.

Trevor Taylor – He reached out to Frank of NJNG regarding the position on the application. He also looked at the timeline of when the road was paved and that they reached out to NJNG prior to the roadway being paved. They submitted a road opening permit in November of 2018 to replace all of the mains and services within the roadway. They were out on site and installed a gas main in March of 2019 and updated the services. Our contractor started working in April of 2019. NJNG submitted a new road opening request for 66 Main in November of 2020.

According to Frank at NJNG, there was a gas service to 66 Main at one time, but it was retired when the house was abandoned and disconnected at the main. He said that it was considered an idle service and becomes idle when there is no serviced meter for 18 months. Once a service is idle, they disconnect the service from the main. It remains disconnected until a new application is put in for new service. NJNG will not extend a new service to a home with idle service for liability reasons. This is why this service was not extended when they replaced the main in March of 2019. He said that this property was a part of the Scattered Site Redevelopment plan and that the property was vacant since April of 2016.

Attorney Leslie London – She referred to Code §16-1.25E. She said that this is the standard that they have to be guided by.

Mayor Kennedy – She said in summary that the options on the table are hook up propane heat appliances, upgrade their electrical panel at their expense to do electrical appliances, wait 3 ½ more years for the road to be five years or the Council has the option to do a Resolution to make an amendment to this Ordinance for this one time.

Council President Goode – He said that it is a difficult situation, but an exception does more harm than good and he can't see the reason to make an exception.

Councilman Fotopoulos – He said that he put his feelings on the record the last meeting.

Councilwoman McDermott – She sympathizes with the new owner and that it is a tough situation.

Councilwoman Davidson – She had no additional comments.

Councilwoman McNamara – She asked if the owner knew it was a dead line and if anyone validates the services coming into the home at the time of closing.

Administrator Delaney – He said that he is assuming that the current owners purchased the home “as is” and that it was in need of substantial repair.

Mayor Kennedy – She asked if an option was to pave it curb to curb.

Attorney Leslie London – She said the way that the Ordinance is written it does not provide for an exception other than health and safety or an emergency condition.

Mayor Kennedy – She asked Ms. Patel to speak to NJNG about repaving curb to curb and to get something in writing. She asked if Council would be opposed.

Ms. Patel – She offered to pay for paving curb to curb.

Mayor Kennedy – She said that NJNG has to do it.

Councilman Fotopoulos – He asked Trevor if the 3x3 will be near the parking area or the middle of the road.

Trevor Taylor – He said yes, 3 or 4 feet from the curb line across the street.

Attorney Leslie London – She said that the Ordinance would have to be amended.

Council President Goode – He is not in favor of redoing the Ordinance.

Councilman Fotopoulos – He is not in favor of redoing the Ordinance, but was hoping that Council could make an exception.

Ms. Patel's request was denied by Council.

ATTORNEY'S REPORT

Provided an update about the legalization of recreational marijuana to Council.

PUBLIC COMMENT PORTION

The Meeting was opened to the public for comments or questions at 10:14PM moved by Goode, carried by McDermott with ayes by all present.

Mike Lane – He said that the flood gate by the dumpster was not down and that cars were passing the cones. He asked why the flood gate was not operated. He is delighted to hear that the marijuana issues are moving forward. Regarding Waverly and First, he said there is no Master Deed and wanted to know how you could get a CO.

Trevor Taylor – He provided an update in regards to Waverly and First. He said that a Master Deed was filed with the County and he will send it to Mr. Delaney.

Elmer J. Graham, Jr. – He asked when Veteran's Committee will be resumed. Mayor Kennedy responded.

There being no further comments or questions, the Meeting was closed to the public at 10:20PM moved by Goode, carried by Davidson with ayes by all present.

ADJOURNMENT

Motion to Adjourn at 10:20PM moved by McDermott, carried by McNamara with ayes by all Present.