BOROUGH OF KEYPORT
REGULAR MEETING MINUTES
TUESDAY, MARCH 19, 2024 5:00 PM

TOWN HALL MEETING

- Redevelopment/Mariner's Village PILOT

This Town Hall Meeting was recorded: 3-19-24 Town Hall Meeting Mariners Village Pilot Presentation.mp4 (sharepoint.com)

John Cantalupo, Esq., Archer & Greiner, P.C.
David Weinstein, Esq., Archer & Greiner, P.C.
Sean McGowan, Esq., Greenbaum, Row, Smith & Davis, LLP
Ken Pape, Esq., Heilbrunn & Pape
Clay Perlman, Mariner's Village and 357 W. Front Street
Erick Aguiar, Muni PILOT Solutions

John Cantalupo – Borough bond counsel, welcomed all to the meeting during which the Mariner's Village project will be discussed, as well as some general information about PILOTs and Mariner's Village PILOT, specifically. He explained the developers will give a presentation followed by a presentation by the experts for the Borough who have analyzed the application. The meeting will then be turned over for questions and answers.

Sean McGowan – redevelopment attorney and an expert in PILOTs, explained he will give a brief presentation on what has happened, where we are, the PILOT that we are requesting, and the benefits it is going to provide to allow the project to be built, as well as the benefits to the overall community.

Kenneth Pape – represents Mariner's Village and 357 W. Front Street, and began this process about eight years ago with the governing body. In 2017, after a year's worth of work, the properties were designated an area in need of redevelopment and a redevelopment plan was negotiated. A contract was drawn between the Borough and the developer, and the requirements were set forth in that agreement, including 120 apartments, and an obligation to preserve and maintain the marina. Since that agreement was entered into, we have completed most of the approvals, and presented an application to the Borough Planning Board in 2018 for the approval of the apartment building.

The second approval required by the redevelopment agreement was for the preservation of the marina, and we have completed that process. Other approvals required included the Monmouth County Planning Board subdivision approval, which was a difficult approval that took a couple of years. It was coincidental with the condemnation that was going on with the bridge in front of the property, and that slowed it down. We also had to go back to the County Planning Board for site plan approval. Those approvals are complete and are in place. We had an obligation to do extensions of water/sewer approvals. The water supply was determined by the Borough's engineer to be inadequate for the existing community, as well as for the proposed community. We had to design a system that brought in new water lines, which has been reviewed by the Borough engineer. A final review is outstanding. We also had to design a sanitary sewer system to service the community which has gone through municipal review. The next step is to go to Bayshore [Sewerage Authority]. The most difficult approval was the DEP's CAFRA approval, which took us almost four years, and was received earlier this month. We are very close to the end of the approval process.

We also approached the Borough for a vacation of a portion of Washington Street, which was done by ordinance. We also came before the governing body to review with them the PILOT that was previously approved for this project four or five years ago, which was determined at that time by both the Borough and developer to be a necessary element of the project. We are looking to modify the PILOT. We are seven plus years into the approval process, and with the issuance of the CAFRA permit, we are just about finished with the approvals.

Sean McGowan – talked a little bit more about the redevelopment process and the benefits that it provides to a developer, as well as to the community. There has been a long-standing working relationship between the Mariner's Village folks and the Borough of Keyport for many years at this point.

Many years ago, Keyport decided it would be most advantageous to designate the area as an area in need of redevelopment. That means that qualified individuals, urban planners, professional planners, take a look at property and decide if it meets certain criteria - those criteria generally being blight, or similar type conditions, that are preventing the property from being redeveloped by a developer without the aid of the redevelopment process. If the property qualifies as an area in need of redevelopment, the governing body can adopt a resolution declaring that property an area in need of redevelopment. That provides for two distinct benefits to both the municipality and the developer. The first is the property becomes eligible for a redevelopment plan which is essentially a zoning plan for that specific property that's often negotiated between the municipality and the redeveloper that provides for a project that both parties think can lift the property out of that "in need of redevelopment" state. It's a project that the municipality thinks will generally be beneficial to the municipality, as well as a project that is feasible for a developer to build and will be an economic success.

The second benefit that the redevelopment designation provides is that it makes the property eligible for what is commonly known as a PILOT – a payment in lieu of taxation. The theory is that the property is in need of redevelopment, yet it hasn't been able to be developed under the normal zoning code for a variety of reasons. In order to incentivize the development of the property, the property is eligible for the PILOT. What that does is it provides certainty to the redeveloper what the taxes are going to be moving forward, essentially removing a very large variable from the equation as to whether the project is going to be economically feasible.

Due to the high cost of living in New Jersey, and the high cost of construction, PILOTS are essentially a necessity when you're building a project of such size and magnitude as this 120-unit project. There are numerous amenities and parts of this project that are not always provided by a developer, but because the property was eligible for a redevelopment plan, these are things that Keyport negotiated had to be part of the project. The Mariner's Village folks, who wanted to provide a first-class project here in Keyport, agreed to these amenities: private-gated garage parking, private storage room, common meeting areas, pool, gym, dog park, the marina will be kept and improved, shuttle to nearby train station, and customized electric vehicles for utilization by the residents around town. All of these amenities come at a large cost. That is why a PILOT is generally necessary for a project such as this. Parking garages these days cost approximately \$25,000-\$30,000 per space.

It's just not economically feasible to build these projects if you have the uncertainty of what your tax bill is going to be. In order to create the certainty, as well as a more economically feasible tax payment, the developers and the municipalities negotiate the PILOT, which is documented through a financial agreement. It generally provides for a slightly lower tax payment called an "annual service charge" – but we will use the term "tax" here because it is familiar and they are incredibly similar in their functions. The municipality will agree to receive a slightly lower tax payment in exchange for the developer building a project on that property that has been designated an area in need of redevelopment and lifting the property out of an area in need of redevelopment.

The theory, which has been proven throughout the state, is that a development such as this not only will benefit the developer, but it benefits the town and everyone living in the town. This development will provide two hundred new residents that are going to use the stores and businesses here in Keyport. It is projected they will have about \$100,000 in annual household income they're going to spend throughout town on restaurants. The developer is going to incur roughly \$750,000 in annual operating expenses with a very large portion of that going to residents of Keyport and surrounding towns. Statistics show that for every 100 units of construction, 161 jobs are created and \$2.2 million in taxes and other revenue for the local governments, for a total of \$11.7 million into the local economy.

After the project is finished, every 100 units will create 44 local jobs and put \$2.6 million annually into the economy. Even though the developer is going to receive the benefit of a slightly lower tax payment, there are all of these benefits that have been proven through statistics throughout the state of New Jersey as very good reasons to incentivize the developer to make the project economically feasible to lift this property, which is so important to the Borough of Keyport due to its location due to the marina, out of that need for redevelopment criteria.

Another benefit to the municipality is that, although the tax payment is slightly lower, typically, your municipal taxes are divided between the municipality itself, the school board, and the county. Every town has a different ratio, but in Keyport roughly 35% of each tax dollar gets paid to the municipality. When the municipality adopts a PILOT, 95% of that revenue goes to the municipality itself, rather than 35%. So, even though the overall tax payment from the developer is slightly lower than it would be under ordinary taxation, the municipality itself is actually seeing more tax dollars from the PILOT payment than they would receive otherwise under ordinary taxation. So, then the question is, what about the school board. There have been many, many studies in the state of New Jersey, generally by the Rutgers University Planning School, that show that new apartment complexes such as this generally do not provide a lot of children to the school system. There are some, but the apartments are not geared toward families and they're not conducive to families living in these apartments. Very often you will have a young married couple move in and have a child, but once that child is approaching school age, they will go out and buy a house in the local community or surrounding towns. There is an exception in the fact that some new apartment buildings of this ilk do create school children, but they are in units that are designated to be affordable housing units. This property has no affordable housing units that will be deed restricted. Therefore, the statistics show that the number of school children at this property will be very minimal. For 120 units, they might send three or four kids to the school system per year.

The property, as it is now, in 2023 you received about $13,000 in tax payments from the owners of the property. If this project is not built, it will generally proceed at that $13,000 a year with maybe some slight increases to the tax payments. Without the PILOT, that is what most likely will occur because the building is not economically feasible, the developer will not be able to receive a construction loan and the property will continue as-is. Versus the PILOT, where this project that is being requested, will generate $403,000 in PILOT payments in year 3, and by year 20 we will be $665,000 per year, with obvious increases in between years 3 and 20, and then beyond to year 25. It really is a financial windfall to the Borough of Keyport.

Lastly, in order to build this, it will take roughly $40 million in development and construction costs. Often people will say that a developer needs a PILOT because they are not financially secure enough to be able to build without it. That's not how it works. In order to build a building like this, 999 times out of 1,000, the building is built through construction financing. In order to receive construction financing in the state of New Jersey, lenders generally require that a PILOT be provided. The variable of unknown taxation is just too much for construction lenders to bear. They might lend the money, the building might get built, and then its economically infeasible and the town will take the building and the lender will not receive their money back. So, it's generally required by construction lenders that financial agreements be entered into for buildings such as this.

Keyport is not breaking new ground here. There have been hundreds, if not thousands, of successful financial agreements entered into throughout the state of New Jersey. Princeton, Westfield, South Orange, West Orange, Long Branch, Red Bank, Morristown, Boonton, Denville, Florham Park, Chatham, Park Ridge, Robbinsville, Metuchen, Hoboken, to name a few, and a lot of these places are places that have seen real renaissances over the last twenty years and they have skillfully used the tools available to the municipality provided through the redevelopment laws to their advantage. Twenty and thirty years on, they've seen the benefits and they've seen how successful these programs can be. That is what the Mariner's Village folks want to execute in Keyport. They want to build this first-class building, they want to help the community, they want to rebuild and maintain the marina for everyone in town.

John Cantalupo – thanked Sean McGowan and asked if Mr. Perlman could address rumors regarding the developer's commitment to the town and the project.

Sean McGowan – has worked with developers throughout the state of New Jersey and Clay and his team have shown an absolutely uncommon dedication to this development. They have spent $8 million to date trying to build this project and that is atypical. They are very dedicated to this Borough.

Ken Pape – there's no limit to the funding that's available to Clay and his partners. The $8 million is acquisition costs over the last few years. We were required to buy a number of houses. We were required to buy the Endeavor House and lands where the property is going to be developed. All of those were acquisition costs - money to buy properties. There were also the costs of going through the approval process. Since 2017, when we really started working on all of the approvals, we've never stopped. It's been complex, and at times complicated, but we've never stopped. With the DEP CAFRA permit in place, we're now at the downhill end of the approval process.

Clay Perlman – thinks the number is closer is $10 million. We are the marina owners and are not planning on selling the marina. We are not planning on selling the development. We've never entertained it. We had a broker come to us at one point who listed it without my approval. I had to reverse that and explain it. We're not going anywhere. We've been here and we are not just developers trying to flip, and this and that. The marinas are having difficulties in this town, they're not doing well. This project will put a shot in the arm of this marina. This marina will end up being one of the nicest marinas around. It's a common theme, Mariner's Village, so everything looks the same with the marina and the apartments. It's like a PUD – a Planned Unit Development. The commitment level is 100%.

Sean McGowan – wants to re-emphasize how important a milestone it is that the CAFRA permit has come in. Flood levels are generally rising in the state of New Jersey and the DEP over the past 10 years has started really doing their due diligence on any development that occurs next to water or in areas that may flood and it is now very challenging to receive permits for waterfront development or in flood zones. The permit took so long not because of any deficiency of the redeveloper, but simply because they are very difficult to get. A lot of developers would have said this is going to take too long and its going to have a lot of holding costs and I'm not going to do it. The Mariner's Village team want to build this project and they hung in there. It's a huge milestone that the CAFRA permit was provided.

John Cantalupo – asked Ken Pape to describe further the original plan from 2014 to do single-family homes and that the Borough government at that time came to Mr. Pape wanting to do an area in need of redevelopment and undertake this project.

Ken Pape – there were informal discussions. Clay and his partners had come up with idea of developing a portion of this property with more traditional single-family homes and when we sat down with the Borough representatives, the Borough planner, the Borough special counsel, the direction that we were steered in is exactly what you have in the redevelopment contract when it was signed, specifically stating this building, this location, and this number of units.

John Cantalupo – and everything that you've been asked to do by the Borough, you've roughly been saying since 2014, you guys have done. Describe that a little bit more, that this is not a project that you brought, but that they asked you to do it.

Ken Pape – when we sat down with the people who were negotiating the redevelopment agreement, we got to say yes to their requests. Anything that we were asked to do, we did. When we were asked to design a water system that was going to be not only for this project but for the downtown area, Clay said yes. When we were asked to do the same with sewer, Clay said yes. When we were asked to do improvements out into the bay that would be open to the public, Clay said yes. We were asked to add additional parking on our property for the general public, no benefit to the project at all, Clay said yes. Whatever we were asked to do, we did.

John Cantalupo – the water and sewer restructure is all being done by you. You're enlarging the mains at your cost and handling all that yourselves at no cost to the Borough or the tax payers.

Ken Pape – we presented the entire project to the Planning Board. The Planning Board approved it first as an apartment complex. We were required to return to the same Planning Board for the marina, and we did. On at least an annual basis we report to the Planning Board exactly where we are and coming up in May we'll be doing it again.

John Cantalupo – when developers come forward with their financial application asking for a PILOT, the Borough just doesn't accept the numbers and all of the information provided by the developer. We have to make sure we verify that information and critique it, and figure out if that information is true and accurate. We have Erick Aguiar of Muni PILOT Solutions who will take you through his analysis of what the developer has proposed and whether he believes, in his professional opinion, this is a project that requires a PILOT in order to move forward and to be constructive. We also have David Weinstein from Archer & Greiner, he's my partner. He is the redevelopment attorney here in town.

Erick Aguiar – was retained by the Borough to analyze the claim that this project could not be done under conventional taxes. The scope of the analysis that was done by my company was to analyze the 120-unit apartment building that was proposed by the developer and approved by the Borough and determine if it is financially feasible under conventional taxes. Secondarily, to analyze if the answer to that questions is no, this project is not financially feasible under conventional taxes, analyze if the proposal put forward is a reasonable subsidy to provide the developer that would facilitate the project.

First, we have to analyze the development costs. We have to analyze are those market costs or are they potentially inflated to show that we are really struggling to build this project or not. We have to analyze the debt and the equity structure. Are those terms typical of the current market? Typically, in today's world, to borrow to do a project like this the developer would come out of pocket with about 40% of the project costs, and they would be financing about 60% of the project costs. Is the interest rate that's going to be used to finance the project the market interest rate, because that would impact the project feasibility as well. Are the projected rents market rents, or are they being underreported – anticipated vacancy and expense rates, same situation. After analyzing all of these figures and determining if they are true market figures, or reasonably within the market, we have to determine what would the project be valued at so at that point we can determine what would conventional taxes actually be. We don't know what conventional taxes would be until we figure out what is the project actually worth. After we know what that number is, we have to plug that into our analysis to figure out is this project financially feasible or not.

Currently, the assessment of the lot is $4.8 million in 2024. We don't have a 2024 tax rate, so if you apply the 2023 tax rate to the $4.8 million assessment, the taxes on this property are approximately $106,000 per year. The local municipal portion of those taxes is 35.81%, so the municipality would be collecting about $38,000. As far as the proposed project goes, the numbers that were presented by the developer show $7.6 million in land equity. As for construction costs for this type of development you would expect to see between $200 and $275 per square foot. They are in line with that. They are presenting the cost at $220 per square foot. If this application was showing $500 per square foot, it would raise a red flag. Ultimately, it would cost about $46 million projected to do this development. They are in line with the debt/equity structure. They would be coming out-of-pocket with about $18.6 million of equity to put up front and then borrow 60% from banks.

There are two issues here compared to 2018. Number one, the construction costs have dramatically increased. Number two, financing is now 8%. Back in 2018, it would have been much less than 8%. Borrowing $28 million at 8% would result in about $2.5 million annual debt service payment. Back in 2018, that number was about $1.8 million. So, when you look at this same exact project from 2018 through today, the debt service payment annually for the developer will be about $700,000 higher than what it was initially proposed back in 2018. Of course, rents have changed so you have to still go through the full analysis to determine is it financially feasible if rents have gone up double or triple. Rents have certainly gone up, but not to the same magnitude that costs have.

As part of the developer's application, they presented certain rents for one-bedroom and certain rents for two-bedroom units. That's the bulk of where their income is coming from. There are some other income items – parking premiums, unit premiums for units with views, etc., vending, etc., but the majority of the income will come from the units. A key element that we have to look at in our independent review is are the rents being proposed here in line with the market. At this point, some of the numbers that were presented by the developer, in my independent analysis, are going to differ. I don't necessarily agree with the rents. I think that these rents of $2,000-$2,100 for one bedroom and $2,600 for two bedroom is probably too low in this current market for new construction on the water. I revised the numbers in my analysis and for the one-bedroom I'm using $2,250 and for the two-bedroom $2,900. That may still be light, but we have to be reasonable about it. I analyzed rents and talked to realtors throughout the Bayshore area and these rents would be typical for this size one-bedroom and two-bedroom units for new construction property. Ultimately, when you add up all of the income, and you back out the typical vacancy which typically runs 3%-5%, the effective gross income of this project annually when it's stabilized will be about $3.7 million.

Then I have to analyze the proposed expenses within the developer's application and adjust those accordingly to make sure those are in line with the market. Typically, for new construction apartments, the expense ratio for operating expenses, not including taxes, is about 25%. This analysis is running about 24% so that is in line with the market. The numbers that were put forth in the developer's application were slightly different – some things were higher and some things were lower – but we believe were current market.

An important point to highlight here is the recycling and garbage removal costs. The developer has expressed that they will be covering the recycling and garbage removal within this project and I do not believe they will be seeking the Borough reimburse them. The most direct and quantifiable cost associated with any new development would be garbage, recycling, and any snow removal. The idea behind a development seeking reimbursement is that they are paying conventional taxes and part of their taxes are supposed to include those services. As part of this application, the developer is declaring that they will be covering the recycling and garbage removal costs.

Before we figure out what taxes would otherwise be, we have to figure out what would the value of this property be. We have to go through all of the steps – what are the rents, what are the expenses – and figure out what those numbers are. To walk you through the way that this would be done on an apartment building – and this goes for every apartment building within the Borough and within the county – this is how tax assessor analyze valuation of apartment buildings. You have $3.7 million of gross income; you then have to back out the operating expenses, so you have an NOI left here of about $2.9 million. You then have to capitalize that with what's known as a cap rate. This is a return of investment that apartment building investors are typically seeking. These days, the rate is about 5%. It could be a little bit higher or a little bit lower depending on the investor's motivations or the area, so things certainly change. The operating expenses do not include taxes in the analysis for tax assessment. The reason for that is because the value of the property and the taxes that its going to pay, they are interconnected. You can't know one without the other. You have to build the Borough's tax rate into the cap rate. You would use 5% plus the current, or the 2023 tax rate of 2.198 so that comes to 7.198 and you would capitalize the net operating income with that essentially after all that boring talk the property would be valued for tax assessment purposes at around $40 million. Forty million dollars would mean they would be paying about $877,000 in taxes. The municipal portion of that is about $314,000.

Everything to this point was to determine is this financially feasible. Developers and their financers have to look at any given project and do an analysis and this is the way that analysis is typically done. It's called an internal rate of return. You have to analyze what are the expenses coming out, what are the costs going in over a certain time frame and develop what is the annualized rate of return. Based on the numbers that were submitted and were analyzed independently and modified accordingly, with the $877,000 taxes, which would only increment up over time as we all painfully know, the annualized rate of return would only be 0.65%. At a 0.65% IRR, this would not be a financially feasible project.

Under the PILOT, what's being requested in year one 10.35% of effective gross income, they would also pay the Borough a 2% administrative fee on top of that. So, when this is a stabilized income stream when all of the units are rented out in a year or two, the PILOT payment, which is the annual service charge payment, and the administrative fee would be approximately $400,000 ($397,000). If you were to simply modify, changing nothing else but just change the cost, that recurring cost that the developer would have annually from $877,000 to $397,000, suddenly the project is cash flow positive from year one or year two. In addition to having a cash flow positive, or better cash flows, the PILOT would give a better certainty as to what the largest operating cost is on an annual basis. So that, too, would play into increasing the value of the property. Ultimately, the net result of changing this number so the taxes going from $877,000 to about $400,000 would result in an IRR, or an internal rate of return, more commonly for us an annual rate of return, of 7.67% This improves the projections, making the development a lot more feasible. To be clear, 7.67% is not a stellar return for this type of risk. Typically, developers these days are looking for

8%-12% IRR. Even under the PILOT that is being presented here, they're not even hitting the 8% level.

The first part of the analysis that was done independently was to determine could this be done under conventional taxes or not. The last slide would tell absolutely not. The second part of the scope of my analysis was to determine could the Borough get more money from the developer in terms of higher percentages. My opinion is the answer is no. If these numbers came back and we were at 12%, 13%, I think the developer would be able to ask for a better deal. I think that these numbers are completely reasonable. Just to put it into perspective in our personal lives, what does a 0.65% rate of return mean versus a 7.67% rate of return? If you were to invest $100,000 at 0.65% and were to take that money out of the bank in ten years, that $100,000 would grow to about $107,000. That's not very impressive, you're not even beating inflation. At 7.67%, that $100,000 would turn into about $209,000 by year ten, so that shows you the difference. When you put this in terms of someone investing $20 million, that would only turn into $21.3 million in ten years at a 0.65% rate of return, but at a 7.67% rate of return $20 million would grow into about $40 million plus. That would certainly attract development, attract financing of development to a much greater extent than something that basically you're going to break even on, or less when you factor inflation, and incur significant risk along the way.

Comparing the 2018 PILOT to the current PILOT, the modification that is being done here is really insignificant. What is being requested is two things – what was initially requested was years one through five the annual service charge rate would be 11%. That is being requested to be modified to 10.35% instead of 11% for the first five years. That would affect the Borough by approximately $25,000 per year, or about $125,000 over the span of the five years.

The second thing being requested is to extend the 25-year PILOT from 2018 to 30 years. The 30-year would be done at a 14.65% of income.

Comparing what taxes are today versus what this would be under a PILOT and running it out over 30 years, the longer you go the more assumptions have to be made. Certainly, there is no guarantee in year 30 that these are what the numbers would be, but you have to do the analysis so that you're comparing apples to apples.

In year one under the PILOT, the annual service charge and administrative fee, as mentioned before, would be about $397,000. The taxes today are about $100,000. What would be retained by the Borough under the PILOT agreement would be about $378,000 because you keep 95% of the annual service charge and 100% of the 2% administrative fee. If the project were not developed, of the $100,000 the Borough portion would only be about $38,000. The Borough revenue benefit is about $340,000 in year one. If you run this out over 30 years making a number of assumptions just increasing things at 2% etc., those numbers are about $18.8 million to the Borough under the PILOT versus $1.9 million to the Borough under conventional taxes.

To explain the way that taxes work, all of the budget components – the county, the school, the municipal – those are determined based on the revenue sources that any municipality would have, minus their costs. The costs are always higher than the expenses in government. There's always a negative number – it's the deficit. The deficit, which is known as the tax levy, is raised through conventional property taxes. The way that those taxes get distributed is based on the assessments. Having a higher assessment doesn't necessarily mean your taxes are going to be higher because it depends on how you change your assessment in relation to everybody else within the Borough and it also depends on the actual dollar amount that has to be raised by all the various budget components. When you have a PILOT agreement, it's slightly different. You don't pay conventional taxes. What you pay is this annual service charge which is actually a revenue source to the Borough. Looking at the way the tax rate was calculated in 2023, the county budget was $2 million, the school was $11.6 million, the municipality had to collect $8.1 million and, ultimately, the total amount that had to be collected was $22.6 million in taxes. To determine the tax rate, you have to take the $22.6 million and divide it by the value of the town, all of the assessments combined, which is about $1.029 billion. Its very simple math, $22.6 million divided by $1.029 billion is your tax rate of 2.198%. Under a PILOT agreement, what would happen is the property would be paying money toward the Borough. The Borough could then take that money and reduce their municipal budget. Its different than conventional taxes where it wouldn't be a ratable as your house would be. They would be making a payment that would go directly toward the municipal budget.

There is a lot of discussion about what would happen if the school collected the money as a PILOT versus the Borough. It's the same exact thing. You don't share the school with any other towns so it's the same bucket of tax payers that are paying into the school that are paying into the municipal budget. The math would be the same. One caveat there is that there is a lot of state aid that goes toward schools. It's not really clear if the school got more revenue sources like PILOT money if there could be impacts to the state aid.

Sean McGowan – one thing I didn't mention is that the PILOT is based on a percentage of the revenues that the developer makes based on financial reports that need to be filed with the Borough on a yearly basis. You mentioned that your projected rents are slightly higher that what was put in the application. If you are correct, it just means higher annual service charge to the Borough versus what was put on paper, correct?

Erick Aguiar – Exactly. What would be the determinative factor here in terms of what the PILOT actually is whatever the rents actually are times the rate that's in the PILOT agreement for that particular year. If the rents are higher, as I would expect, the PILOT would be higher. If the rents are lower, the PILOT would be lower. It's all determined by what actually happens with the rent. The market could change – it could get better, it could get worse. We analyze it by what today looks like.

John Cantalupo – under this PILOT is the Borough receiving more money then they would under conventional taxes for their portion?

Erick Aguiar – under a hypothetical scenario of taxes, if this project were to happen under conventional taxes, the $378,000 that would be under the PILOT is certainly higher than what that number is under conventional taxes. It would be $314,000 under conventional taxes. Keep in mind that's making the assumption that the project could happen under conventional taxes, which it can't. It's kind of like a false hypothetical scenario because this project is not going to happen if it has to pay conventional taxes.

John Cantalupo – so even with the PILOT the Borough is making more money than it would under conventional taxes.

Erick Aguiar – correct.

The meeting is opened to the public at 6:10 PM for comments limited to five minutes per person.

Rose Araneo, 90 Division Street – asked if the previous PILOT was approved.

David Weinstein – you do have an ordinance that approved the PILOT in 2018 by the then-sitting Borough council. If this amended PILOT is not voted on, that PILOT would still be effectively on the books under the ordinance.

Rose Araneo – I just wanted everyone to understand that it was approved prior. This is only changing the PILOT for the first five years and adding five years to the back.

David Weinstein – that's correct.

Kathleen McNamara – there was an ordinance December of 2018 that put the PILOT in place. Then in 2021 the financial agreement was canceled. Currently, to my knowledge, there is no PILOT agreement in place.

David Weinstein – there is no signed agreement, that is a fair statement. In 2021, there was a resolution, but there was not an ordinance. In order to remove an ordinance from the municipal docket, it needs to be removed by ordinance. You can't remove an ordinance by resolution.

Kenneth Pape – in the summer of 2021, when we received notice that the Borough had attempted to rescind those agreements, we challenged that and pointed out the failure to provide the required notice and, as a result of that, the rescission was rescinded by the end of the summer.

John Merla, 34 Broad Street – was at the meeting when the ordinance was passed and was at the meeting when the resolution was passed. You're correct in that the resolution didn't nullify the ordinance. What it did do was it eliminated the agreement, and that's a matter of public record. Ken, you stated there is a PILOT in place, but there is not a PILOT signed by the Borough of Keyport. Is it true that in order to obtain a construction loan it is always good to have a PILOT in place?

Sean McGowan – lenders are generally looking to see a PILOT when they are providing construction funds on a project in New Jersey. There are definitely exceptions out there but, generally speaking, it is a huge box that is checked when the lender is going through the checklist to determine whether they want to issue a term sheet, whether there is a financial agreement in place.

John Merla – as far as the Borough is concerned, are the Borough representatives aware that in 2018 that there was a verbal agreement with the school that the school would get a portion of that PILOT. So if there's a new PILOT, there's a new agreement, correct?

David Weinstein – if there is an existing executed financial agreement under the existing ordinance, that would still be in place. If the new amendment is adopted, the agreement presented at that point in time would be the agreement.

John Merla – asked if the Borough professional used a PFAF, a PILOT financial agreement forecast, to determine if this is better for the Borough.

Erick Aguilar – the scope of my analysis was specifically to determine is the project financially feasible or not and what would a reasonable level of subsidy be to make the project financially feasible.

John Merla – asked if approved, the PILOT is subject to a certified audit every year.

David Weinstein – yes, that's a statutory requirement.

Peter Henning, 102 Main Street – was a school board member and questioned the student/unit ratio and asked what are our alternatives if that doesn't pan out. He asked about sanitation using landfill and our public works and will that be written in the agreement. What is the impact on our police department, parking, and traffic?

David Weinstein – the in lieu fee is to pay for municipal services in lieu of the taxes. There are underlying services that any property owner utilizes. If you call the police, they're going to come out. They have the right to receive trash collection and be reimbursed for it. It was our interpretation from what they presented that they were not seeking that reimbursement. We can talk about that with the developer.

Robert Bergen, 16 Green Grove Avenue – thinks architecturally this is a much nicer project than what you see being built today. These numbers are never going to be perfect. All the analysis you heard tonight is what the town should be going through. I think the rents are a bit low. But any project that comes with a rate of return of about 8% is probably exactly right today. You should make sure in the agreement that they will maintain their own garbage collection. Make sure that if the payments aren't made, the Borough can foreclose on the property. Thinks this is a good project for the Borough.

Michael Lane, 51 First Street – this is the second go-around on a presentation on why a PILOT is a good idea. Asked how the last projections stand up as being good sense. Are you aware that the Borough homes are reassessed every year? Do you have any insight into how much they have gone up in the last five years?

Erick Aguilar – the assessments certainly are changing, but that doesn't mean that the taxes are changing because of the assessments.

Mike Lane – the tax bills on a single-family home on the waterfront have gone up more than 6% a year. The Harbor View condos are going to generate significantly more money than this massive project based on your last PILOT.

Erick Aguilar – to clarify one point, the assessments changing are not cause for the taxes increasing. If the taxes have gone up, that's because the budgets have been changing. It's not just the municipal budget, it's the school budget and the county budget. There have been changes to open space fees. The taxes changing is a product of budgets, not a product of the changing assessments. The assessments are simply a distribution mechanism of the tax levy.

Mike Lane – I want to be clear that it's the tax bills that are going up. The Harbor View twenty-four condo units on the waterfront are going to be paying significantly more into the municipal budget than this project based on your last PILOT.

Kenneth Pape – that's not true. The PILOT has a percentage of the rents that are paid to the municipality. The rents are going to go up as market values go up. You're looking at numbers that are expressed in percentages, but they're percentages of the rent. Just like you're observing other property's taxes going up, you can expect that the PILOT is going to go up on an annual basis.

Sean McGowan – generally, there are two ways to decrease the burden of tax bills on the property owners. You can cut services, which no one likes, or you can develop. It's indisputable that if this building is built, there will be significantly more municipal revenue provided from this property than if the project was not built. That increased revenue will help to reduce the increases in taxes that all other property owners are facing every year.

Kenny Schwartz, 52 Broad Street – sometimes it's hard to fathom how fantastic the town is. This is a beautiful project. I pay in town $300,000 a year in taxes. This project is more than money. It says something about the town, that we are worth it to have something that's world class.

Jack Straub, 235 Main Street – I understand there is an issue regarding where the pier is extended out all the way to the east that there is a problem with fire department access. The owner was asked to put in a standpipe that the fire department would have access to in the event of a fire and the owner has declined to do that.

Kenneth Pape – the firefighting system that we were requested by the board to put in is part of the design. What is there is permitted and the commitment that was made by the applicant was to incorporate it into the approval. The Construction Board of Appeals stated we are in compliance.

Al Litwak, 60 Walnut Street – What is the impact if you decide five or six years down the road to sell the units to the people living there. Are the setbacks still in place, does it carry through?

Sean McGowan – nothing would change as far as any of the development approvals. They run with the land. When it comes to the financial agreement, typically it requires the approval of the municipality and it needs to be assigned to an urban renewal entity that has the same profit limitations as any urban renewal entity such as this. In order to receive a PILOT, you need to apply to the Department of Community Affairs to become what is called an "urban renewal entity." PILOTS can only be given to entities that have "urban renewal" in their name. In order to become an urban renewal entity, you are agreeing that your profits will be limited as per the long-term tax exemption statute. Very often, people think that developers that receive PILOTs are receiving a windfall. I hope this presentation tonight shows that that is not the case. As further prevention to the "windfall" is the long-term tax exemption statute which specifically limits the profits that a developer can receive under a PILOT. That is the purpose of having to submit the audited financial statements every year. One, so the Borough can make sure they are getting the percentage of the revenue that they negotiated, but also so the Borough can ensure that the developer is not exceeding that profit threshold.

David Weinstein – if the current owner decides to sell an individual unit that would be a completely different financial structure and under the statute we couldn't do that.

Anthony, 167 Second Street – have known Clay for a couple of years now. He has a lot of big dreams and is a guy who will move mountains to get what he wants done. I've seen it over the years as my family have been customers at his marina how much it's improved from years back. If this project gets approved, I know he will run it well.

Robert Bergen – we want to see the downtown thrive. This project is going to generate economic activity that you wouldn't get from a much smaller project. The analysis for how taxes are calculated on a project like that, it's not what the property would sell for it's what the income stream is over a long period of time.

Cathleen Reilly, 261 Main Street – asked if the pier is fire safe.

Kenneth Pape – there was a full trial. There was a hearing by fire commissioners.

Vicky Flynn – there was a settlement and a finding of a violation that they were to remediate. Requested an update from the attorney and will share.

Jack Straub – my understanding is the judge decided it was a construction issue and not a fire issue. Is that dock safe – does it meet all fire codes or whatever are necessary?

Kenneth Pape – the determination was there were no violations.

Mike Lane – if you build a building that requires fire suppression, you can't move people into the building until the fire suppression is available. Our fire bureau has said that they cannot fight a fire more than 90 feet from the end of the pier. Are you going to allow boats past the point where our firefighters can fight a fire? People live on the boats 24/7 in the summertime.

Elmer J. Graham, Jr. – Mr. Perlman has been at this for a long time. I think it's going to help our Borough. I think it's an excellent project.

John Cantalupo – that concludes our Town Hall. Thank you all for coming.

REGULAR COUNCIL MEETING
CALL TO ORDER: 7:14 PM

SUNSHINE LAW NOTICE: Read by Municipal Clerk
Minutes of the Workshop Meeting of the Mayor and Council, Borough of Keyport, held on the above date in Borough Hall Council Chambers, Keyport, NJ, pursuant to the Annual Notice on file with the Borough Clerk forwarded to the Asbury Park Press, and Newark Star Ledger and posted on the Bulletin Board in accordance with the Open Public Meetings Act, P.L.1975, c.231.

ROLL CALL:
Members present: Councilmember Brady, Councilmember Gross, Councilmember McNamara, Councilmember Peperoni, Councilmember Reilly, Council President Vecchio, Mayor Araneo

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

COMMITTEE REPORTS
(Councilmember is lead or co-lead liaison of Committees in bold)
Councilmember Brady: Environmental, Recreation/Senior Center, Fire/First Aid/OEM, Municipal Alliance, Green Team

- Environmental Commission – provided updates on Atlantic Shores offshore wind capstone project, invasive species, and dune development and maintenance. Next meeting is Monday, March 25th; Cedar Street Clean Ocean Action beach cleanup April 13th.
- Recreation – Easter egg hunt was last weekend; thanked Nicki Francis, Mary Holtz, Nancy Jones, Mayor Araneo, and Sofia Lamberson; considering Blue Claws event and planning summer events for kids; date for Senior Prom; will provide night out for high school seniors; I Love Keyport Day is May 18th with a rain date of May 19th.

- MAC – attended the March meeting but there was no quorum,
- Both groups looking for volunteers.

<u>**Councilmember Gross**</u>**: KBBC, Public Works/Water-Sewer,** Recreation/Senior Center, Redevelopment

- Public Works – conducted pothole repairs, street sweeping, and water meter readings. Thanked DPW for everything they do.

<u>**Councilmember McNamara**</u>**: Finance/Grants, Cannabis, Green Team,** Police, NPP

- Finance and Grants – work continues on the budget process; unable to present the budget until the solid waste contract is in place towards the end of April; received a Boardwalk Preservation Fund award through DCA which will compliment other funds; attended the NJ League of Municipalities Budgeting for Municipal Officials seminar with Councilmember Brady and Mayor Araneo; requested 5-year tax abatements be topic at the April workshop meeting.
- Cannabis – provided an update on the appeal by the Highway retail location; Premo officially has an annual license; the Green and Gold trial is rescheduled for March 22nd.
- Green Team - Explore the Bayshore program was held on February 28th with a presentation on horseshoe crabs; two signs were given to the Borough to post about not disturbing horseshoe crabs.
- Attended information session regarding events to recognize the 250th anniversary of the American Revolution.

<u>**Councilmember Peperoni**</u>**: Planning Board, Recycling, Health/Registrar/Construction/Fire Bureau/Code Enforcement/Zoning, Redevelopment,** Harbor Commission

- Read the Board of Health treasurers report.
- Read the construction office report.
- Angie's seeing-eye dog was attacked in August and had to be given up.

<u>**Councilmember Reilly**</u>**: Fire/First Aid/OEM, Police, Municipal Alliance,** Finance/Grants, Cannabis

- No update from Fire. No update from MAC since there was no meeting quorum.
- Read First Aid calls for service report, police calls for service report, and report from Chief Torres.
- St. Patrick's parade is scheduled for the upcoming weekend.
- Thanked police, first aid, and fire.

<u>**Council President Vecchio**</u>**: Harbor Commission, NPP**, Public Works/Water-Sewer

- Harbor Commission – Snapper contest finalized for September 7th; new kiosk is up and running (at the boat ramp) and looking at adding signage; damaged railing repair is closer to completion; focused on working buoys. Request for Proposals are on this agenda.
- NPP – provided Beach Park project update.

<u>**Mayor Araneo**</u>: **Library,** Planning Board, KBBC, Green Team, **Cultural/Civic, Mayors Wellness Campaign**

- KBBC – six new businesses opened and ribbon cuttings will be scheduled: Legacy Auto Customs, Aangara Indian Cuisine, Garden State Barbershop, Brinia's Sazon restaurant, Smokey's Doggy Café which was a changeover, and Any Way You Wine It; the first KBBC event, Spring Shop and Hop, was successful; new Highway 36 sign needs NJ DOT approval to be installed; change in treasurer for short period; Susan Montanti was elected treasurer.
- The NJ League of Municipalities Finance and Budget workshop was very informative.
- Attended Recreation Easter egg hunt.
- Met with Hazlet Mayor, Borough Administrator, and Councilman Peter Terranova, liaison to the schools, to discuss feasibility study for school regionalization. Hazlet is not interested at this time.
- Met with Congressman Pallone's office to discuss additional funding for the waterfront.
- Performed 24th wedding ceremony.
- Highlight of the past two weeks was reading to Mrs. Guttman's 3rd grade class.

Mayor Araneo wanted it noted for the record that the governing body can hear statements made by audience members at council meetings. A recent comment heard was "who elected that idiot in?" and the answer is the residents of Keyport. The governing body hears everything on the dais. Kids are taught not to bully but there are adults doing the same thing, and it's disgusting.

Mayor Araneo advised Mr. Lane that she will respond to his request for status updates on a number of items at the next meeting.

Motion to table resolutions **R2024-110 through R2024-113**, until the governing body holds a workshop meeting on tax abatements in April.
MM: Vecchio 2nd: McNamara
Roll Call: Ayes: Brady, Gross, McNamara, Peperoni, Reilly, Vecchio
Nays:
Absent:
Abstain:

Motion to add resolution **R2024-126**, Authorizing Execution of Lease of Borough Property with the Keyport Garden Club for Use of the Community Garden, to the agenda.
MM: Vecchio 2nd: Reilly

Motion to approve resolution **R2024-126**.
MM: Peperoni 2nd: Vecchio

Motion to table resolution **R2024-126**.
MM: Brady 2nd: Gross
Roll Call: Ayes: Brady, Gross, McNamara
Nays: Peperoni, Reilly, Vecchio, Mayor Araneo
Absent:
Abstain:

On the motion to approve resolution **R2024-126**:
Roll Call: Ayes: Peperoni, Reilly, Vecchio, Mayor Araneo
Nays: Brady, Gross, McNamara
Absent:
Abstain:

Motion to table resolution **R2024-117**.
MM: Reilly 2nd: Peperoni
Roll Call: Ayes: Brady, Gross, McNamara, Peperoni, Reilly, Vecchio
Nays:
Absent:
Abstain:

Councilmember McNamara questioned why **R2024-126** was a walk-on resolution without an opportunity for public comment.

Councilmember Brady noted she received **R2024-126** update only hours before this meeting.

Council President Vecchio doesn't want **R2024-126** to be postponed further; wants the Garden Club to be able to garden.

PUBLIC COMMENTS
The Meeting was opened to the public for comments on **agenda items only**.
Opened: 7:39 PM Motion by Peperoni, Carried by Gross. Ayes by all present.

Peter Henning, 102 Main Street – suggested a moment of silence for former Keyport teacher Sherry Hill who passed away on March 14th and is a great loss. A moment of silence was held at the Mayor's request.

George Walling, 54 Second Street – disappointed **R2024-126** was added last minute; hinders transparency.

John Merla, 34 Broad Street – thanked the mayor and council for considering the PILOT. Thinks the garden club compromise needs to move forward. Asked about **R2024-106** audit recommendations concerning trust fund reserves, and the Borough Administrator responded. Expressed concerns about the Municipal Alliance not having a quorum, and urged volunteers to come together for the cause.

Susan Montanti, 110 Warren Street – believes taxes are atrocious but expressed concerns about **R2024-110 through R2024-113** being tabled. She previously worked on Raritan Cove and believes and it's problematic to not honor promised abatements.

Elmer J. Graham, Jr., 22 St. Peters Place – asked for an explanation of **R2024-104**, which the Borough Administrator provided.

George Walling – commented that the MODIV data for 266 Van Dorn shows an abatement.

Ed Carew – asked for an explanation of **R2024-107** and why the reduction/chemical control grant would use chemical treatments. The Borough Administrator responded that chemical treatments wouldn't be used, but the trees of heaven/paradise would be removed to reduce the population, in shared services with the County whereby the grant would be a reimbursement. There is one tree at the library, which the administrator specified will be removed. Mr. Carew said he received a letter from Victoria Thompson stating chemicals are not sprayed by helicopters. They are spraying dumps formula that effects three insects in the larval stage, only where there is no tidal flow.

Bill Shadel, 62 Division Street – acknowledged not knowing that Council President reached out. Conveyed it's not [the club's] fault there wasn't a sit-down to come to an agreement months ago instead of it being approved as it just was. Displeased with the high cost of the lease.

There being no further comments, the Meeting was closed to the public.
Closed: 8:01 PM Motion by Peperoni, Carried by Reilly. Ayes by all present.

CONSENT AGENDA

(All resolutions listed hereunder are considered to be routine in nature and will be enacted in one motion. Any person may request that an item be removed for separate consideration.)

R2024-102	Payment of Bills Listed on the March 8, 2024 Bills List
R2024-103	Payment of Bills Listed on the March 19, 2024 Bills List
R2024-104	Resolution of the Borough of Keyport, County of Monmouth, New Jersey, Permitting the Transfer of 2023 Budget Appropriation Reserves Pursuant to N.J.S.A. 40A:4-59
R2024-105	Governing Body Certification of the Annual Audit
R2024-106	Approving the Corrective Action Plan for the 2022 Municipal Audit
R2024-107	Authorizing a Grant Application to the New Jersey Department of Agriculture, Spotted Lanternfly Program – 2024-2026 Spotted Lanternfly Reduction/Chemical Control Treatment Grant
R2024-108	Approving the Borough of Keyport, County of Monmouth, Emergency Operations Plan
R2024-109	Authorizing the Borough of Keyport to Release the Security Deposit Provided by A Canoe to You, LLC for the Lease of the Keyport Waterfront Boathouse
R2024-110	Approving a Five-Year Tax Abatement for 5 Raritan Cove in the Borough of Keyport
R2024-111	Approving a Five-Year Tax Abatement for 9 Raritan Cove in the Borough of Keyport
R2024-112	Approving a Five-Year Tax Abatement for 10 Raritan Cove in the Borough of Keyport
R2024-113	Approving a Five-Year Tax Abatement for 266 Van Dorn Street in the Borough of Keyport
R2024-114	Authorizing the Issuance of a Social Affair Permit for the Keyport Yacht Club (Garden Walk Fundraiser)
R2024-115	Authorizing the Issuance of a Social Affair Permit for the Keyport Yacht Club (Raine Foundation Fundraiser)

R2024-116	Authorizing the Issuance of a Social Affair Permit for the Keyport Yacht Club (Bill Volk Regatta/Raine Foundation Fundraiser)
R2024-117	Authorizing the Issuance of a Social Affair Permit for David Gibson Memorial Fund – Food Truck Festival
R2024-118	Approving the Request of the Keyport Fire Department's 2024 Fair Committee Chairperson for Exclusive Use of Fireman's Park for the Annual Fireman's Fair
R2024-119	Authorizing Keyport Fire Department to Use Fireman's Park Parking Lot for Annual Inspection
R2024-120	Resolution of the Mayor and Council of the Borough of Keyport Confirming the Selection of Volunteer Firefighter of the Fire Department for Life Membership
R2024-121	Authorizing Knights of Columbus St. Joseph Council #3402 to Solicit Donations on a Public Roadway
R2024-122	Amending Resolution #2024-66 Authorizing the Borough's Participation in the Clean Ocean Action 39th Bi-Annual Spring and Fall Beach Sweeps
R2024-123	Awarding the Waterfront Park Food Service Concession for the 2024 Season and Authorizing Execution of Concession Lease Agreement with Funnee Girl Dogs LLC
R2024-124	Awarding the Waterfront Park Boathouse Concession of Non-Motorized Watercraft for the 2024 Season and Authorizing Execution of a Concession Lease Agreement with Paddle Share LLC
R2024-125	Authorizing the Award of Contract to V&C Hartley Fishing LLC for the Operation of a Charter and/or Party Boat Service
R2024-126	Authorizing Execution of Lease of Borough Property with the Keyport Garden Club for Use as a Community Garden *(added to agenda during council meeting)*

APPROVAL OF RESOLUTIONS

Motion to approve resolutions **R2024-102 through R2024-125, except for R2024-110 through R2024-113 and R2024-117,** on the Consent Agenda.

MM: Reilly 2nd: Peperoni

Roll Call: Ayes: Brady, Gross, McNamara, Peperoni, Reilly, Vecchio
Nays:
Absent:
Abstain:

APPROVAL OF MEETING MINUTES

December 19, 2023 Regular Meeting (tabled March 5, 2024)
January 1, 2024 Reorganization Meeting
MM: Brady 2nd: Gross Ayes: all present Nays:

INTRODUCTION OF ORDINANCES

1. Ordinance – Amending the Salary Ordinance

The Clerk read the Ordinance by Title: **ORDINANCE OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, NEW JERSEY, ESTABLISHING SALARIES AND WAGES FOR DESIGNATED OFFICIALS AND EMPLOYEES OF THE BOROUGH OF KEYPORT**

1a. Motion to introduce:
MM: Peperoni 2nd: Brady
Roll Call: Ayes: Brady, Gross, McNamara, Peperoni, Reilly
Nays:
Absent:
Abstain: Vecchio

1b. Motion authorizing the Clerk to publish the Ordinance as introduced in the Asbury Park Press for a public hearing:
MM: Peperoni 2nd: Gross Ayes: all present Nays:

REPORTS

1. Municipal Clerk's Report for February 2024
2. Tax/Water/Sewer Collector's Report for February 2024
3. Board of Health Treasurer's Report for February 2024
4. Building Department Report for February 2024

5. Municipal Court Report for February 2024
MM: Peperoni 2nd: Gross Ayes: all present Nays:

PUBLIC COMMENTS
The Meeting was opened to the public for comments.
Opened: 8:03 PM Motion by Peperoni, Carried by Reilly. Ayes by all present.

John Merla – regarding the proposal for grass cutting and lawn maintenance services, asked about the maintenance of Cedar Street and Main Street ball fields, given there was a Memorandum of Understanding (MOU) with the school for maintenance of the fields. The Borough Administrator responded that there is no current MOU, the bid specifications were discussed with DPW, and this will be discussed with the awardee to be included in the contract rather than the RFP.

Elmer J. Graham, Jr. – stated he was pleased with the Town Hall meeting prior to the governing body meeting. Noted his support for We Care Adult Care. Mentioned American Legion Post #23, which meets the first Thursday of each month at 7:30pm.

Carol Grabowski, 48 Walnut Street – the light is out at the end of Walnut Street.

Michael Lane – asked Mayor Araneo about following up with her regarding his top six items.

Closed: 8:10 PM Motion by Peperoni, Carried by Reilly. Ayes by all present.

ADJOURNMENT
Motion to Adjourn
MM: Peperoni 2nd: Reilly Ayes: all present Nays:
Time of Adjournment: 8:10 PM