Approved 11/1/05

Keyport, New Jersey
November 3, 2003

Minutes of the Work Meeting of the Mayor and Council held on the above date in the Keyport Senior Center, 110 Second Street, Keyport, N.J. pursuant to the Annual Notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent and Two River Times and posted on the Bulletin Boards in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Mayor Merla called the meeting to order at 7:04 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Atkins, Hyer, Stalter, Doyle, Green. Absent: Councilman Bergen. Others present were: Mr. Kain, Borough Attorney.

RESOLUTION

WHEREAS, the Mayor and Council of the Borough of Keyport propose to discuss the following subjects:

Personnel

1. Tax Office

Litigation

1. Magic Touch vs. Borough of Keyport
2. Reconstruction of Washington Street, Phase II

Labor Relations

1. PBA Negotiations
2. Administrative and Non-Union Agreement

Contract Negotiations

1. New Municipal Complex/Kantor & Linderoth Claim
2. Reconstruction of Bridge R-2/Monmouth County
3. WFI/T-Mobile Cellular Tower Lease

WHEREAS, the Governing Body has determined that within the provisions of the Open Public Meetings Law, the Public should be excluded from the discussion of said subjects.

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 Senior Citizen Center Meeting Room for the purpose of discussing the following subjects:

Personnel, Litigation, Labor Relations and Contract Negotiations

BE IT FURTHER RESOLVED that the discussions on Personnel, Litigation, Labor Relations and Contract Negotiations conducted at said Closed Session shall be disclosed when the matters discussed are resolved and with regard to Labor Relations when negotiations are completed and a contract executed and this meeting shall continue in approximately 20 minutes.

Offered for adoption by Mr. Hyer, second by Mr. Green

Roll Call Vote: Ayes: Councilmembers Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: Councilman Bergen

Council went into closed session at 7:05 P.M. and this meeting was reconvened at 7:20 P.M.

ROLL CALL

On Roll Call the following were present: Councilmembers Atkins, Hyer, Stalter, Doyle, Green. Absent: Councilman Bergen. Others present were: Mr. Kain, Borough Attorney.

RESOLUTION

2. Resolution No. 374-05, Closed Meeting – Contract Negotiations

WHEREAS, the Mayor and Council of the Borough of Keyport propose to discuss the following subjects:

Personnel

Litigation

Labor Relations

Contract Negotiations

1. New Municipal Complex

WHEREAS, the Governing Body has determined that within the provisions of the Open Public Meetings Law, the Public should be excluded from the discussion of said subjects.

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 Senior Citizen Center Meeting Room for the purpose of discussing the following subjects:

Contract Negotiations

BE IT FURTHER RESOLVED that the discussions on Personnel, Litigation, Labor Relations and Contract Negotiations 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 Mr. Green, second by Mr. Hyer

Roll Call Vote: Ayes: Councilmembers Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: Councilman Bergen

Council went into closed session at 7:45 P.M. and this meeting was reconvened at 8:15 P.M. Mr. Bergen arrived at 8:00 P.M.

Mayor Merla called the meeting to order at 8:15 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green. Others present: Mr. Kain, Borough Attorney and Mr. Freda, Borough Engineer.

APPROVAL OF MINUTES

Minutes of the Regular Meeting of January 21, 2003 and Closed Meeting of July 15, 2003 were approved as read by Mr. Hyer, second by Mr. Stalter with Ayes by all present.

HEARING ON ORDINANCES

1. Ordinance No. 32-03, Amend Chapter VII Traffic Section 7-3.5(a), No Stopping or Standing, Beers Street

The Clerk reported that the Ordinance was published as introduced, in the Courier, issue of October 23, 2003 that the Affidavit of Publication is on file in her office, that copies were posted on the Bulletin Boards and made available to the public.

The Clerk read the Ordinance by Title:

AN ORDINANCE AMENDING CHAPTER VII "TRAFFIC" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT

The Hearing was opened to the public for comments or questions at 8:15 P.M. There being none, the Hearing was closed to the public at 8:15 P.M.

Offered for adoption by Mr. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

1a. Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, issue of November 6, 2003 moved by Mrs. Atkins, second by Mr. Green with Ayes by all present.

2. Ordinance No. 33-03, Amend Chapter VII, General Penalty for Parking in a Handicapped Parking Space

The Clerk reported that the Ordinance was published as introduced, in the Courier, issue of October 23, 2003 that the Affidavit of Publication is on file in her office, that copies were posted on the Bulletin Boards and made available to the public.

The Clerk read the Ordinance by Title:

AN ORDINANCE AMENDING AND SUPPLEMENTING AN ORDINANCE ENTITLED "REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT" ADOPTED BY THE MAYOR AND BOROUGH COUNCIL AND AMENDED FROM TIME TO TIME THEREAFTER AMENDING CHAPTER VIII "PARKING LOTS AND HANDICAPPED PARKING" TO ESTABLISH A GENERAL PENALTY FOR PARKING IN SPACES RESERVED FOR HANDICAPPED PARKING WITH THE BOROUGH OF KEYPORT

The Hearing was opened to the public for comments or questions at 8:16 P.M. There being none, the Hearing was closed to the public at 8:16 P.M.

Offered for adoption by Mrs. Atkins, second by Mr. Hyer

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

2a. Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, issue of November 6, 2003 moved by Mr. Green, second by Mr. Hyer with Ayes by all present.

Motion to reschedule the November 18, 2003 Council Meeting to November 17, 2003 due to lack of a quorum moved by Mr. Hyer, second by Mr. Doyle with Ayes by all present.

INTRODUCTION OF ORDINANCES

1. Ordinance No. 34-03, Vacate a Portion of Public Street, "Vitt Street"

The Clerk read the Ordinance by Title:

AN ORDINANCE AMENDING AND SUPPLEMENTING AN ORDINANCE ENTITLED "REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT" ADOPTED BY THE MAYOR AND BOROUGH COUNCIL AND AMENDED FROM TIME TO TIME THEREAFTER VACATING A PORTION OF A PUBLIC STREET WITHIN THE BOROUGH OF KEYPORT

BE IT ORDAINED by the Mayor an Council of the Borough of Keyport, County of Monmouth and State of New Jersey as follows:

SECTION 1. Declaration. There exists within the Borough of Keyport a paper street identified as Vitt Street, an approximately 66' wide paper street lying between the westerly Right of Way line of Broadway and the Township of Aberdeen and the Borough of Keyport boundary line, further identified as adjoining Lot 10.01, Block 2, as shown on the Tax Map of the Borough of Keyport. The Mayor and Council have determined that a portion of the within paper street known as Vitt Street is not necessary to the current or future needs of the Borough of Keyport. The Mayor and Council further believe that the best interest of the public would be served by vacating a portion of Vitt Street which presently encroaches upon property owned by the County of Monmouth and utilized for recreational purposes including the Henry Hudson Trail.

SECTION 2. Legislation. There is hereby vacated all of the public right, title and interest to a portion of Vitt Street within the Borough of Keyport, which consists of a 66' wide paper street lying between the westerly Right of Way line of Broadway and the Township of Aberdeen and the Borough of Keyport boundary line, further identified as adjoining Lot 10.01, Block 2 on the Tax Map of the Borough of Keyport which is further based upon a description drawn from a survey prepared by Martin F. Tirella, P.L.S., Schoor DePalma, dated March 6, 2000 and attached hereto as Exhibit "A", in accordance with the provisions of NJSA 40:67-19.

SECTION 3. Authorization. The Mayor and Borough Clerk are authorized to execute the appropriate documents necessary to facilitate the intent of the within ordinance.

SECTION 4. All ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed as to the extent of such inconsistencies.

SECTION 5. If any section, subsection, part, clause or phrase of this Ordinance shall be declared invalid by judgment of any court of competent jurisdiction, the section, subsection, part, clause or phrase shall be deemed to be severable from the remainder of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately following final passage and publication as required by law.

Offered for adoption by Mr. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

1a. Motion authorizing the Clerk to publish the Ordinance, as introduced in the Courier, issue of November 6, 2003 for a Hearing to be held on November 17, 2003 moved by Mrs. Atkins, second by Mr. Green with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Application to amend Bingo License 1-03, Raritan Post 23, American Legion to add game

   Motion to Approve moved by Mrs. Atkins, second by Mr. Stalter with Ayes by all present.

2. Application for on premise cash raffle from St. Joseph Church.

   Motion to Approve moved by Mr. Hyer, second by Mr. Green with Ayes by all present.

3. Certification of the Table of Equalized Valuations for Certification of Average Ratios and Common Level Ranges for uses in the Tax Year 2004 and Response from Judith Cannon, Tax Assessor.

   Motion to Receive and File moved by Mr. Bergen, second by Mrs. Atkins with Ayes by all present.

4. Proposed Monmouth County Development Regulations.

   Motion to refer to the Planning Board moved by Mrs. Atkins, second by Mr. Hyer with Ayes by all present.

UNFINISHED BUSINESS

1. Rescind Tax Owner and Taxi Driver approvals for Unlimited Taxi.

   Motion to Rescind the approvals moved by Mr. Bergen, second by Mr. Stalter with Ayes by all present.

ENGINEER'S REPORT

Mr. Freda reported on the following matters. The Therese Street plans were sent to Monmouth County Community Development for their approval before we advertise for the Receipt of Bids. He met with the Code Officers for their input on the Public Works site. Mr. Freda spoke with John Garafalo, DEP, regarding the Bulkhead Plans are in order and there are no additional comments. Mr. Garafalo will forward the plans to permitting. Mr. Bergen asked if the Army Corps of Engineers has designed their portion. Mr. Freda said a concrete wall will be built at the same elevations; the DEP is receptive and it shows on the plan. Mr. Bergen asked what the cost would be; Mr. Freda said this was discussed with the DEP. Mr. Bergen said this Council did not decide on the plan. Mr. Freda said he got all parties on board with the plan before it was submitted. The Mayor said all plans changed because of the Army Corps of Engineers. Mr. Bergen said all Councilmembers should agree on the plan. Mr. Freda said all DEP requirements and concrete sections have been agreed upon.

Mayor Merla said Engineer Freda should have all correspondence that has taken place with the DEP regarding additional costs and the concrete work (the Army Corps of Engineers architectural drawings). Mr. Freda was asked to contact the DEP and request they pick up a portion of the Army Corps of Engineers work. There will be a meeting with the DEP.

ATTORNEY'S REPORT

Mr. Kain did not have anything to report.

NEW BUSINESS

1. Reschedule of November 18th Meeting to November 17, 2003. This was discussed earlier in the meeting.

2. Mr. Green said the Fire Prevention Bureau increased their fees; this will be sent to the landlords in town.

3. Soap Box Derby. Mr. Hyer said that Kathy Shaw and Ken Armstrong would like to hold either this year or next year a "Weekend of Wheels" to include soap boxes, new cars, skateboards/roller blades and bike races.

4. Mr. Stalter asked if anyone noticed the white spray paint on the roads. Mayor Merla said the County roads were lined out for temporary patch work.

PUBLIC COMMENT PORTION

The meeting was opened to the public for comments or questions at 8:35 P.M. Kathy Shaw, KBA, elaborated on the "Wheels" event. She said Bob Carlson, Atlantic Bike Club member and resident, approached her about starting the event in Keyport. KBA needs a consensus of Council on using an area for the race course. KBA sets its calendar for the following year in November. The "Wheels Course" would be American Legion Drive to West Front Street to Broad Street as a lap course (participants could go up to 15 times around the course). This event could take place on a Sunday (the Soap Box Derby is different and takes place on a Saturday). The Mayor asked if all of the events could take place on one day; no. Mrs. Shaw said this event would replace the Mid-summer Street Fair in July 2004. Mrs. Shaw said it involves logistics and there would be a temporary map. This matter was referred to Mr. Hyer and Mr. Stalter.

Joanne Staeger, Main Street, asked when the Atlantic Street Project would start; the Borough still needs DEP approval. She asked if the property on Division Street between the Getty Station and Shell Station was sold; no. Mrs. Staeger said there is a well under the street; Engineer Freda will inspect. Mrs. Staeger said the ballards site is dangerous. Mayor Merla said it will be ripped out and reset on a concrete curb with higher elevation and it will be paved. Mr. Bergen said Council looked at not doing a bump out; it would only pick up 3 feet and we would be losing a handicapped space. Mr. Green said there are handicapped spaces in the back of the building, but none in front of the building. Mrs. Atkins said the Borough received a letter that stated handicapped parking cannot be in the front. Mayor Merla said the County requested a ballard be in place. Engineer Freda said there are issues with parking and the bump out would give 6-7 more feet. Mayor Merla said on Court night the patrons congregate on the 16 foot sidewalk in front of Borough Hall. Prices go up because things change.

Tim Regan, Asst. Fire Chief, thanked Mayor and Council for their support on the Fire Museum. The Mayor thanked the Fire Department for all of their work. Mr. Regan asked about the exemption for permits and what the amount is. The Mayor said he would have to review the Ordinance to see if it applies to volunteers who do not live in town. Mr. Regan said the Department would like to purchase a vehicle. A Chapter 159 would have to be done and then a voucher processed.

The "Wheels" event should be graded via ages. A Powerpoint presentation should be made to the schools and if it is approved, the event should be put on the Calendar of Events for January; NASCAR will promote the event.

Mr. Hyer and Mr. Stalter will confer on the matter; the Fire Department said ramps are also needed.

Mr. Bergen said the Borough owns the lot on Beers Street next to where the Apollo property is and there was dirt spread. The Borough should mark its property and advise Apollo not to use it; a fence should be installed.

The public portion of the meeting was closed to the public at 8:55 P.M.

RESOLUTIONS

3. Resolution No. 375-03, Amend September 30th Payment of Bills

WHEREAS, on September 30, 2003, the Mayor and Council of the Borough of Keyport passed a Resolution for the Payment of Bills; and

WHEREAS, in the Escrow Account Section, a bill was made payable to Anthony Medoro in the amount of $14,432.22; and

WHEREAS, it has been determined that this bill should have been made payable to Robert T. Devino.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport to void the check to Anthony Medoro in the amount of $14,432.22 and reissue a new check payable to Robert T. Devino in the amount of $14,432.22.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

4. Resolution No. 376-03, Amend Salary Resolution 137-03, PSTO Trainee, Jennifer Trimner

WHEREAS, on March 18, 2003, the Mayor and Council adopted Resolution No. 137-03 appointing Jennifer Trimner (Fox) to the position of Public Safety Telecommunications Operator, effective March 19, 2003 at the annual salary of $23,400.00; and

WHEREAS, this Resolution was in error as to the title of the position and the annual salary.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that effective March 19, 2003, Jennifer Trimner (ne Fox) is appointed as a Public Safety Telecommunications Operator Trainee at the annual salary of $25,309.44 in accordance with Salary Resolution #67-03 adopted January 21, 2003.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

5. Resolution No. 377-03, Extend Employment of Part Time Account Clerk Susan Yundzel

WHEREAS, Susan Yundzel was hired as a Temporary Part Time Account Clerk for a period of time which expires on November 9, 2003; and

WHEREAS, it is the desire of the Mayor and Council to extend said employment; and

WHEREAS, funds are available for said position.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the borough of Keyport, that the employment of Susan Yundzel, temporary part time Account Clerk is hereby extended to January 9, 2004.

BE IT FURTHER RESOLVED that as this is a temporary part time position, there are no benefits and the maximum amount of hours permitted within one week is not to exceed 28 hours.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

6. Resolution No. 378-03, Hire School Crossing Guard – George Sprague

WHEREAS, it is necessary to hire School Crossing Guards; and

WHEREAS, Police Chief Theodore Gajewski has submitted a recommendation; and

WHEREAS, funds are available in the 2003 budget for this position.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that George Sprague is hereby hired as a part time School Crossing Guard, effective November 4, 2003 at the hourly rate now in effect for the position.

BE IT FURTHER RESOLVED that since this is a part time position, there are no benefits.

BE IT FURTHER RESOLVED that the maximum hours of work are not to exceed 28 hours per week.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

7. Resolution N o. 379-03, Support Senate Bill S-838, Prohibit Punitive Damage Award against Municipalities and Municipal Employees

WHEREAS, Senate Bill S-838 has been introduced for the purpose, in part, of prohibiting awards of punitive damages against municipalities and municipal employees acting within the scope of their authority; and

WHEREAS, the Borough Council has concerns regarding the issue of awards of punitive damages against municipalities and their employees and the potential negative impact on municipal revenues and taxpayers; and

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Keyport, County of Monmouth and State of New Jersey as follows:

1. The Borough of Keyport, County of Monmouth, supports the passage of Senate Bill S-838 amending the New Jersey Tort Claims Act for the reasons set forth herein and urges all municipalities of the State to resolve to support passage of said legislation.

2. The Borough Clerk is hereby authorized and directed to send a copy of this Resolution to the Governing Bodies of each municipality in the County of Monmouth, State Representatives of the Borough of Keyport, the New Jersey League of Municipalities and the Governor of the State of New Jersey upon adoption.

3. This Resolution shall take effect immediately upon adoption according to law.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

8. Resolution No. 380-03, Resolution of Participation in the Safe and Secure Communities Program

WHEREAS, the Borough of Keyport/Police Department wishes to apply for funding a project under the Safe and Secure Communities Program (Grant #P-2769); and

WHEREAS, the Borough of Keyport Mayor and Council has reviewed the accompanying application and has approved said request; and

WHEREAS, the project is a joint effort between the Department of Law and Public Safety and Borough of Keyport Police Department for the purpose described in the application.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Keyport, Mayor and Council that:

1. As a matter of public policing, the Borough of Keyport Police Department wishes to participate to the fullest extent possible with the Department of Law and Public Safety.

2. The Attorney General will receive funds on behalf of the applicant.

3. The Division of Criminal Justice shall be responsible for the receipt and review of the applications for said funds.

4. The Division of Criminal Justice shall initiate allocations to each applicant as authorized.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

9. Resolution No. 381-03, Chapter 159 – FEMA Assistance to Firefighters Program ($63,000).

WHEREAS, NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the Budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an items of appropriation for an equal amount; and

WHEREAS, the Borough will receive $63,000 in funding from the Federal Emergency Management Agency – Assistance to Firefighters Program and wishes to amend its 2003 budget to include this amount as a revenue and offsetting appropriation.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Keyport, County of Monmouth, hereby requests the Director of the Division of Local Governments Services to approve the insertion of an item of revenue in the budget of the year 2003 in the sum of $63,000 which is now available as a revenue from:

Miscellaneous Revenues – Section F: Special Items of General
Revenues Anticipated with Prior Written Consent of Director
of Division of Local Government Services – Public and Private
Revenues Offset with Appropriations:
FEMA – Assistance to Firefighter Program $63,000.00

BE IT FURTHER RESOLVED that a like sum of $63,000 be and the same is hereby appropriated under the captions of:

(A) Operations – Excluded from "CAPS" – Public and Private
Programs Offset by Revenues:
FEMA – Assistance to Firefighters Program $63,000.00

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of the "Chapter 159 Certification and Approval Form" to the Director of the Division of Local Governments Services.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

10. Resolution No. 382-03, Chapter 159 – NJ Department of Community Affairs Smart Future Grant $82,000

WHEREAS, NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the Budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an items of appropriation for an equal amount; and

WHEREAS, the Borough will receive $82,000 in funding from the NJ Department of Community Affairs – Smart Future Grant Program and wishes to amend its 2003 budget to include this amount as a revenue and offsetting appropriation.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Keyport, County of Monmouth, hereby requests the Director of the Division of Local Governments Services to approve the insertion of an item of revenue in the budget of the year 2003 in the sum of $82,000 which is now available as a revenue from:

Miscellaneous Revenues – Section F: Special Items of General
Revenues Anticipated with Prior Written Consent of Director
of Division of Local Government Services – Public and Private
Revenues Offset with Appropriations:
NJ Department of Community Affairs – Smart Future Grant $82,000.00

BE IT FURTHER RESOLVED that a like sum of $82,000 be and the same is hereby appropriated under the captions of:

(A) Operations – Excluded from "CAPS" – Public and Private
Programs Offset by Revenues:
NJ Department of Community Affairs – Smart Future Grant $82,000.00

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of the "Chapter 159 Certification and Approval Form" to the Director of the Division of Local Governments Services.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

11. Resolution No. 383-03, Execute Monmouth County GIS License Agreement with Gladstone Design

WHEREAS, Monmouth County has been engaged in the Monmouth County Photogrammetric Basemap Program which provides the topographic mapping of all features located within the County of Monmouth developed from the 1997 aerial photography; and

WHEREAS, pursuant to the County-wide Basemap Project, public and private entities may request information relative to the countywide GIS Program; and

WHEREAS, Gladstone Design, Inc., Gladstone, New Jersey has sought to purchase GIS data information pertaining to the Borough of Keyport pursuant to a proposed License Agreement required under the County Program; and

WHEREAS, Gladstone Design, Inc. has tendered payment in the sum of $818,00 to the Borough of Keyport consistent with the terms of the GIS License Agreement and has executed the proposed agreement prepared under the within program; and

WHEREAS, the Mayor and Council desire to authorize the Mayor and Borough Clerk to execute the within agreement on behalf of the Borough.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Mayor and Council hereby authorize the Mayor and Borough Clerk to execute a license agreement with Gladstone Design, Inc., Gladstone, New Jersey relative to the release of GIS data pursuant to the program initiated by the County of Monmouth, upon receipt of the sum of $818.00 due to the Borough of Keyport pursuant to the terms of the program.

2. Copies of the within Resolution shall be forwarded to the Municipal Finance Officer and Borough Attorney and a copy shall be retained in the office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

12. Resolution No. 384-03, Award of Contract – Relocation of furniture and equipment to new Municipal Building/Applegate Moving and Storage - $13,649

WHEREAS, the Mayor and Council of the Borough of Keyport have authorized the construction of a new Municipal Complex; and

WHEREAS, the Project Architect has certified the new Municipal Complex as substantially complete and ready for use and occupancy by the various offices and officials within the Borough of Keyport; and

WHEREAS, the Mayor and Council did authorize the Borough Clerk to solicit quotes relative to the relocation of Borough Offices located at 18-20 Main Street and 35 Broad Street to the new Municipal Complex; and

WHEREAS, Applegate Moving and Storage, Manasquan, New Jersey did submit the lowest responsible quote, based upon the bids received, in the sum of $13,649.00 for the relocation of the Borough Offices and equipment from 35 Broad Street and 18-20 Main Street (except the Police Department) to the new Municipal Complex; and

WHEREAS, the Mayor and Council desire to award the contract for the relocation of the Borough Offices and Equipment based upon the low bid submitted by Applegate Moving and Storage, subject to the certification of funds from the Municipal Finance Officer and further subject to receipt of appropriate insurance coverage satisfactory to the Borough of Keyport.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Mayor and Council hereby award a contract for the relocation of Borough Offices and Equipment located at 35 Broad Street and 18-20 Main Street (except the Police Department) to Applegate Moving and Storage, Manasquan, New Jersey, based upon their low quote submission of $13,649.00.

2. The within award shall include the packing, moving and unpacking of the appropriate Borough Offices, Equipment, files and related property of the Borough of Keyport from 35 Broad Street and 18-20 Main Street to the New Municipal Complex.

3. The Mayor and/or Borough Clerk are authorized to enter into a contract with Applegate Moving and Storage upon certification as to the availability of funds by the Municipal Finance Officer and upon proof of applicable liability insurance satisfactory to the Borough of Keyport.

4. Copies of the within Resolution duly certified, shall be forwarded to Applegate Moving and Storage, Borough Attorney, Project Architect, Municipal Finance Officer and a copy shall be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

13. Resolution No. 385-03, Engineering Proposal for 2003 Road Improvement Program - $189,000

WHEREAS, the Mayor and Council of the Borough of Keyport have determined to proceed with the reconstruction and repairs to several roads located throughout the Borough of Keyport as part of the 2003 Road Improvement Program; and

WHEREAS, the Mayor and Council have concluded that the 2003 Road Improvement Program is necessary to maintain the infrastructure of the Borough of Keyport by providing needed repairs and reconstruction to portions of roads within the Borough designated through this Program; and

WHEREAS, the mayor and Council have received a three (3) phase proposal from the Borough Engineer for engineering services relative to the 2003 Road Improvement Program dated July 11, 2003; and

WHEREAS, the Borough Engineer has proposed to provide the necessary survey and preparation map for the roads included in the program for a lump sum Phase 1 cost of $5,200.00 and thereafter to prepare the final plans and specifications for the 2003 Road Improvement

Program for a total lump sum Phase II cost of $5,700.00 and thereafter to provide for the construction administration of road improvement program in Phase III for a total lump sum cost of $8,000.00 for a total fee of $18,900.00; and

WHEREAS, the Mayor and Council have reviewed the proposal prepared by the Borough Engineer dated July 11, 2003 and have determined to authorize the Borough Engineer to undertake this proposal in conjunction with the 2003 Road Improvement Program, subject to the certification of availability of funds by the Municipal Finance Officer in the total amount of $18,900.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. Borough Engineer is authorized to proceed with the engineering services required to implement the 2003 Road Improvement Program for the Borough of Keyport.

2. Borough Engineer shall prepare the appropriate survey and base map, final plans and specifications and thereafter provide the necessary construction administration, consistent with their proposal dated July 11, 2003 for a total fee, for all phases in the amount of Eighteen Thousand, Nine Hundred ($18,900.00) Dollars, broken down into various phases and options, upon certification from the Municipal Finance Officer as to the availability of funds from the appropriate bond ordinances or general account of the Borough of Keyport.

3. That a certified copy of this resolution be forwarded to the Borough Engineer and Municipal Finance Officer and that a copy of the within Resolution be retained in the office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Atkins, Hyer, Stalter, Doyle, Green
Nays: Councilman Bergen
Abstain: None
Absent: None

14. Certificate of Substantial Completion, New Municipal Complex – This was held by Mayor and Council

15. Resolution No. 386-03, Payment of Bills

See full of Resolution as pages 19 - 21 of these minutes.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter*, Doyle, Green
Nays: None
Abstain: None
Absent: None

Councilman Stalter abstained on the Payments to Wesley Kain, Esq.

16. Resolution No. 387-03, New Municipal Complex – Change Order 14

WHEREAS, the Mayor and Council of the Borough of Keyport have previously authorized the construction of a New Municipal Complex; and

WHEREAS, the Mayor and Council have received a written request from the project architect recommending approval of Change Order No. 14 for the Municipal Complex as it relates to the contractor, A&K Excavating; and

WHEREAS, the Mayor and Council have reviewed the proposal change order request and have determined to approve a portion of the change order request relating to the installation of cell block vision panels, siren wiring and camera housings within the new municipal complex as submitted by the General Contractor, A&K Excavating, Holmdel, New Jersey; and

WHEREAS, based upon the review of the Mayor and Council and the recommendation of the project architect, the Mayor and Council are inclined to authorize a portion of Change Order No. 14 relating to the installation of cell block vision panels ($1,218.00), siren warning ($2,062.50) and camera housings ($1,603.80) within the new Municipal Complex for a combined additional sum of Four Thousand, Eight Hundred and Eighty Four Dollars and Thirty Cents ($4,884.30); and

WHEREAS, the Mayor and Council desire to memorialize the within Resolution approving the change order and authorizing the project architect to proceed with the within change to the Municipal Complex as set forth in Change Order No. 14 to the Keyport Municipal Center dated October 27, 2003.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Mayor and Council of the Borough of Keyport hereby approve, as modified, Change Order No. 14 as recommended by the Project Architect consisting of the installation of cell block vision panels, siren wiring and camera housings in the new municipal complex based upon a change order dated October 27, 2003.

2. The Mayor and Council hereby approve the change order in the amount of $4,884.30 and further authorize the project architect to proceed with modified Change Order No. 14 based upon the written proposal submitted for the items herein approved. The total current contract between the Borough of Keyport and A&K Excavating is hereby further amended to reflect an increase in the sum of $4,884.30.

3. The within Resolution is specifically contingent upon the certification of the Municipal Finance Officer as to the availability of funds within the appropriate Bond Ordinance adopted by the Mayor and Council and amended thereafter.

4. That a copy of the within Resolution, duly certified, be forwarded to the General Contractor, Project Architect, Clerk of the Works, Borough Engineer, Consulting Engineer and Municipal Finance Officer.

5. Copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

17. Resolution No. 388-03, Appoint Phillips Preiss Shapiro Associates, Inc. as Planning Consultants Smart Growth Grant

WHEREAS, the Mayor and Council of the Borough of Keyport have previously been notified of the award of approximately Eighty-Five Thousand ($85,000.00) Dollars from the State of New Jersey under the Office of Smart Growth by which to create a redevelopment plan for the Borough of Keyport; and

WHEREAS, the Mayor and Council have sought Request for Qualifications and Request for Proposals from numerous planners throughout the State of New Jersey to assist the Borough of Keyport in proceeding with a comprehensive redevelopment plan inclusive of a land use plan, urban design plan and waterfront open space plan, which will provide Keyport with a long term plan deemed beneficial to the residents; and

WHEREAS, the Mayor and Council of the Borough of Keyport did receive and review numerous qualifications and proposals from respectable planners through the State of New Jersey and thereafter did conduct interviews with the potential planners to determine a recommendation to meet the needs of the Borough of Keyport; and

WHEREAS, based upon a review of the Request for Proposals, Request for Qualifications and the interviews conducted, the Mayor and Council have resolved to appoint Phillips Preiss Shapiro Associates, Inc. Red Bank, New Jersey as the Planning Consultant for the Borough of Keyport to prepare a redevelopment plan for the Borough of Keyport pursuant to the mandate of Smart Growth; and

WHEREAS, the Mayor and Council desire to make the within appointment without competitive bidding as the within position is a professional service pursuant to applicable New Jersey Statutes and to provide under the Local Public Contracts Law (NJSA 40A:11-1) that the within Resolution awarding the contract be printed in a newspaper of general circulation not more than ten days following the passage of this Resolution; and

WHEREAS, the Mayor and Council further wish to authorize the Smart Growth Planner to proceed with the redevelopment plan in accordance with the Scope of Work Proposal submitted to the borough of Keyport, subject to the certification of the Municipal Finance Officer and to further authorize the Mayor to execute the appropriate contract subject to review by the Borough Attorney; and

WHEREAS, the specific proposal to provide certain enhanced services in connection with the proposed redevelopment plan submitted by the Planning Consultant will exceed the sum of the Smart Growth Grant by approximately Fifteen Thousand ($15,000.00) Dollars; and

WHEREAS, the Mayor and council have determined that this proposed additional services would provide greater graphics in connection with the proposed redevelopment plan, which the Mayor and Council believe will be beneficial to the Borough of Keyport; and

WHEREAS, the Mayor and Council desire to authorize the Planning Consultant to proceed with the additional services as contained in the Scope of Work submitted to the Borough of Keyport subject to the certification of the Municipal Finance Officer as to the availability of funds from the BRIT Account or from the general funds of the Borough of Keyport.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport, County of Monmouth and State of New Jersey as follows:

1. The Mayor and Borough Council hereby appoint the firm of Phillips Preiss Shapiro Associates, Inc., Red Bank, New Jersey as the Planning Consultant for the Borough of Keyport under a grant received from the State of New Jersey, Office of Smart Growth, subject to the terms and conditions of the within grant.

2. The Mayor and Council further direct the Planning Consultant to prepare a Redevelopment Plan for the Borough of Keyport, to include the land use plan, urban design plan and waterfront open space plan in accordance with the Scope of Work Proposal submitted to the Borough of Keyport.

3. The Planning Consultant is authorized to prepare the within enhanced services plan for the maximum amount of One Hundred Thousand ($100,000.00) Dollars, which shall include the sum of Eighty Five Thousand ($85,000.00) Dollars from the Smart Growth Grant, subject to the requirements of the State of New Jersey, Office of Smart Growth and the sum of Fifteen Thousand ($15,000.00) Dollars subject to the certification of the Municipal Finance Officer as to the availability of funds under the within grant and from the BRIT Account or general revenues of the State of New Jersey.

4. The appointment herein is made without competitive bidding under the Local Public Contracts Law as it is a professional service and therefore not subject to competitive bidding.

5. The Borough Clerk is directed to publish notice of the within appointment pursuant to NJSA 40A:11-1 et seq. within ten days following the adoption of this Resolution in a newspaper of general circulation.

6. Copies of the within Resolution shall be forwarded to Phillips Preiss Shapiro Associates, Red Bank, New Jersey, Municipal Finance Officer, Borough Attorney, Borough Engineer, Planning Board Chairman and a copy of the within

Resolution shall be retained in the Office of the Borough Clerk for public inspection.

The State sets the fee payments; a schedule has been worked out.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Atkins, Hyer, Stalter, Doyle, Green
Nays: Councilman Bergen
Abstain: None
Absent: None

Mr. Bergen asked about the 2003 Road Program. Borough Engineer Freda said the Borough had to wait for the Bond Ordinance ($18,900) to be adopted. Six streets were designed and we are only doing three. The project will cost $67,000 with Engineering fees in the amount of $18,900.00.

18. Resolution No. 389-03, Authorize Additional Legal Fees for the Magic Touch Litigation

WHEREAS, the mayor and Council of the borough of Keyport have previously authorized the appointment of Special Legal Counsel for the Mayor, Councilmembers and Borough employees named in certain punitive damage counts relative to litigation commences as Magic Touch Construction Company, et. al vs. Borough of Keyport, et al, pending in the Superior Court of New Jersey, Monmouth County under Docket No. MON-L-2755-00; and

WHEREAS, pursuant to the previous resolution the Mayor, Councilmembers and Borough Employees have been authorized to retain personal legal counsel for the purposes of defending the punitive damages claimed in the within litigation; and

WHEREAS, the Mayor and Council of the Borough of Keyport have been advised of the names of the various attorneys selected and have previously authorized the expenditure from the legal fees in the sum of Forty Thousand Dollars ($40,000.00) which was allocated in amount of Ten Thousand Dollars ($10,000.00) to each attorney retained for legal services relative to the punitive damages claims asserted in the within litigation, from the general municipal budget; and

WHEREAS, due to the nature and extent of the claims submitted and the need for special counsel to conduct discovery relative to the punitive damage claims asserted in connection with the within litigation it has become apparent that additional funds will be necessary from the municipal budget for additional legal related expenses for special counsel appointed in the within matter; and

WHEREAS, the Mayor and Council have resolved to appropriate an additional Twenty Thousand Dollars ($20,000.00), allocated for legal services performed by those attorneys retained for legal services relative to the punitive damages claims asserted in the within litigation from the general municipal budget; and

WHEREAS, the Municipal Finance Officer has certified that funds are presently available in the current municipal budget for the within Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport, County of Monmouth and State of New Jersey as follows:

1. The Mayor and Borough Council hereby authorize an additional amount for legal services in the sum of Twenty Thousand ($20,000.00) Dollars to be allocated based upon the legal fees submitted and approved by the various attorneys in the litigation entitled Magic Touch vs. Borough of Keyport.

2. The Mayor and Borough Council further direct any additional payments upon submission of legal fees which shall be reviewed and approved by the Borough Attorney prior to any payments made hereinafter.

3. The within resolution confirms the additional amounts for legal services relative to the within litigation to all special legal counsel appointed by previous resolution. All terms of the previous resolution no expressly modified herein are hereby confirmed.

4. Certified copies of the within Resolution shall be forwarded to the Special Legal Counsel, Municipal Finance Officer and to the Borough Attorney and a copy shall be maintained in the Office of the Borough Clerk for public inspection.

5. The Municipal Finance Officer having certified the availability of said funds in the current municipal budget

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: Councilman Bergen
Absent: None

19. Resolution No. 390-03, Reconstruction of Bridge over Chingarora Creek

WHEREAS, the County of Monmouth has proposed plans to undertake extensive renovations and reconstruction to a bridge crossing Chingarora Creek within the Borough of Keyport; and

WHEREAS, to facilitate such reconstruction and renovation the County of Monmouth has sought to acquire a portion of land owned by the Borough of Keyport and identified as a portion of Block 140, Lot 4 on the Tax Map of the Borough of Keyport; and

WHEREAS, the County of Monmouth has obtained an appraisal report which values the portion of Block 140, Lot 4 sought to be acquired by the County of Monmouth at Six Thousand, Two Hundred ($6,200.00) Dollars; and

WHEREAS, the Mayor and Council have reviewed and considered the appraisal report as well as the proposed reconstruction to County Bridge R-4 proposed by the County of Monmouth and have concluded that the within reconstruction would be beneficial to the resident of the Borough of Keyport in providing long range improvements to the within bridge; and

WHEREAS, the Mayor and Council desire to authorize the Borough of Keyport to accept the sum of Six Thousand, Two Hundred ($6,200.00) Dollars in exchange for the conveyance of a portion of Block 140, Lot 4 to the County of Monmouth to be utilized in accordance with the reconstruction of Bridge R-4 and further to authorize the Mayor and Borough Clerk to execute the appropriate documents necessary to facilitate the conveyance to the County of Monmouth.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Mayor and Council hereby authorize the transfer, sale or conveyance of a portion of Block 140, Lot 4 owned by the Borough of Keyport to the County of Monmouth based upon an appraisal performed for the sum of Six Thousand, Two Hundred ($6,200.00) Dollars, which property is to be utilized by the County of Monmouth in conjunction with the reconstruction of County Bridge R-4 over the Chingarora Creek, in accordance with the legal description prepared by William H. Doolittle, P.E.

2. The Mayor and Council further declare that the within property, consisting of approximately 0.678 acres, is not necessary to the current or future needs of the Borough of Keyport and that the proposed bridge reconstruction will be beneficial to the long term plans of the Borough of Keyport.

3. The Mayor and Borough Clerk are hereby directed to execute such documents necessary to facilitate the conveyance of said property in accordance with the terms herein contained.

4. Copies of the within Resolution shall be forwarded to Michael Haverstick, Assistant Real Estate Manager, County of Monmouth, Municipal Finance Officer and Borough Attorney and a copy shall be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None
Absent: None

20. Resolution No. 391-03, Authorize Preparation of Bid Specifications for Receipt of Bids for Cellular Tower Lease

WHEREAS, the Borough of Keyport is the owner of certain real property and a water tank constructed thereon, located at the intersection of Cass Street and Highway 35, Block 33, Lots 18&19 on the Tax Map of the Borough of Keyport; and

WHEREAS, the Mayor and Council have determined to offer lease space on the top of the aforesaid water tower for the purpose of installing, maintaining and operating an antenna array, consisting of not more than 12 antenna and associated transmission lines and mounting apparatus and to lease a portion of said real property consisting of approximately 1,000 square feet, for the purpose of constructing, maintaining, and operating a mobile communications facility, consisting of an equipment building not to exceed 600 square feet to be constructed and maintained by the successful bidder; and

WHEREAS, subject to the approval of the Borough Engineer as to the necessary method and location of the installation of the antenna array, the Mayor and Council have determined to offer the within top of the tower location for bid for the location of various antenna array relative to the mobile communication field.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport as follows:

1. The Borough Attorney is hereby authorized to prepare bid specifications for the property and water tank located at the intersection of Cass Street and Highway 35, Block 33, Lots 18&19 on the Tax Map of the Borough of Keyport for the purposes of location on the top of the tower an antenna array, consisting of not more than 12 antenna, at a particular location to be determined in consultation with the Borough Engineer.

2. Upon receipt of the bid specifications, the Borough Clerk is authorized to advertise for receipt of bids for the location of up to twelve (12) cellular antenna, and appropriate ground space on the top of the water tank located on Cass Street and Highway 35, Block 33, Lots 18&19 on the Tax Map of the Borough of Keyport, for a term of five (5) years.

3. The Mayor and Council further authorize the term of the lease to be for five (5) years with a minimum bid of Thirty Five Thousand, Seven Hundred Fifty ($35,750.00) Dollars per year for each year during the term of the lease.

4. The successful bidder shall be subject to review by the Borough Engineer as to the location and mounting of such antenna apparatus, not to exceed 12 antenna and any such bidder is subject to final approval by the Borough Engineer.

5. The Mayor and Council further authorize inclusion in the bid documents a provision that should be an existing lease holder on the aforesaid water tower bid and become the successful bidder, the Mayor and Council will entertain a request to terminate the existing lease agreement upon the execution of the within lease.

6. Certified copies of the within Resolution shall be forwarded to the Borough Attorney and Borough Engineer and a copy of the within Resolution shall be retained in the office of the Borough Clerk for public inspection.

Offered for adoption by Mrs. Atkins, second by Mr. Doyle

Roll Call Vote: Ayes Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green
Nays: None
Abstain: None

Absent: None

ADJOURNMENT

Motion to Adjourn moved by Mr. Green, second by Mr. Stalter with Ayes by all present.

Time of Adjournment: 9:05 P.M.

Respectfully submitted,

Judith L. Poling, RMC/CMC
Borough Clerk
Judith L. Poling

Per Allyson M. Cinquegrana, RMC
Deputy Borough Clerk
Allyson M. Cinquegrana