

Approved
9-16-03

December 3, 2002
Keyport, New Jersey

Minutes of a 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 Graham called the meeting to order at 7:05 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bergen (arriving at 7:10 P.M.), Atkins, Merla, Hyer, Stalter. Absent: Councilwoman Ashmore. Others present were Mr. Kain, Borough Attorney.

RESOLUTION

1. Resolution #371-02, Closed Meeting - Personnel, Litigation, Labor Relations and Contract Negotiations

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

Personnel:

1. Police Department

Litigation:

1. Magic Touch vs Borough of Keyport
2. PBA vs Borough of Keyport
3. PBA Grievance
4. Keyport Plaza vs Borough of Keyport

Labor Relations:

1. IUOE Negotiations
2. Administrative & Non-Union Negotiations

Contract Negotiations:

1. New Municipal Complex
2. Ferry Service Lease
3. Water/Wastewater Facilities
4. Fire Department

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, 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 by Mr. Merla, seconded by Mr. Stalter.

Roll Call Vote: Ayes: Councilmembers Atkins, Merla,
Hyer, Stalter
Absent: Councilmembers Bergen, Ashmore

Council went into closed session at 7:10 P.M. and this meeting was reconvened at 8:38 P.M.

Mayor Graham called the meeting to order at 8:38 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bergen, Atkins, Merla, Hyer, Stalter. Absent: Councilwoman Ashmore.

Others present: Mr. Kain, Borough Attorney and Mr. Freda, Borough Engineer.

HEARING ON ORDINANCES

1. Ordinance # 31-02, Salary Ordinance-Park Maintenance and Senior Park Maintenance Worker.

The Clerk reported that the Ordinance was published, as introduced, in the Courier, issue of November 21, 2002, 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 FIXING THE SALARIES OF THE
VARIOUS OFFICERS, CLERKS AND EMPLOYEES
OF THE BOROUGH OF KEYPORT, NJ IN THE
COUNTY OF MONMOUTH AND STATE OF NEW JERSEY

The Hearing was opened to the public for comments or questions at 8:40 P.M. There being none the Hearing was Closed at 8:40 P.M.

Offered by Councilman Hyer, seconded by Councilwoman Atkins

Roll Call Vote: Ayes: Councilmembers	Atkins, Merla, Hyer,
	Stalter
Abstain: Councilmember	Bergen*
Absent: Councilmember	Ashmore

*Could cause difficulty in flexibility.

- 1a. Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, issue of December 5, 2002 moved by Mr. Merla, seconded by Mr. Stalter, with Ayes by all present.

2. Ordinance #32-02, Amend Bond Ordinance #7-99, Washington Street.

The Clerk reported that the Supplemental Debt Statement has been approved by Local Government Services.

The Clerk reported that the Ordinance was published as introduced, in the Courier, issue of November 21, 2002, 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:

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE
NUMBER 7-99 (WHICH PROVIDES FOR ROAD IMPROVEMENTS,
INCLUDING WASHINGTON STREET) HERETOFORE FINALLY ADOPTED
BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEYPORT
IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY,
ON APRIL 20, 1999, AS AMENDED AND SUPPLEMENTED, TO
THEREIN INCREASE THE APPROPRIATION TO \$1,100,000,
TO THEREIN INCREASE THE AUTHORIZATION OF BONDS OR
NOTES TO \$413,250 AND TO THEREIN INCREASE THE DOWN
PAYMENT TO \$21,750

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

SECTION 1. The bond ordinance of the Borough of Keyport, in the County of Monmouth, State of New Jersey (the "Borough"), heretofore finally adopted by the Borough Council on April 20, 1999, numbered 7-99 and entitled, "Bond Ordinance Providing For

Road Improvements, Appropriating \$350,000 Therefor And Authorizing The Issuance Of \$166,250 Bonds And Notes To Finance A Portion Of The Costs Thereof, Authorized In And By The Borough Of Keyport, In The County Of Monmouth, New Jersey", as amended and supplemented by Bond Ordinance Number 6-00 finally adopted by the Borough Council on May 16, 2000 and Bond Ordinance Number 13-01 finally adopted by the Borough Council on September 4, 2001 (collectively, the "Original Ordinance"), which Original Ordinance is hereby amended and supplemented to the extent and with the effect as follows:

SECTION 2. For the improvement or purpose described in Section 3 of the Original Ordinance, as amended and supplemented hereby, there is hereby appropriated the additional sum of \$250,000, said sum to be inclusive of \$170,000 as the amount of a grant from the New Jersey Department of Transportation and \$4,000 as the amount of an additional down payment required by the Local Bond Law, N.J.S.A.40A:2-1 et seq. (The "Local Bond Law"), which down payment is now available therefor by virtue of provisions in a previously adopted budget or budgets of the Borough for down payment or for capital improvement purposes. The total appropriation of the Original Ordinance, as amended and supplemented hereby, is equal to \$1,100,000, including the sum of \$665,000 as the total amount of grants received or to be received from the New Jersey Department of Transportation and \$21,750 as the total down payment available therefor.

SECTION 3. (a) In order to finance the cost of the improvement or purpose set forth in Section 3 of the Original Ordinance, as amended and supplemented hereby, not covered by the additional down payment, additional negotiable bonds or notes of the Borough in the amount of \$76,000 are hereby authorized to be issued by the Borough, such that the total authorization of negotiable bonds or notes to be issued by the Borough for the improvement or purpose stated in Section 3 of the Original Ordinance, as amended and supplemented hereby, is equal to \$413,250.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose stated in the Original Ordinance, as amended and supplemented hereby, is equal to \$413,250.

(c) The estimated cost of the improvement or purpose stated in the Original Ordinance, as amended and supplemented hereby, is equal to \$1,100,000.

SECTION 4. The Capital Budget of the Borough is hereby amended, as necessary, to conform with the provisions of this amendatory and supplemental bond ordinance and to the extent of any inconsistency herewith, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs (the "Director of the Division of Local Government Services"), will be on file in the Office of the Clerk and will be available for public inspection.

SECTION 5. The following additional matters are hereby determined, declared, recited and stated:

(a) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, and such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided for in this amendatory and supplemental bond ordinance by \$76,000 and the said obligations authorized herein will be within all debt limitations prescribed by law.

(b) For the improvement or purpose set forth in the Original Ordinance, as amended and supplemented hereby, the additional sum of \$90,000 is hereby included for the items of expense listed in and permitted under

N.J.S.A.40A:2-20, making the total amount for such items of expense \$350,000, such total amount being included in the estimated cost indicated herein for the improvement or purpose set forth in the Original Ordinance, as amended and supplemented hereby.

SECTION 6. The Borough reasonably expects to reimburse any expenditures toward the cost of the improvement or purpose described in the Original Ordinance, as amended and supplemented hereby, and paid prior to the issuance of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 6 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the cost of the improvement or purpose described in the Original Ordinance, as amended and supplemented hereby, to be incurred and paid prior to the issuance of bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, in accordance with Treasury Regulation Section 1.150-2. And no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, used to reimburse the Borough for any expenditures toward the cost of the improvement or purpose described in Section 3 of the Original Ordinance, as amended and supplemented hereby, will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d), (ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds "replacement proceeds", within the meaning of Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same "Controlled Group" within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, to reimburse the Borough for any expenditures toward the cost of the improvement or purpose described in Section 3 of the Original Ordinance, as amended and supplemented hereby, will be issued in an amount not to exceed \$413,250. The costs to be reimbursed with the proceeds of the bonds or notes authorized by the Original Ordinance, as amended and supplemented hereby, will be "capital expenditures" in accordance with the meaning of section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 7. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code, of the interest on all bonds and notes issued under the Original Ordinance, as amended and supplemented hereby.

SECTION 8. Except as expressly amended and supplemented hereby, the Original Ordinance shall remain in full force and effect.

SECTION 9. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption and approval by the Mayor, as provided by the Local Bond Law.

The hearing was opened to the public for comments or questions at 8:45 P.M. There being none, the Hearing was closed at 8:45 P.M.

Offered by Mrs. Atkins, seconded by Mr. Hyer.

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter

Abstain: Councilman Merla

Absent: Councilwoman Ashmore

- 2a. Motion authorizing the Clerk to publish the Ordinance, as finally adopted according to law, in the Courier, issue of December 5, 2002 moved by Mr. Hyer, seconded by Mr. Stalter, with Ayes by all present.

INTRODUCTION OF ORDINANCE

1. Ordinance #33-02, Amend Chapter III, Section 3-6.1-26 Police /Outside Contractors

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 COUNCIL AND AMENDED FROM TIME TO TIME
THEREAFTER AMENDING CHAPTER III, SECTION 3-6.1-26**

BE IT ORDAINED by th Mayor and Council of the Borough of Keyport that Borough Ordinances, Chapter III, Police and Fire Departments, Section 3-6.1-26, is hereby amended and supplemented as follows:

Section 1: Declaration. The Mayor and Council of the Borough of Keyport declare it necessary to revise and update fees paid to various employees of the police department who perform work during off-duty hours for various independent contractors or commercial establishments working within the Borough of Keyport and to increase the administrative fees charged independent contractors or commercial establishments relative to off-duty police personnel and equipment, which is commensurate with the neighboring municipalities who perform similar services for independent contractors.

Section 2: Chapter III, Section 3-6.1-26 is hereby amended and supplemented as follow: "The various employees of the police department of the Borough of Keyport, in the County of Monmouth and State of New Jersey who perform work during off-duty hours for an independent contractor or commercial establishment working in the Borough of Keyport shall be compensated within the following range, based upon their positions within the police department, as to be determined from time to time by resolution of the Mayor and Council, as follows:

POLICE DEPARTMENT:

Chief or Captain	\$35.00 to \$50.00 per hour
Lieutenant	\$35.00 to \$50.00 per hour
Sergeant	\$35.00 to \$50.00 per hour
Patrolman First Class	\$35.00 to \$50.00 per hour
Patrolman Second Class	\$35.00 to \$50.00 per hour
Patrolman Third Class	\$35.00 to \$50.00 per hour
Detective Sergeant	\$35.00 to \$50.00 per hour
Detective	\$35.00 to \$50.00 per hour
Special Police Officer	\$35.00 to \$50.00 per hour
Administrative fee	\$10.00 to \$20.00 per hour

(For processing payroll and related matters, equipment and insurance)

Section 3: For purposes of this ordinance, independent contractor or commercial establishment shall be deemed to include any business or work establishment within the Borough of Keyport, which may be temporary, permanent or seasonal, in which borough equipment (Police vehicle) is utilized with respect to work performed during off-duty hours by various police personnel. For purposes of this section, the Board of Education shall not be construed to constitute an independent

contractor or commercial establishment for police personnel engaged in off-duty work.

Section 4: All Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and the same 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 upon final passage and publication as required by law.

Offered by Mr. Bergen, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla,
Hyer, Stalter
Absent: Councilwoman Ashmore

- 1a. Motion authorizing the Clerk to publish the Ordinance as introduced in the Courier, issue of December 5, 2002 for a Hearing to be held on December 7, 2002 moved by Mr. Bergen, seconded by Mr. Hyer with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Tow Truck Renewal Applications for 2003:

- A. Bayshore Auto Service
- B. D. J.'s Service Center & Auto Body
- C. Key Auto Body
- D. Bill Wright and Sons, Inc.
- E. D & D Towing Services, Inc.

Councilman Merla asked how long can a vehicle be kept on a property outside of a fenced area (Tractor/Trailer) near the Garden State Parkway (GSP). Police Chief Gajewski said this deals with the GSP and that he could ask them to move the vehicle. Councilman Bergen recommended that Mr. Kain review the ordinances.

Motion to approve moved by Mr. Bergen, seconded by Mrs. Atkins with Ayes by all present.

2. Notice from the Board of Chosen Freeholders regarding meeting on December 9th from 1:30 - 9:30 P.M. on passenger rail service for Western Monmouth.

Motion to Receive and File moved by Mr. Bergen, seconded by Mr. Merla, with Ayes by all present.

3. Notice from Hazlet Township regarding Development Review Ordinance and Official Zoning Map amendment.

Motion to Receive and File moved by Mr. Bergen, seconded by Mr. Merla, with Ayes by all present.

4. Applications for Raffles Licenses from St. Joseph Church for 2003 Fair:

- A. Off Premise Cash Raffle, 6/1/2003
- B. On Premise Cash Raffle, 5/28-6/1/2003
- C. On Premise Non-Draw Raffle, 5/28-6/1/2003

Motion to approve moved by Mr. Bergen, seconded by Mr. Merla with Ayes by all present.

5. Application for Bingo License from Raritan Post No. 23, American Legion for 2003.

Motion to approve moved by Mr. Hyer, seconded by Mr. Merla with Ayes by all present.

6. Letter from NJ Transit regarding 2003 FTA Section 5310 Grant Notification.

Motion to Receive and file, moved by Mr. Merla, seconded by Mr. Stalter with Ayes by all present.

7. Application for On Premise Raffle License (6 dates in 2003) from St. Joseph School PTA.

Motion to approve moved by Mr. Bergen, seconded by Mr. Hyer with Ayes by all present.

8. Fire Department application from William Kohn/Engine Company (contingent upon State approval).

Motion to approve moved by Mr. Bergen, seconded by Mrs. Atkins with Ayes by all present.

9. Fire Department application from James Lawson/Engine Company (contingent upon State approval).

Motion to approve moved by Mrs. Atkins, seconded by Mr. Hyer with Ayes by all present, expect Mr. Merla, who abstained.

UNFINISHED BUSINESS

1. **Request from Second Baptist Church for Handicapped Parking Spaces.** This requires an ordinance. Motion to list an Ordinance on 1/7/03, moved by Mr. Hyer, seconded by Mr. Stalter with Ayes by all present.
2. **Keep Kids Alive-Drive Twenty-Five signs.** Re-list on December 17, 2002 agenda.
3. **NJDEP Targeted Brownfields Assessment Program.** Planning Board submitted a response. Councilman Bergen said that the council should look at redevelopment areas. Councilman Merla said the Smart Growth Grant asked that sites be identified. Mr. Freda, the Borough Engineer should investigate and identify sites and advise on legal ramifications.
4. **Request for Re-Zoning of Block 80, lot 1.01, East Front Street.** Mayor Graham said this was discussed at the Planning Board Meeting and Mr. Litwin, Planning Board Attorney, said the council has to address the matter and make a decision. Motion requesting the developer be invited to the first meeting in January, 2003 and that they be sent a letter, moved by Mr. Merla, seconded by Mr. Hyer with Ayes by all present.
5. **Florence Avenue/Sump Pumps.** Councilman Hyer referenced the Borough Engineer's letter. He advised that the Public Works Dept went out on three overtime calls because of freezing water and salted both morning and night. Mr. Bailey of Hazlet Township is to be advised by December 4, 2002 at 10:00 A.M. what the Borough of Keyport is doing about this problem or they may sue the Borough. David Rooke, Public Works Supervisor, estimated the cost of materials and men to correct the problem in the amount of \$2,000.00. Keyport Police, not Hazlet, would be used for traffic control. They would start on December 16, 2002 and it would take four days to correct (installation of catch basin) with the drain line on the Hazlet side to be connected to the pipe. There was a question about the trench repair. Mr. Bergen said if it on private property we do not repair it. If we do it for one, others will want the Borough to correct theirs. The Ordinance can be amended to provide that they can stay connected but they would have to pay a separate fee. Mr. Freda did not think it could be done legally, that there would be limitation to solving all problems. Mr. Merla asked if there were any grant applications. On Washington Street there are sump pumps, which, if taken out of the sewer will destroy the road, which Mr. Bergen said would then have to be repaired. Mr. Hyer said this repair will be temporary until the spring. The Borough could rent a machine to do half the road at a time. Mr. Bergen said Hazlet Township should be notified that this is only a temporary solution and that releases should be obtained from the individual property owners. Other areas which are experiencing the same problem are on Maple Place, Pershing Place, Green Grove Avenue and Third Street. Motion that right of entry releases be obtained that Hazlet Township approves, and that funds be allocated in the amount of not to exceed \$2,000.00 moved by Mr. Bergen, seconded by Mr. Merla with Ayes by all present. Mr. Freda cautioned not to touch the property

owner's lines and discussed tying into lines below grade. Mr. Hyer requested Mr. Kain to contact Dave Rooke in Public Works.

ADMINISTRATOR'S REPORT

Mrs. Poling reported on the following: Schoor DePalma Bulkhead, Cedar Street Lights - Reports were distributed. The KBA has requested the use of Borough Personnel and equipment to hang banners at Stop & Shop. Motion to approve, pending receipt of approval from Stop & Shop moved by Mr. Hyer, seconded by Mrs. Atkins with Ayes by all present. **November 26, 2002 Payment of bills:** Current Account: \$146,895.12; Water & Sewer: \$18,141.62; General Capital: \$5,121.80.

ENGINEER'S REPORT

Mr. Freda reported on the following: **Washington Street, Phase III** should begin in March. **Washington Street, Phase IV** (Submitted to DOT and then for bids in late spring, 2003), it was asked if Phase III and Phase IV would be done at the same time or spread out. Receipt of Bids for a street Sweeper and Dump truck specifications are scheduled for December 12, 2002, specifications for two fire vehicles and police vehicles are being prepared. Raritan and Fire Patrol are both pumpers, cost is estimated at \$500,000.00. **The Monmouth County Engineering Department** has been contacted regarding #516 Bridge erosion.

Fire Chief Kenneth Marr asked if Raritan and Fire Patrol are both being given pumpers at a cost of \$500,000 for two trucks? He stated one vehicle's specifications were over, and one was under. The Fire Chiefs feel the two pumper trucks are not needed and felt that a \$45,000 vehicle can be modified and that there is no need to purchase two pumper trucks. Mrs. Atkins said they should move forward.

ATTORNEY'S REPORT

Mr. Kain reported on the following: **PBA**, No status. Carry over to January 2003. **Magic Touch**, depositions in two weeks. The Borough will go back to the Bonding Company for reimbursement for payments to Cifelli and Public Works work, the matter will be listed on the December 17, 2003 agenda.

NEW BUSINESS

1. **Aberdeen Township's 125th Anniversary celebration.** Police expense incurred \$1,413.81. To be taken from BRIT account.

Motion to approve moved by Councilman Merla, seconded by Councilwoman Atkins, with Ayes by all present.

PUBLIC COMMENT PORTION

The meeting was opened to the public at 9:35 P.M.

Joanne Staeger, Main Street, asked for a clarification on violation on "Alive-25" signs. Mr. Kain said the Zoning Ordinance does not provide for this type of sign - amend Zoning Ordinance. Roy Jiminez, Third Street, asked about leaves on the street? Mr. Merla said the Police are going out and advising removal as it is a fire hazard. Mary Alan, Maple Place, commended the Public Works on the Holiday decorations. Robert Bergen asked about New York Fast Ferry service. Mr. Koenig said that New York Fast Ferry did not purchase a new boat, it was an investment group. At this time there are no plans to have a boat in Keyport.

The Meeting was closed at 9:50 P.M.

RESOLUTIONS

2. **Resolution #372-02, Payment of Bills**

See full copy of Resolution as Pages 15 and 16 of these minutes.

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter

Absent: Councilwoman Ashmore

3. Resolution #373-02, Compensatory Time Policy

WHEREAS, the Mayor and Council of the Borough of Keyport, are aware that borough employees work in excess of their regular work hours in order to fulfil their job responsibilities to the Borough of Keyport, including those situations in which unforeseen circumstances or emergencies may arise, and

WHEREAS, the Mayor and Council have determined that it would be in the best interest of the Borough of Keyport to adopt a policy to permit employees the option to section and acquire compensatory time for work in excess of normal work hours, and

WHEREAS, the Mayor and Council have reviewed a draft of a proposed Borough policy with respect to compensatory time and have determined that the policy is applicable to meet the needs of the Borough of Keyport, and

WHEREAS, the Mayor and Council of the Borough of Keyport have resolved to adopt a written public policy with respect to the use of compensatory time by Borough employees, including appropriate policies and procedures relative to the accumulation and use of such compensatory time.

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 adopt a policy with respect to compensatory time whereas borough employees may request, acquire and utilize compensatory time earned in excess of an employee's regular hours subject to the policy adopted by the Borough of Keyport.
2. The purpose of the within policy is to clearly define the position of the Borough of Keyport with respect to compensatory time and to provide a policy and procedure for its acquisition, maintenance, accounting and use thereof pursuant to the policies established by the Borough of Keyport.
3. The within Borough policy with respect to compensatory time shall take effect immediately upon adoption by the Mayor and Council.
4. The within Borough policy with respect to the acquisition and use of compensatory time as established by the Mayor and Borough Council shall be distributed to all department heads within the Borough of Keyport and shall be maintained in the office of the Borough Clerk for future reference.
5. Department heads shall post and advise all of their respective employees as to the new Borough policy with respect to the acquisition and use of compensatory time.
6. Copies of the within Borough policy shall be retained in the office of the Borough Clerk as Borough policy and placed with all other policies heretofore established by the Mayor and Council.
7. Upon the adoption of the within policy, the Borough Clerk shall promulgate forms for use by the Borough of Keyport to provide to the accounting of compensatory time by all borough employees, the procedure required to request compensatory time and the forms required by each employee to utilize compensatory time accumulated by the employees.

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter

Absent: Councilwoman Ashmore

4. Resolution #374-02, Transfer of Appropriations

WHEREAS, N.J.S.A.40A:4-58 permits transfer of appropriations to be made during the last two months of the fiscal year from

appropriations which are in excess of the amount deemed to be necessary to fulfill the purpose of such appropriation and to those appropriations deemed to be insufficient.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Keyport that the transfers in the amount of \$35,900.00 be made between the 2002 budget appropriations as follows:

Budget Appropriation	From	To
Municipal Clerk - S & W	\$ 3,000.00	\$3,500.00
Financial Administration - S & W	200.00	
Financial Administration - O/E		
Collection of Taxes - S & W		500.00
Collection of Taxes - O/E		200.00
Public Buildings and Grounds O/E		3,000.00
Group Insurance for Employees	4,000.00	
Liability Insurance	2,000.00	
Streets & Roads - S & W	11,000.00	
Garbage & Trash Removal - Contracted	13,700.00	
Landfill Disposal Costs		27,000.00
Board of Health - S & W	2,000.00	
Parks & Playgrounds - O/E		700.00
Zoning & Code Enforcement - S & W		1,000.00
	\$35,900.00	\$35,900.00

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter

Absent: Councilwoman Ashmore

5. **Resolution #375-02, Jersey Central Power & Light Agreement/New Municipal Complex**

WHEREAS, the Mayor and Council have been involved in the planning and construction of a new Municipal Complex for the Borough of Keyport.

WHEREAS, it has become apparent to the Mayor and Council of the Borough of Keyport that electrical work will be necessary in order to properly upgrade the new Municipal Complex, and

WHEREAS, the Mayor and Council have received a proposal from Jersey Central Power and Light to upgrade the necessary electrical components at the new Municipal Complex, and

WHEREAS, Jersey Central Power and Light has submitted a proposal to upgrade the electrical facilities at the Municipal Complex with the understanding that the Borough of Keyport would enter into an agreement, which would provide for a minimum demand charge on electric commencing six (6) months after the occupancy of the new Municipal Complex, and

WHEREAS, the Mayor and Council have reviewed the proposal and are inclined to accept the proposal to have Jersey Central Power and Light provide electrical upgrades in exchange for certain minimum guarantees of electric use following the completion of the Municipal Complex, and

WHEREAS, the Mayor and Council have considered the recommendation of the project architect to execute the proposal, which provides for the minimum demand charge in accordance with the proposal submitted by Jersey Central Power and Light.

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

1. The Mayor and Borough Clerk are hereby authorized to execute an agreement with Jersey Central Power and Light to provide certain electrical upgrades in exchange for certain minimum demand charges commencing six (6) months following the occupancy of the new Municipal Complex and continuing for a period of sixty (60) months.

2. Signed copies of the agreement shall be forwarded to representatives of Jersey Cental Power and Light upon execution by the Mayor and Borough Clerk.
3. Copies of the proposal executed by the Mayor and Borough Clerk shall also be forwarded to the Project Engineer, Borough Engineer, Borough Attorney and Clerk of the Works.
4. Copy of the within agreement shall be retained in the office of the Public Clerk for public inspection.

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter
Absent: Councilwoman Ashmore

6. **Resolution #376-02, Salary Resolution - Chief Financial Officer**

BE IT RESOLVED by the Mayor and Council of the Borough of Keyport in accordance with the Salary Ordinance now in effect that:

SECTION I. The following annual salaries are hereby established for the indicated positions effective January 1, 2002 or date of hire or transfer, whichever is later.

Chief Financial Officer - \$39,478.00 annually.

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter
Absent: Councilwoman Ashmore

7. **Resolution #377-02, Bid Specifications - 2003 Ford Expedition**

WHEREAS, the Mayor and Council are determined to procure a 2003 Ford Expedition, or equal for the Police Department and to have the Borough Engineer prepare the specifications for same; and

WHEREAS, the Mayor and Borough Council have reviewed a proposal submitted by the Borough Engineer for costs necessary to prepare said specifications; and

WHEREAS, the Mayor and Council are resolved to proceed with the aforesaid project and to authorize the Borough Engineer to prepare said specifications.

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

1. That the Borough Engineer is authorized to prepare specifications for the procurement of a Police Department Vehicle, a 2003 Ford Expedition, or equal.
2. That the Borough Engineer shall be compensated at a lump sum cost for preparation of said specifications not to exceed the sum of Two Thousand Eight Hundred Dollars (\$2,800.00).
3. That copies of the within Resolution be forwarded to Gerald J. Freda, P.E., Borough Engineer, Chief Financial 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, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter
Absent: Councilwoman Ashmore

8. **Resolution #378-02, Authorize Borough Engineer to prepare Bid Specifications - Rescue Pumper with Custom Chassis (185" wheelbase)**

WHEREAS, the Mayor and Council are determined to procure a Rescue Pumper with Custom Chassis (185" wheelbase), or equal for the Fire Department and to have the Borough Engineer prepare the specifications for same; and

WHEREAS, the Mayor and Council have reviewed a proposal submitted by the Borough Engineer for costs necessary to prepare said specifications; and

WHEREAS, the Mayor and Council are resolved to proceed with the aforesaid project and to authorize the Borough Engineer to prepare said specifications.

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

1. That the Borough Engineer is authorized to prepare specifications for the procurement of a Fire Department Vehicle, a Rescue Pumper with Custom Chassis (185" wheelbase).
2. That the Borough Engineer shall be compensated at a lump sum cost for preparation of said specifications not to exceed the sum of Two Thousand Eight Hundred Dollars (\$2,800.00).
3. That copies of the within Resolution be forwarded to Gerald J. Freda, P.E., Borough Engineer, Chief Financial 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, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Atkins, Merla,
Hyer, Stalter
Nays: Councilman Bergen
Absent: Councilwoman Ashmore

9. **Resolution #379-02**, Authorize Borough Engineer to prepare Bid Specifications for Pumper with Custom Chassis (172" wheelbase)

WHEREAS, the Mayor and Council are determined to procure a Pumper with Custom Chassis (172" wheelbase), or equal for the Fire Department and to have the Borough Engineer prepare the specifications for same; and

WHEREAS, the Mayor and Council have reviewed a proposal submitted by the Borough Engineer for costs necessary to prepare said specifications; and

WHEREAS, the Mayor and Council are resolved to proceed with the aforesaid project and to authorize the Borough Engineer to prepare said specifications.

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

1. That the Borough Engineer is authorized to prepare specifications for the procurement of a Fire Department Vehicle, a Rescue Pumper with Custom Chassis (185" wheelbase).
2. That the Borough Engineer shall be compensated at a lump sum cost for preparation of said specifications not to exceed the sum of Two Thousand Eight Hundred Dollars (\$2,800.00).
3. That copies of the within Resolution be forwarded to Gerald J. Freda, P.E., Borough Engineer, Chief Financial 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, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Atkins, Merla,
Hyer, Stalter
Nays: Councilman Bergen
Absent: Councilwoman Ashmore

10. **Resolution #380-02**, 125th Fire Department Anniversary/authorization of payment to the Township of Aberdeen Police Department for Traffic/Control

WHEREAS, the Keyport Fire Department celebrated its 125th Anniversary on October 5, 2002; and

WHEREAS, the Township of Aberdeen Police Department provided

personnel for Traffic Control.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council hereby authorize the payment of \$1,413.81 to the Township of Aberdeen Police Department for their services in providing Traffic/Control for the 125th Fire Department Anniversary Parade.

Offered for adoption by Mrs. Atkins, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Merla
Hyer, Stalter

Absent: Councilwoman Ashmore

11. **Resolution #381-02, Resolution of the Mayor and Council Authorizing Additional Legal Fees to Special Legal Counsels Appointed Relative to 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, Council Members and Borough Employees named in certain punitive damages counts relative to litigation commenced 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, Council Members 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 current municipal budget in the sum of Twenty Thousand Dollars (\$20,000.00) which was allocated in the amount of Five Thousand Dollars (\$5,000.00) to each attorney retained for legal services relative to the punitive damages claims asserted in connection with the Magic Touch litigation; 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 damages claims asserted in connection with the within litigation; and

WHEREAS, 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 in the amount of Five Thousand Dollars (\$5,000.00) 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, the Municipal Finance Officer has certified that funds are presently available in the current municipal budget for the within allocation.

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 Five Thousand Dollars (\$5,000.00) for a total authorization of Ten Thousand Dollars (\$10,000.00) to Pasquale Menna, Esq., Red Bank, New Jersey as Special Legal Counsel, on the Magic Touch litigation on behalf of former Councilman George Walling.
2. The Mayor and Borough Council hereby authorize an additional amount for legal services in the sum of Five Thousand Dollars (\$5,000.00) for a total authorization of Ten Thousand Dollars (\$10,000.00) to John R. Fiorino, Jr. Esq., Aberdeen, New Jersey as Special Legal Counsel, on the Magic Touch litigation on behalf of Councilman Robert J. Bergen.

3. The Mayor and Borough Council hereby authorize an additional amount for legal services in the sum of Five Thousand Dollars (\$5,000.00) for a total authorization of Ten Thousand Dollars (\$10,000.00) to Keith P. Jones, Esq. Princeton, New Jersey as Special Legal Counsel, on the Magic Touch litigation on behalf of Mayor Kevin Graham.
4. The Mayor and Borough Council hereby authorize an additional amount for legal services in the sum of Five Thousand Dollars (\$5,000.00) for a total authorization of Ten Thousand Dollars (\$10,000.00) to Donald M. Lomurro, Esq., Freehold, New Jersey as Special Legal Counsel, on the Magic Touch litigation on behalf of Judith L. Poling, Borough Clerk/Administrator.
5. 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 not expressly modified herein are hereby confirmed.
6. Certified Copies of the within Resolution shall be forwarded to the Special Legal Counsel named herein, to the Municipal Finance Officer and to the Borough Attorney and a copy shall be maintained in the office of the Borough Clerk for public inspection.
7. The Municipal Finance Officer having certified the availability of said funds in the current municipal budget.

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

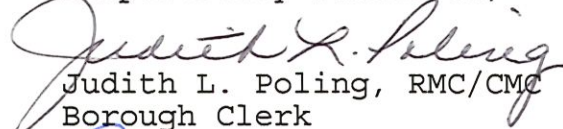
Roll Call Vote: Ayes: Councilmembers Atkins, Hyer, Stalter
Abstain: Councilmen Bergen, Merla
Absent: Councilwoman Ashmore

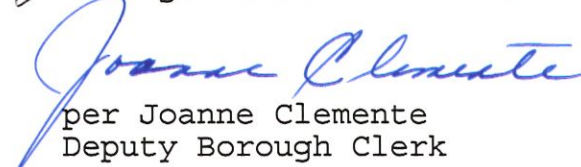
ADJOURNMENT

Motion to Adjourn moved by Mrs. Atkins, seconded by Mr. Hyer with Ayes by all present.

Time of Adjournment: 9:54 P.M.

Respectfully submitted,


Judith L. Poling, RMC/CMC
Borough Clerk


per Joanne Clemente
Deputy Borough Clerk