

Approved 10/21/08

February 19, 2008
Keyport, New Jersey

Minutes of a Work Meeting of the Mayor and Council, held on the above date in the Council Chambers, Municipal Complex, 70 W. Front Street, Keyport, N.J. pursuant to the Annual Notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent, the Newark Star Ledger and Two River Times and posted on the Bulletin Boards in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Mayor Bergen called the meeting to order at 6:36 P.M. and the Borough Clerk read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Sheridan, Hassmiller, Hill, Ortman, Walling, Bolte. Others present were Mayor Bergen, Mr. Valesi, Borough Administrator, and Mr. Wisniewski, Borough Attorney.

RESOLUTION

1. Resolution #82-08, Closed Meeting - Litigation, Personnel, Contract Negotiations

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

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

WHEREAS, the Governing Body wishes to discuss:

Litigation

1. DeFino Settlement

Personnel

1. Disciplinary Action - Police Department

Contract Negotiations

1. Union

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

BE IT FURTHER RESOLVED that discussions 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. Sheridan, second by Mr. Ortman

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:
Abstain:
Absent:

Mayor Bergen called the meeting to order at 7:01 P.M. and the Borough Clerk read the Sunshine Law Notice.

On Roll Call the following were present: Councilmembers Sheridan, Hassmiller, Hill, Ortman, Walling, Bolte. Others present were Mayor Bergen, Mr. Valesi, Borough Administrator, and Mr. Wisniewski, Borough Attorney.

PROCLAMATION

Arc Awareness Month

PRESENTATION BY

Hudson Pointe (75 Manchester)

This is an informational session, not a Planning Session. Have been meeting with residents and some changes to the plans have been made.

There was a concern of Councilmembers that they haven't yet seen the plan. The Attorney, Architect and Project Engineer are all present. Copies of the site plan are available as well as architectural.

Mark Zelina with Mazer Consulting explains the plans. Mr. Kovacs stated it looks like there is a sewer/water main from Maple Place to Fulton Street. It appears there is a building planned to be over it (86 Fulton Street). This is an easement and can't be built on. Owners will look into it. Mr. Sheridan asked them to summarize some of the changes that were made at the meeting with residents. Mr. Moniford, Architect, talked about the style they are planning. Building number six, next to turn-about, trying to make it a seashore style. First floor has garage with den behind it. Duplex units are similar to buildings two and four. Showed lighthouse featured. Can be seen when turning up Maple. Building number seven is the one housing the sewer line. All buildings may not be the same color. Final building - Garden apartment building #11 has four units on bottom, four units on top with no doors showing. Arch openings pocket the doors. No decks will face the back only towards the front. Lower units have a patio. There are a total of eight one bedroom units. Mayor asks about the design for turnabout; stamped concrete creating a cobblestone look. Main entrance will be on Maple Place. Exit on Manchester. One way out. This will not be gated because turnabout is large. A study was done of impervious surfaces before and after - slightly less that what is there currently. There will be park in the back of the units with Gazebo. Ms. Bolte asked about the relocation of the home at the end of Maple Place; would not like to see a new home. Not sure if the house could withstand the move due to its age. House on 7th Street will blend with existing homes.

Total number of school children anticipated to be eleven; nine going to public school and two going to other schools. Mayor suggests adding a resolution to agenda to send to Planning Board for a Redevelopment plan. Should be at least two public planning sessions so everyone could hash any questions they may have. Will send notices to those within 200 feet. All buildings except single family homes will be a part of the association. Plans are to subdivide that lot. This is not intended to be a planning session. Public portion will wait until the regular public portion. Mayor required to give ten (10) days notice to hold a public planning process. There is no intention to not notify the public. Will do the same process as before. Mayor recommends at least two meetings should be scheduled for this alone.

At the close of the presentation, the Mayor requested a five minute recess moved by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

Motion to reopen the meeting at 7:44.

PUBLIC HEARING/ADOPTION OF ORDINANCE

1. Ordinance 1-08 - Towing

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING BOROUGH OF KEYPORT ORDINANCE 5-13; TOWING

WHEREAS, pursuant to N.J.S.A. 40:48-1 The Power to Adopt Public Ordinances for Public Health, Safety and Welfare of the Municipality as residence is coterminous with the power of the legislature, and

WHEREAS, the Mayor and Borough Council wish to amend Ordinance 5-13 to modify fees and practices.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Keyport that the Code of the Borough of Keyport, Ordinance 5-13 entitled **Towing** is hereby amended as follows:

5-13 TOWING

5-13.1 **Purpose.** The purpose of this section is to fix and establish licensing requirements, towing procedures and regulations for the use of tow truck operators in the Borough of Keyport. (Ord. #27-92, 1)

5-13.2 **Compliance with State Statutes.** This section complies with N.J.S.A. 40:48-2.49 creating nondiscriminatory and nonexclusionary regulations governing towing and storage services. (Ord. #27-92, 2)

5-13.3 **List of Contractors.** An annual list of towing contractors is to be selected by the Borough Council upon written recommendation of the Chief of Police. Each towing contractor on said list shall be called on a rotating basis. Said list shall be maintained by the Police Department and updated on an annual basis by the Borough Clerk. (Ord. #27-92, 3)

5-13.4 **License, Application, Investigation, Fees.** A tow truck operator's license is required for any person, partnership, corporation or other entity to be placed on the tow truck rotating call list. An application for license pursuant to this section shall be made in a form prepared by the Police Department of the Borough of Keyport, and a complete application shall be filed with both the Police Department and the Borough Clerk's Office. The application must state the following:

- a. Location, description, availability, number of tow trucks operating, each vehicle description, including year, make, model, type and serial number.
- b. Rates charged for towing and for storage, which rates must be available for public inspection and shall not be in excess of the maximum rates established by this ordinance or by State Law.
- c. A thorough diagram and complete description of the area the applicant intends to utilize for accommodating towed vehicles indicating all security measures (such as fencing, gates, locks, alarms, etc.) in place for the protection of stored vehicles.
- d. A statement that applicant has sufficient personnel to comply with the provisions of this ordinance relating to response time, and applicable Stat Law N.J.S.A. 40:48-2.49, with proof of ownership or lease of storage area.
- e. Name, address, and policy number of applicant's insurance company.
- f. A signed statement by applicant of nondiscriminatory and nonexclusionary employment practices.

The chief of Police shall conduct an investigation to be made of the applicant and the applicant's business operation and facility within ten (10) days of the filing of an application.

Within the aforesaid ten (10) days, the Chief of Police shall make his recommendation to the Mayor and Borough Council in writing to grant or deny the tow truck operation license to the applicant. If denied, detailed reasons must be set forth in said license; the operator must provide the Borough Clerk and the Mayor with true copies of all necessary insurance policies and proof of payment, or certificates of insurance.

A non-refundable annual application fee of three hundred fifty (\$350.00) dollars is to be paid each year at the time of the application.

A license fee of twenty-five (\$25.00) dollars shall be paid by the applicant to the Borough Clerk for each vehicle which will be used in the towing operation. A towing fleet license fee of \$150.00 dollars shall be

paid by the applicant to the Borough Clerk with a single roster of vehicles which will be used in the towing operation within five (5) business days of written notification to the applicant of the applicant's approval. Upon full payment to the Borough Clerk, the Borough Clerk may place the applicant's name on the tow list. All licenses issued under this section shall expire on December 31 following the date of issuance, without regards to the time of the year issued, and the fee application and license fees as herein fixed shall not be pro-rated and shall be the ~~fee for such time payable regardless of the time the application is made or approval is given. whether it is for all or part of such license year.~~

Renewal of the license shall require the same information and filing as the original application, using the same form and fees.

The Borough Council shall terminate any license issued pursuant to this section if determined that the applicant has provided fraudulent or inaccurate information or the application, is in violation of any municipal, County or State ordinance, law or regulation, is providing unsatisfactory service, is in violation of New Jersey Department of Insurance rules and regulations, or equipment is inadequate. Proceedings for suspension or revocation of the license shall be service of five (5) day notice of charges preferred against the licensee, and a reasonable opportunity for a hearing shall be afforded. A hearing shall be held by the Mayor or the Chief of Police. A recommendation for the appropriate action shall be submitted in writing by the hearing officer to the Borough Council with five (5) days after conclusion of said hearing. (Ord. #27-92, 4; Ord. #1-94, I)

5-13.5 Maximum Rates. The maximum rates that may be charged for the use of a tow truck and/or storage of a vehicle towed, whether licensed or unlicensed, are as follows:

- a. Towing services to a location outside the Borough of Keyport or within the Borough of Keyport or to a storage yard, which services shall consist of the removal and transportation of a vehicle from a highway, street or other public or private road, or a parking area, or from a storage facility: ~~seventy-five (\$75.00) dollars~~
- Class I Vehicles (under 2 tons) One Hundred Dollars (\$100.00) dollars. Class II Vehicles (over 2 tons to 15,000 pounds) one hundred twenty five (\$125.00) dollars. Class III Vehicles over 15,000 pounds one hundred fifty (\$150.00) dollars.
- b. ~~Storage: Twenty (\$20.00)~~ Storage fees shall be charged per calendar day or fraction thereof. An additional charge of twenty-five (\$25.00) dollars may be imposed if a request is made of the storage facility to release the vehicle in question after normal business hours, on a week-end, Saturday or Sunday, or on a holiday. (Ord. #27-92, 5)
- Class I Vehicles
 Outside twenty five (\$25.00) dollars.
 Inside thirty five (\$35.00) dollars, (at request by police or vehicle owner).
 Class II Vehicles
 Outside thirty five (\$35.00) dollars.
 Inside forty five (\$45.00) dollars, (at request by police or vehicle owner).
 Class III Vehicles
 Under 30,000 pounds forty five (\$45.00) dollars.
 Over 30,000 pounds Sixty five (\$65.00) dollars.
- All fees to be paid to an operator by a municipality, or department thereof, for the storage of removed motor vehicles shall not exceed the amount set forth in N.J.S.A. 40:48-2.50.
- c. Other fees
 Off road recovery or winching
 Class I vehicles one hundred (\$100.00) dollars.
 Class II vehicles one hundred twenty (\$120.00) dollars.

Towing to another location other than the tow company's yard
Rates to be determined by the towing company and the owner or
operator of the vehicle to a maximum of \$0.60 per mile.

Additional man power
Seventy five (\$75.00) dollars.

Dolly use
Twenty five (\$25.00) per axle.

Administrative fee (after 2 days)
Twenty five (\$25.00).

Clean up fee

Thirty (\$30.00) dollars in half hour increments.

Speedy dry
Ten (\$10.00) dollars per bag.

Waiting time
After one half (1/2) hour twenty five (\$25.00) per half hour.

Vehicle removal

Fifty (\$50.00) dollars.

Service Calls

Forty (\$40.00) dollars plus cost of service (i.e., changing
flat, supplying gasoline or other services at scene.

Other fee's not listed above may not be charged unless
preauthorized by vehicle operator or owner.

d. Definitions.

As used in this section:

i. Cruising shall mean the driving of a wrecker along any
Borough street for the purpose of soliciting business with the
Borough.

ii. Dolly wheels shall mean wheel and axle substitute.

iii. Winching shall mean use of a cable and hook, crane
operation, lifting dragging, uprighting a vehicle, etc.

iv. Administrative fee shall not be included in a standard
tow. This fee is for post-accident service, to include insurance
inspection, telephone calls or faxes, removal of personal items
and additional paperwork. This shall be assessed only one time
per vehicle.

v. Authorized Storage Facility shall be a licensed junkyard
or auto body repair shop in the Borough of Keyport or a service
station or public garage in the Borough of Keyport which has a
temporary storage facility for disabled or abandoned vehicles.

vi. Consent Tow shall mean someone other than the Keyport
police Department requests a towing agency's service for the
purpose of removing a vehicle. This could include, but is not
limited to, the owner or operator of a vehicle or the owner or
authorized agent of private property.

vii. Non-Consent Tow when the Keyport Police Department
contacts the towing agency to remove and/or impound a vehicle at
the request of the Keyport Police Department.

viii. Response Time shall mean the time from when the operator
receives the telephone call from Keyport Police Department until
the time the operator arrives on scene.

ix. Service call shall mean a response to a motorist to provide aid for the changing of flat tires, providing fuel and/or other services rendered.

x. Speedy Dry application shall mean the disbursement of an agent used to absorb liquid spills from vehicles.

xi. Tow list is the list of approved tow truck operators authorized to operate in the Borough of Keyport.

xii. Waiting time shall mean additional time a tow operator spends at the scene other than the time required for the actual tow and/or recovery.

xiii. Impound shall mean any vehicle authorized by law to be seized, towed and held in the custody of an approved impound storage yard as approved by the Keyport Police Department.

xiv. Wrecker shall mean a vehicle driven by mechanical power and employed for the purpose of towing, transporting, conveying and removing vehicles which are unable to be operated under their own power.

e. Return/Release of impounded vehicles:

No motor vehicle which has been impounded pursuant to the laws of this State shall be released by the Borough unless proof of valid insurance and proof of ownership for that vehicle is presented to the Keyport Police Department. This includes those individuals who plan to remove their vehicle with a wrecker. The recovery or salvage of the impounded motor vehicle by, or on behalf of, an insurer, financial institution or other lending entity, shall not require proof of valid motor vehicle insurance for that vehicle.

A twenty five (\$25.00) dollar administrative fee will be paid to the Borough of Keyport for a release of any impounded vehicle.

Criminal Investigation means vehicle seized for criminal investigation purposes shall not be returned to the owner with authorization from Keyport Police Department representative.

12 hour impoundment of a motor vehicle operated by a D.W.I. When a Law Enforcement Officer makes an arrest for D.W.I., the officer must impound the vehicle the person was operating and hold it for a minimum of 12 hours from the time of the arrest.

Release of vehicle before the 12 hour impoundment expires: The vehicle may be released prior to 12 hours of impoundment if the owner of the impounded vehicle was not the operator that was charged with D.W.I. In this circumstance, the vehicle may be released after the owner demonstrates proof of ownership, registration and automobile insurance coverage. The vehicle may only be released if no Title 39 violations exist.

5-13.6 Applicability of Maximum Rates. The maximum rates fixed in this section shall apply to the towing and storage of all passenger vehicles, except those exempt pursuant to N.J.S.A. 17:33b-47 and N.J.A.C.11:3-38.1 et seq. as well as to all ~~nonpassenger~~ non passenger vehicles not exceeding two (2) tons in gross vehicle weight. In the case of services rendered to other types of vehicles, services of a nature beyond basic towing services or tows to locations outside of the Borough of Keyport, or other than those covered by basic rates, or services rendered in extraordinary cases involving unusual conditions, the rate to be charged shall be fair and reasonable based on the ~~location~~ location, length of time, number of men and amount of machinery involved and the difficulty of the job. (Ord. #27-92, 6)

5-13.7 Insurance Requirements. No licensed tow truck shall be utilized, approved or placed on the tow list unless and until all the vehicles to be used have been insured, and true copies of the liability insurance policies or certificates of insurance have been received by the Borough.

For the purpose of protecting the Borough of Keyport, the following types and minimum policy limits are applicable and necessary for each applicant:

- a. Automobile Liability: one million (\$1,000,000.00) dollars combined, single limit.
- b. Workers Compensation as required by State Statute.
- c. Garage Keepers' Liability: Sixty thousand (\$60,000.00) dollars per location.
- d. Theft, Fire and Explosion: twenty five thousand (\$25,000.00) dollars.

The applicable policies shall contain an endorsement to provide collision coverage for vehicles in tow and name the Borough of Keyport as additional named insured.

Each policy required herein must contain an endorsement providing a ten (10) day written notice to the Borough of Keyport in the event of a material change or cancellation of any policy for any cause or reason. (Ord. #27-92, 7)

5-13.8 Equipment. Applicant/licensee is responsible for the inspection and operation of his equipment and is responsible for providing adequate equipment in compliance with the requirements of this section, New Jersey Statutes, Rules and Regulations of the NJ Department of Insurance, and the NJ Division of Motor Vehicles. (Ord. #27-92, 8)

5-13.9 Response Time. Any license shall require and applicant to provide the maximum response call time of twenty (20) minutes from 7:00 a.m. to 6:00 p.m. and of thirty (30) minutes from 6:01 p.m. to 6:59 a.m. For the purpose of qualifying to meet response time requirements of this section, all applicants shall have towing vehicles and suitable storage facilities located within three (3) miles of the perimeter of the Borough of Keyport. (Ord. #27-92, 9; Ord. #1-96, 1)

5-13.10 Records. Each tow truck operator shall maintain for a period of thirty (30) months accurate records of all calls made, vehicles towed and tow fees. A written release shall be obtained from the owner of any vehicle before it is released. The Police Department shall keep current records of the names, addresses of all persons holding licenses, and the vehicle identification of each tow vehicle utilized. (Ord. #27-92, 10)

5-13.11 Penalties. Any person, firm, entity or corporation found guilty in Municipal Court of the Borough of Keyport of a violation of the terms of this section shall be subject to one or more of the following penalties, subject to the discretion of the Municipal Court Judge: Imprisonment in the County Jail or in any place provided by the municipality for the detention of prisoners for any term not to exceed sixty (60) days, or by a fine not to exceed one thousand (\$1,000.00) dollars, or by a period of community service not to exceed sixty (60) days.

Except as otherwise provided, each and every day in which a violation of any provision of this ordinance exists shall constitute a separate violation. In addition, each violation of this section shall be considered a separate offense upon each and every day a violation exists. (Ord. #27-92, 12)

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:45 P.M.

One of the towers stood up and said that he felt the tow rates are way too low. The Chief mentioned that he checked with other towns for their rates.

Discussion on whether or not to amend Towing Ordinance. Roder's Motors feels only actual tow rate is okay; all others are substandard. Mayor stated Ordinance has some good components. Mr. Kovacs asked about those with AAA towing. Mayor stated this ordinance is only for police tows.

Mike Lane complimented Councilwoman Bolte and Attorney for the Ordinance. What is applicable time period as it relates to redevelopment process? Borough hired an engineering firm to have area identified as blight and sent to Planning Board. Mike Lane asked whether the clock started for the rehabilitation project with the resolutions of February 25, 2007. Citizen's campaign centered on redevelopment project not a rehabilitation project. Attorney Wisniewski replies once the rehabilitation area becomes a redevelopment project, there is a point where it is made all encompassing, it would be difficult to enforce. At time Council adopts a plan and designates rehabilitation plan starts then no contributions could be made. All ordinances have to have a starting point and can always say today is the day just based on a conversation with somebody. Mayor feels it should be six months before application to the Planning Board. Feels there are certainly a lot of loopholes. Mr. Lane suggests when Borough enters an agreement to have Borough professionals begin on a project that should be the start date of the time clock. Mr. Wisniewski states when applicant deposits an escrow with the Planning Board. Changing trigger point with ordinance as is not a significant amendment. Section 1B page 2 of Ordinance, "between dates of deposit of an escrow." Mr. Wisniewski will prepare as amendment.

There being no further comments or questions the hearing was closed to the public at 7:47 P.M.

Offered for adoption by Mr. Sheridan, second by Mr. Walling

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:

Abstain:

Absent:

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, February 21, 2008 issue moved by Mr. Walling, second by Mr. Sheridan with Ayes by all present.

2. Ordinance 2-08 - Registration with the Police Department

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING BOROUGH OF KEYPORT ORDINANCE 6-7.2; REGISTRATION WITH THE POLICE DEPARTMENT

WHEREAS, pursuant to N.J.S.A. 40:48-1 the Power to Adopt Public Ordinances for Public Health, Safety and Welfare of the Municipality as residence is coterminous with the power of the legislature, and

WHEREAS, in light of increasing costs of providing services the Mayor and Borough Council wish to amend Ordinance 6-7.2.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Keyport that the Code of the Borough of Keyport, Ordinance 6-7.2 entitled **Registration with Police Department** is hereby amended as follows:

6-7.2 Registration with Police Department

b.3. Payment of a registration fee of ~~twenty-five (\$25.00)~~ thirty (\$30.00) dollars or whatever the current State fee for fingerprint checks.

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:49 P.M.

There being no further comments or questions the hearing was closed to the public at 7:50 P.M.

Offered for adoption by Mr. Ortman, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:

Abstain:

Absent:

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, February 21, 2008 issue moved by Mr. Walling, second by Mr. Sheridan with Ayes by all present.

3. Ordinance 3-08 - Identification Cards Required; Term; Fees

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING BOROUGH OF KEYPORT ORDINANCE 6-7.3 IDENTIFICATION CARDS REQUIRED; TERM; FEES

WHEREAS, pursuant to N.J.S.A. 40:48-1 the Power to Adopt Public Ordinances for Public Health, Safety and Welfare of the Municipality as residence is coterminous with the power of the legislature, and

WHEREAS, the Mayor and Borough Council wish to amend Ordinance 6-7.3 to reflect the actual costs associated with producing Identification cards.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Keyport that the Code of the Borough of Keyport, Ordinance 6-7.2 entitled **Identification Cards Required; Term; Fees** is hereby amended as follows:

6-7.3 Identification Cards Required; Term; Fees.

b.2. The annual fee for an identification card shall be ~~ten (\$10.00)~~ twenty (\$20.00) dollars.

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:50 P.M.

There being no further comments or questions the hearing was closed to the public at 7:50 P.M.

Offered for adoption by Mr. Sheridan, second by Mr. Walling

Roll Call Vote: Ayes: Kovacs, Sheridan, Hill, Bolte, Ortman, Walling
Nays:
Abstain:
Absent:

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, February 21, 2008 issue moved by Mr. Ortman, second by Mr. Walling with Ayes by all present.

4. Ordinance 4-08 - Amending Pool Filling Ordinance to be handled by the Collector of Water and Sewer

The Clerk reads the Ordinance by Title:

**AN ORDINANCE AMENDING BOROUGH OF KEYPORT ORDINANCE 14-3.2;
PERMITS FOR USING BOROUGH WATER SUPPLY**

WHEREAS, pursuant to N.J.S.A. 40:48-1 The Power to Adopt Public Ordinances for Public Health, Safety and Welfare of the Municipality as residence is coterminous with the power of the legislature, and

WHEREAS, the Mayor and Borough Council wish to amend Ordinance 14-3.2 to reflect the actual practice in the municipality.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Keyport that the Code of the Borough of Keyport, Ordinance 14-3.2 entitled **Permits for Using Borough Water Supply** is hereby amended as follows:

14-3.2 Permits for Using Borough Water Supply. Any customer having a swimming pool upon premises served by the Borough water supply and not utilizing a separate meter as provided in subsection 14-3.1, may apply for a permit to fill the swimming pool with water. Thereafter, upon certification by the Superintendent of Public Works as to the size of the pool, that it has been filled after the granting of such a permit, and the amount of water used to fill the pool, such amount of water shall be deducted from the calculation of sewer charges and rents on the next bill to be rendered by the Borough for said premises. All applications for such permits shall be made to and upon forms supplied by the ~~Borough-Clerk~~ Collector of Water and Sewer Utility Rents and shall be processed upon payment of a fee of fifteen (\$15.00) dollars for each permit. To be eligible for such deduction, the customer shall not fill the pool until after same has been inspected by the Superintendent of Public Works. (Ord#1-90)

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:51 P.M.

There being no further comments or questions the hearing was closed to the public at 7:51 P.M.

Offered for adoption by Mr. Walling, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:
Abstain:
Absent:

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, February 21, 2008 issue moved by Mr. Hill, second by Mr. Sheridan with Ayes by all present.

5. Ordinance 5-08 - Time Limited Parking

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING CHAPTER VII (TRAFFIC), SCHEDULE IV (TIME LIMITED PARKING) OF THE ORDINANCES OF THE BOROUGH OF KEYPORT

WHEREAS, the Mayor and the Borough Council are aware that the present Traffic Ordinances allow for parking on certain streets at certain times in certain areas of the Borough, and

WHEREAS, the Mayor and the Borough Council believe that time limited parking as specified in this ordinance will benefit both the residents and business communities of the Borough, now therefore

BE IT ENACTED by the Mayor and Council of the Borough of Keyport that Schedule IV relating to Section 7.36 of the Ordinances of the Borough of Keyport are amended as follows:

SCHEDULE IV TIME LIMITED PARKING

In accordance with the provisions of subsection 7-3.6, no person shall park in a vehicle for longer than the time limit shown on any of the following streets or parts of street:
(Amendments are underlined)

Name of Street	Side	Time Limit	Hours	Location
Atlantic Street	West	15 mins.	7:30 a.m. to 3:30 p.m. weekdays	From a point 25 feet south of the southerly curbline of Union Street to a point 250 feet south therefrom.
Name of Street	Side	Time Limit	Hours	Location
Broad Street	West	2 hours	9 a.m. to 6 p.m. Mon. thru Sat.	Third Street to the northerly terminus.
Broad Street	Both	30 mins.	Weekdays 2 p.m. to 5 p.m.; Monday evenings 7 p.m. to 9 p.m.; Saturdays 9 a.m. to 12 noon	Beginning 35 feet from the southerly curbline of Third Street to a point 100 feet south thereof.

Name of Street	Side	Time Limit	Hours	Location
Broad Street	East	1 mins.	8:30 a.m. to 9 a.m. and 2 p.m. to 2:30 p.m.	From a point 132 feet north of the northerly curbline of Jackson Street to a point 230 feet northerly therefrom.
Broad Street Parking Lot		3 hours	9 a.m. to 6 p.m. Mon. thru Fri.	
Division Street Parking Lot		3 hours	9 a.m. to 6 p.m. Mon. thru Fri.	
East Front St.	Both	2 hours	9 a.m. to 6 p.m. Mon. thru Sat.	Broad Street east to Church Street
First Street	South	15 mins.		From a point 35 feet east of the easterly curbline of Greengrove Avenue to a point 15 feet easterly therefrom.
<u>Jackson Street</u>	<u>Both</u>	<u>2 ½ hours</u>	<u>9 a.m. to 12 noon weekdays</u>	<u>From Atlantic to the Easterly Terminus</u>
Jackson Street	South	15 mins.	8:00 a.m. to 4:00 p.m. weekdays	Broad Street east to Atlantic Street
Legion Drive Parking Lot and Fireman's Parking Lot		6 hours	9 a.m. to 5 p.m. every weekday except holidays*	
Main Street	Both	2 hours	9 a.m. to 6 p.m. Mon. thru Sat.	West Front Street south to Third Street.
Main Street	Both	2 ½ hours	9 a.m. to 12 noon weekdays	From Monroe to St. George Place
Maple Place	Both	2 hours		May Street to the Keyport Borough - Township of Aberdeen corporate line.
Maple Place	North	30 mins.	8:00 a.m. to 6:00 p.m.	Beginning 53 feet east of the easterly curbline of Orchard Street and continuing 22 feet east thereof within the Borough of Keyport
West Front Street	North	15 mins.		From a point 100n feet east of the easterly curbline of Broadway to Washington Street.
West Front Street	South	30 mins.		Beers Street east to Broadway.
West Front Street	South	30 mins.		Beers Street west to Broadway.

Name of Street	Side	Time Limit	Hours	Location
West Front Street	South West	15 mins.		From a point 25 feet east of the easterly curbline of Broadway to a point 78 feet therefrom.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:52 P.M.

There being no further comments or questions the hearing was closed to the public at 7:52 P.M.

Offered for adoption by Mr. Ortman, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:
Abstain:
Absent:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Courier, February 21, 2008 issue moved by Mr. Hill, second by Mr. Sheridan with Ayes by all present.

6. Ordinance 6-08 - Amend Liquor License Fees

The Clerk reads the Ordinance by Title:

AN ORDINANCE AMENDING THE BOROUGH OF KEYPORT
ORDINANCE 6-3.4 LICENSE FEES;

WHEREAS, The Mayor and Council of the Borough of Keyport wish to increase the Borough's liquor license fees, and

WHEREAS, pursuant to N.J.S.A. 33:1-12 municipal liquor license fees may be increased twenty percent (20%) from that charged in the preceding license year or five hundred dollars (\$500.00), whichever is lesser, for plenary retail consumption licenses and plenary retail distribution licenses and can set the license fee for a club license at not more than one hundred and eighty eight dollars (\$188.00).

BE IT ENACTED by the Mayor and Council of the Borough of Keyport that Chapter VI, Section 6-3.4 of the Revised Ordinances of the Borough of Keyport is amended as follows;

6-3.4 License Fees. The annual license fees for the sale or distribution of alcoholic beverages in the Borough shall be as follows:

Class of License	Annual License Fee
Plenary Retail Consumption License	\$1,960.99 <u>\$2353.18</u>
Plenary Retail Distribution License	\$1,311.55 <u>\$1573.86</u>
Club License	\$165.00 <u>\$188.00</u>

The provisions of this subsection with respect to the limitation on the number of licenses shall not apply to the renewal or transfer of licensees presently issued. (Ord. #12-81, \$1, New; Ord. #4-90, \$1; Ord. #8-91, SI; Ord. #10-92, \$I; Ord. #3-99, \$I)

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

The Hearing is opened to the public for comments or questions at 7:53 P.M.

There being no further comments or questions the hearing was closed to the public at 7:53 P.M.

Offered for adoption by Mr. Ortman, second by Mr. Sheridan

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:
Abstain:
Absent:

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, February 21, 2008 issue moved by Mr. Sheridan, second by Mr. Hill with Ayes by all present.

7. Ordinance 7-08 - Pay-to-Play; Redevelopment

The Clerk reads the Ordinance by Title: AN ORDINANCE AMENDING CHAPTER XXV OF THE ORDINANCES OF THE BOROUGH OF KEYPORT TO PROHIBIT CAMPAIGN CONTRIBUTIONS UNDER CERTAIN CIRCUMSTANCES

WHEREAS, it had become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make political contributions to the election campaigns for local government offices, and to the political parties which support them; and

WHEREAS, the local government officials are, once elected, responsible for deciding the terms of a redevelopment agreement; and

WHEREAS, political contributions from developers entering into agreements for redeveloping projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter in agreements with redevelopers of planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designed for redevelopment; and

WHEREAS, N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality; and

WHEREAS, both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b, and N.J.S.A. 40A:12A-8 provide that negotiations for such agreements can be conducted in executive session, provide the full terms of any such agreements are discussed and approved in open session; and

WHEREAS, the Borough of Keyport has previously or may in the future declare certain areas of the Borough to be areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has or may in the future adopt a Redevelopment Plan; and

WHEREAS, given the potential of negotiating with private parties or developers and the entering into agreements with such developers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort; and

WHEREAS, N.J.S.A. 40A:11-51 authorizes municipalities to regulate by ordinance public contracting with regard to campaign contributions that may be made pursuant to P.L. 1973, c. 83, and

WHEREAS, the restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such developers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing.

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Council of the Borough of Keyport, in the County of Monmouth and State of New Jersey, that the Borough of Keyport hereby amends Chapter XXV of the Ordinances of the Borough of Keyport to create a new Article 4 to make ineligible any entity or individual seeking to enter into a redevelopment agreement or amendment thereto or is otherwise seeking to obtain rights to develop pursuant to redevelopment agreement, who makes political contributions to Keyport elected officials and local and county political committees.

Section 1: Redevelopment Agreements under the Local Redevelopment and Housing Law

I. Prohibition of entering into or amending redevelopment agreements with certain contributors

(a) Any other provision of law to the contrary notwithstanding, the Borough of Keyport or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement, amend an agreement, or otherwise contract with any developer for the planning, re-planning, construction or undertaking of any redevelopment project, including the acquisition or leasing of any public property in conjunction with the redevelopment of any areas within the Borough of Keyport pursuant to the Local Redevelopment and Housing Law, if that developer has made any "contribution" as such term is defined at N.J.A.C. 19:25-1.7(hereinafter "contribution"), during the applicable time period as specified below, to;

1. the campaign committee of any Keyport candidate for, or holder of public office within the Borough of Keyport, having responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the Borough of Keyport, or
2. to any Keyport campaign, candidate and/or committee, to a campaign committee of to any municipal political campaign committee, or to any Keyport political party committee, or to any political action committee which financially supports candidates for Keyport municipal elections and/or Keyport municipal parties or which

engages in the support of Keyport municipal campaigns,
or

3. to any Monmouth County Party Committee, provided said Monmouth County Party Committee has subsequently made a contribution of an equivalent amount to any candidate, elected official or committee listed in (1) and (2) above.

(b) For purposes of this section, the "applicable time period" shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the governing body directing the planning board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the later of the termination of negotiations or the completion of all matters specified in the redevelopment agreement.

(c) All redevelopment agreements or amendments thereto entered into by the Borough of Keyport shall contain a provision prohibiting developers as defined in section (d) to solicit or make any contribution to any candidate, person or committee set forth in section (a), during the applicable time period.

(d) As defined in N.J.S.A. 40A:12A-3, a "redeveloper" means any person, firm, corporation or public body that shall enter into or propose to enter into a contract with a municipality or other redevelopment entity for the redevelopment or rehabilitation of any area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project. For the purposes of this ordinance, the definition of a redeveloper includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any affiliates or subsidiaries directly controlled by the redeveloper. Spouses and adult children at home shall also be included.

(e) For the purposes of this section, the office that is considered to have responsibility for arranging and entering into a redevelopment agreement:

1. The Borough of Keyport Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by Council; or
2. The Mayor of the Borough of Keyport if the redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor; or
3. Members of a designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.

II. Contributions Made Prior to the Effective Date

No contribution of money or any other thing of value, including in-kind contributions, made by a redeveloper to any person, candidate or committee set forth in section 1(a) shall be deemed a violation of this section nor shall an agreement for redevelopment project of any kind whatsoever be disqualified thereby if that contribution or agreement was made by the redeveloper prior to the effective date of this ordinance.

III. Notice given by Municipality; Sworn Statement of Redeveloper

(a) It shall be the municipality's continuing responsibility to give notice of this Section when the municipality gives notice of redevelopment pursuant to N.J.S.A. 40A:12A-6 and when the municipality adopts a resolution directing the planning board to prepare a redevelopment plan and at the time that the municipality adopts the ordinance to implement the redevelopment plan.

(b) Prior to arranging and entering into the redevelopment agreement with any redeveloper, the Borough of Keyport or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of section 1(a) above. Furthermore, the redeveloper shall have a continuing duty to report any violations of this ordinance that may occur while arranging and entering into the Redevelopment Agreement and until all specified terms of the agreement have been completed.

(c) The certification required under this Subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.

IV. Contribution Restrictions and Disclosure Requirement Applicability to Consultants

(a) The contribution and disclosure requirements in this Ordinance shall apply to all redevelopers as well as professionals, consultants or lobbyists contracted or employed by the business entity ultimately designated as the redeveloper to provide services related to the:

- 1) Lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of this redevelopment plan.
- 2) Obtaining the designation or appointment as redeveloper;
- 3) Negotiating the terms of a redevelopment agreement or any amendments or modifications thereto.
- 4) Performing the terms of a redevelopment agreement; and

(b) It shall be a breach of the consultant's contract, and shall require immediate termination, for violation(s) of this Ordinance.

(c) A redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through consultants or professionals shall be deemed to be in breach.

IV. Return of Excess Contributions

A redeveloper or any person, candidate or committee set forth in section 1(a) may cure a violation of Section 1 of this Ordinance, if, within 30 days after the general election, the redeveloper notifies the Municipal Council in writing and seeks and receives or makes a reimbursement of a contribution from the municipal candidate or municipal or county political party or continuing political committee referenced in this Ordinance.

V. Penalty

It shall be a breach of the terms of the Borough of Keyport's Redevelopment Agreement for a redeveloper to (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the

agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the Borough of Keyport; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which, if made or solicited by the redeveloper itself, would subject that entity to the restrictions of this Ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Ordinance.

(a) Furthermore, any redeveloper who violates this section shall be disqualified from eligibility for future Borough of Keyport Redevelopment Agreements for a period of four (4) calendar years from the date of the violation.

BE IT FURTHER ORDAINED, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

BE IT FURTHER ORDAINED, that this ordinance shall take effect immediately upon final passage and publication in accordance with the law.

BE IT FURTHER ORDAINED, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

The Hearing is opened to the public for comments or questions at 7:54 P.M.

Mike Lane stated that he would like to compliment Councilwoman Bolte and Borough Attorney for the Ordinance. Mr. Lane asked what the applicable timed period is as it relates to redevelopment process.

The Borough hired an engineering firm to have an area identified as a blight and sent it to Planning Board.

Mike Lane asked if the clock has started for the rehabilitation project with the Resolution of February 26, 2007.

Citizen's campaign centered around redevelopment project- not a rehabilitation project. Thinks there is an issue that needs to be worked here.

Mr. Wisniewski replied that once rehabilitation area becomes a redevelopment project there comes point where it is made all encompassing, it would be difficult to enforce. At that time council adopts a plan and designates rehabilitation - plan starts, then no contributions could be made.

Mr. Wisniewski mentioned that all Ordinances have to have a starting point and can always say today is the day just based on a conversation with somebody.

Mayor stated that he feels it should be six months before application to the Planning Board. Feels there are certainly a lot of loopholes.

Mike Lane suggested when the Borough enter into an agreement to have Borough professionals begin on a project, that should be the start date of the time clock.

Mr. Wisniewski answered when an applicant deposits an escrow with the

Mr. Wisniewski answered when an applicant deposits an escrow with the Planning Board.

Mr. Wisniewski suggested changing trigger part with Ordinance as is not a significant amendment section 1B - page 2 of Ordinance, between date of deposit of an escrow.

There being no further comments or questions the hearing was closed to the public at 8:06 P.M.

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

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays:
Abstain:
Absent:

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Courier, March 4, 2008 issue moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

INTRODUCTION OF ORDINANCE

1. Ordinance No. 8-08 - Permitted Number of Club Liquor Licenses

The Clerk reads the Ordinance by Title: AN ORDINANCE AMENDING THE BOROUGH OF KEYPORT ORDINANCE 6-3.4 LICENSE FEES; MAXIMUM NUMBER

WHEREAS, the Mayor and Council of the Borough of Keyport support clubs that promote benevolent, charitable, fraternal, social, religious, recreational and athletic activities or similar purposes within the Borough; and

WHEREAS, the Mayor and Council of the Borough of Keyport find that the maximum number of club licenses set by Borough Ordinance to be inadequate; and

WHEREAS, the Mayor and Council of the Borough of Keyport wish to increase the number of club licenses within the Borough of Keyport; and

WHEREAS, N.J.S.A. 33:1-12 grants municipalities, subject to the rules and regulations of the Division of Alcoholic Beverage Control, the authority to issue club liquor licenses; and

WHEREAS, there is no State law governing the number of club licenses that may be issued, however, pursuant to N.J.S.A. 33:1-40, the Borough may limit the number of club licenses by ordinance; and

WHEREAS, the Mayor and Borough Council wish to amend a section of Ordinance 6-3.4 to increase the number of club license that may be issued in the Borough of Keyport from five (5) to six (6); and

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

The Code of the Borough of Keyport, Ordinance 6-3.4 entitled **License Fees; Maximum Number**, is hereby amended as follows:

6-3.4 License Fees; Maximum Number. The maximum number of licenses for the sale or distribution of alcoholic beverages in the Borough shall be as follows:

<i>Class of License</i>	<i>No. of Licenses</i>
Plenary Retail	12
Consumption License	

Plenary Retail
Distribution License

1

Club License

\$ 6

The provisions of this subsection with respect to the limitation on the number of licenses shall not apply to the renewal or transfer of licenses presently issued. (Ord. #12-81, \$1; New; Ord. #4-90, \$1; Ord. #8-91, \$1; Ord. #10-92, \$1; Ord. #3-99, \$1)

If any part or parts of the Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of such inconsistency.

This Ordinance shall become effective immediately upon its final passage and publication as required by law.

Motion to introduce moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays: None
Abstain: None
Absent: None

Motion authorizing the Clerk to publish the Ordinance as introduced, in the Courier, February 21, 2008 issue, for a Hearing to be held on March 4, 2008.

2. Bond Ordinance - 9-08 Improvements to Beers Street

The Clerk reads the Ordinance by Title: BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO BEERS STREET IN AND BY THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING \$475,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$300,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

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

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Borough of Keyport, in the County of Monmouth, New Jersey (the "Borough") as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$475,000, including a grant expected to be received from the State of New Jersey Department of Transportation in the amount of \$175,000 (the "State Grant"). Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvement since the project described in Section 3(a) hereof is being funded by the State Grant.

Section 2. In order to finance the cost of the improvement or purpose and in anticipation of receipt of the State Grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$300,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is improvements to Beers Street, including, but not limited to, road improvements, new curbs and sidewalks, as needed.

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

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

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder as to renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

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

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

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

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$300,000, and the obligations authorized herein will be within all debt limitations prescribed by that law.

(b) An aggregate amount not exceeding \$100,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or if other then as referred to in Section 1 hereof, to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

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

Section 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

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

Offered for adoption by Kovacs, second by Sheridan

Roll Call Vote: Ayes: Councilmembers Kovacs, Sheridan, Hill, Bolte,
Ortman, Walling

Nays: None
Abstain: None
Absent: None

Motion was made by Walling, second by Sheridan, to publish the ordinance as adopted in the Courier, February 21, 2008 issue with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Request for Raffle License from St. Joseph's Church - Off -Premise
50/50 Cash Raffle - to be held May 10, 2008

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

2. Request for Raffle License from St. Joseph's Church - Tricky-Tray
Raffle - to be held May 10, 2008

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

3. Letter from Jesus, The Lord Church requesting approval of both Palm Sunday Procession of March 16th from 11:15- approximately 12 Noon and Good Friday Procession of March 21st from 4:15PM to 4:30 PM to approximately 5:00-5:15PM

Motion to Approve and Refer to Administrator and Police Chief moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

4. Application for membership in the Keyport Fire Department/Lincoln Hose Company from Russell P. Surdi, Jr., (contingent upon State approval) and letter regarding resignation of Phillipp Santiago as an active member

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Hill with Ayes by all present.

5. Application for Associate membership in the Keyport Fire Department/ Fire Patrol from Robert Morgan

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

6. Request from Wendy Tooker for the use of Borough Picnic Benches on Tuesday, May 20, 2008 and invitation to the Mayor and Council to participate in "March for Meals" on Wednesday, March 5, 2008

Motion to Approve, Receive and File moved by Mr. Walling, second by Mr. Hill with Ayes by all present.

7. Notice from Bill Larkin regarding St. Patrick's Day Parade

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

8. Keyport Business Alliance January 21st meeting agenda and minutes of their November 19, 2007 Special Board Meeting

Motion to Receive and File moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

9. Application for Social Affairs Permit from St. Joseph School PTA for a Comedy Show to be held on April 25, 2008 in the School Gymnasium

Motion to Approve moved by Mr. Sheridan, second by Mr. Kovacs with Ayes by all present.

REPORTS OF DEPARTMENTS

1. Borough Clerk's Monthly Report for January 2008 and 2007 Year-End Report
2. Tax\Water\Sewer Collector's Report for January 2008
3. Monthly Report for Building Department for January 2008
4. Property Maintenance Monthly Report for January 2008
5. Municipal Court's Monthly Cashbook Report for January 2008
6. Minutes of the Harbor Commission Reorganization Meeting and minutes of their February 11, 2008 meeting

On file in the Borough Clerk's Office for review.

Motion to Receive and File moved by Mr. Walling, second by Ms. Bolte with Ayes by all present.

COMMITTEE REPORTS

Councilman Kovacs; Building and Grounds and Library: Mr. Kovacs reported that the handicap bathroom will be put in the library. Read amount of items disbursed, number of new magazines and books. Patronage: 1,285 patrons

Councilman Sheridan; Fire, First Aid & Emergency Services: Mr. Sheridan reported that the Fire department is working on a current budget and read

report on number of calls and training of ice rescue. Asked about OEM - deputy director. Will have a meeting with Ken Krohe to designate his own assistants. First Aid will work with Mayor and Council on ambulance.

Councilman Hill; Health and Recreation: Mr. Hill thanked all for the Recreation Dinner.

Councilwoman Bolte; Finance, Grants and Redevelopment: Ms. Bolte reported that grading is being done on Waterfront Park. Meeting with departments on their budgets. Spaghetti Dinner, thanks to Denise Nellis and George Strang.

Councilman Ortman; Police: Mr. Ortman read court revenues. \$53,000, an all-time high. Working on exposure control plan for Borough. Part of Bloodborne pathogens - will arrange dates for education and training.

Councilman Walling; Public Works/Recycling/Property Maintenance: Mr. Walling reported on the walkway, doing a great job.

ADMINISTRATOR'S REPORT

Mr. Valesi reported on the following. In design on park survey phase, data gathering property lines and topography project; soon to bidding phase. Regarding the Bulkhead we will be finalizing the punch list. Change order on Resolution for Perry Street Water Treatment Plan for steel work- clarifier was structurally unsound, had to be made sound - could not be forseen. Street sweepings fully positive as fill under parking lot. This saves the Borough \$18,000.00.

Ms. Bolte - along waterfront there is an issue with garbage on Saturday and Sunday. She does not want to pay public works to clean up on the weekend. Regarding Ordinance - prohibiting feeding seagulls, there are seagulls all around garbage cans especially by Ye Cottage Inn. Would like to come around with a solution.

ATTORNEY'S REPORT

Attorney has nothing to report at this time.

NEW BUSINESS

Councilman Hill expressed his gratitude for the slow down pedestrian signs by Second Baptist Church.

Councilman Sheridan mentioned Bayshore Regional Watershed Commission meeting as well as the February 14th Global Warming Seminar.

RESOLUTIONS

2. Resolution No. 83-08 Department of Environmental Protection Green Acres Enabling Resolution authorizing Execution of Agreement with the State for Waterfront Park
3. Resolution No. 84-08 Authorizing Change Order #1 for Improvements to Perry Street Water Treatment Plant
4. Resolution No. 85-08 Authorizing Continued Membership in the NJ Intergovernmental Insurance Fund
5. Resolution No. 86-08 Authorizing Settlement Agreement - Curbing
6. Resolution No. 87-08 Authorizing Settlement Agreement - Defino
7. Resolution No. 88-08 Appointing Borough Prosecutor
8. Resolution No. 89-08 Appointing Alternate Borough Prosecutor
9. Resolution No. 90-08 Appointing Library Board Members
10. Resolution No. 91-08 Appointing Part-Time Police Dispatcher
11. Resolution No. 92-08 Appointing Part-Time Police Dispatcher
12. Resolution No. 93-08 Appointment Part-Time Police Dispatcher
13. Resolution No. 94-08 Adopting a Natural Resource Inventory as Part of the Keyport Borough Master Plan
14. Resolution No. 95-08 Payment of Bills
15. Resolution No. 96-08 Send to Planning Board for a redevelopment plan (for 75 Manchester)

Offered for adoption by Mr. Sheridan, second by Mr. Ortman with Ayes by all present with abstention by Councilman Walling of item #10 - Resolution 91-08.

PUBLIC COMMENT PORTION

The Meeting is opened to the public for comments or questions at 8:33 P.M.

Al DeGrassi, 23 Osborne Street, asked about the muster zone. He understands why the bike rack and benches needed to be removed but asked why the garbage can was removed.

Councilwoman Bolte mentioned that a garbage can showed up in front of Babies on the Bay. Maybe that was it, they had requested one. Mayor replies that the can will be put back.

Rowland Seckinger asked when the boat ramp will open. Administrator replied on May 1st. Mr. Seckinger asked if he can get copies of the site plan presented tonight for the Environmental Commission. Mr. Seckinger sent a letter regarding Environmental Resource Inventory Report in order to safeguard heritage of Borough while preserving resources.

Administrator proposed resolution to adopt. Refers to the ability to amending the NRI when facts are bought. Mr. Valesi explained the process. They will put a clause in that it could be amended at any time.

Mayor Bergen states that the Historical Preservation Committee has not been active for about ten years. Would like to amend to make it a Committee rather than a Commission.

Jack Jeandron read a document given to him by Mr. Ludwig. Mr. Jeandron feels that this is inaccurate and misleading; the document portrays Keyport as a fishing village. Mr. Jeandron continued by stating that Keyport's intention was to make it a major port. First thing built was a dock and warehouse. It became a major port not a fishing village; was commerce as a port. Browns Point was all meadowlands. In order to accommodate boat yards a thin skin has been place over that. Mr. Jeandron would like this submitted for consideration.

Bob Ludwig questioned the integrity along the Henry Hudson Trail. He is concerned about the Manchester Development. Mr. Ludwig asked if there should be clarification request from the NJDEP. Mr. Ludwig would like to know whether this impact of the trail was considered and full disclosure made. He feels the Borough is a participant in deception if complete information was not given to DEP.

Mike Lane, 51 First Street - looked at Beach Park improvement plan for children's play area. There is talk about putting a rubber mat, but sand will cover it. Does our budget allow for a blower to keep the sand off the mat? Mayor states that he agrees but sand is not handicap accessible.

DTV liquor license - did they sign off on letter. No, but did submit a letter saying they will be resubmitting the application.

This Resolution on Manchester Redevelopment Plan is the first part of the Rehabilitation process. What does council want back from planning board? Would like to have this resolution to be put off until next meeting.

There being no one further from the audience who wish to be heard, the meeting was closed to the public at 8:56 P.M.

ADJOURNMENT

Motion to Adjourn the meeting moved by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

Time of Adjournment: 8:59 P.M.