Approved 2/20/01

February 6, 2001
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 7:10 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Ashmore, Antonucci, Merla, Atkins, Bergen, Pedersen. Others present were Mr. Litwin, Borough Attorney.

RESOLUTION

1. Resolution #71-01, Closed Meeting - Personnel, Litigation, Labor Relations

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

Personnel
1. Police Department
2. Public Works Department
3. Borough Clerk's Office
4. Registrar's Office

Litigation
1. RCG Construction vs Borough Of Keyport

Labor Relations
1. PBA Negotiations
2. Administrative and Non-Union Employees
3. IUOE Grievances, Public Works/PSTO and Clerical Units

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, and Labor Relations

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

Offered for adoption by Mr. Merla, seconded by Mr. Pedersen

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

Council went into closed session at 7:11 P.M. and this meeting was reconvened at 8:15 P.M.

ROLL CALL

On Roll Call the following were present: Councilmembers Ashmore, Antonucci, Merla, Atkins, Bergen and Pedersen. Others present: Mr. Litwin, Borough Attorney and Mr. Kriskowski, Borough Engineer.

Mayor Graham called the meeting to order at 8:20 P.M. and read the Sunshine Law Notice.

APPEARANCE/DISCUSSION

Mr. Jeff Fink, President of the Board of Directors of the Keyport Business Alliance and Kathaleen Shaw of the Bayshore Development Office gave an overview of the Business Improvement District. Mr. Fink advised that in 1999 the BID was started and an

Ordinance was adopted. The Interim Board of Directors passed bylaws, the election for Board of Directors was held and the Business Improvement District started in October 2000. Mr. Fink read the purpose of the BID and said that they will work in partnership with the Borough. The BID will have a Budget to work with for events, decoration, etc. BID is a partnership that will involve Mayor and Council, Planning Board, Property Owners, Business Owners and residents. If anyone has questions, they can contact Mr. Fink or join a committee and offer suggestions. Kathaleen Shaw supports the Keyport BID and the mission of the BID. She said that she has access to other districts (names and phone numbers) and that she can be contacted regarding issues. An overview was supplied in a packet for Councilmembers. Committees (Marketing, Visual Improvement, Economic Development) are forming this Thursday (2/8). Mayor Graham and Mrs. Atkins are involved. They are looking for base information (ordinances, planning and zoning). Mrs. Shaw said that she has been working with the Administrator; Borough initiatives will be supplemented. Mr. Bergen said that Tom Fallon, Chief Financial Officer will be asked to go over the budget format. Mr. Merla asked about BID's total budget; actual assessment total dollar value and what was left over from last year and the Special Legislative Grant. In 2000, six properties were added to the assessment list. He asked why the County figures are higher; there were appeals. Mr. Bergen asked about the $42,000 from last year and if it was included in the budget for 2001; no. Mrs. Shaw said that an audit is being done for 2000 and copies will be supplied to the Borough and Local Government Services. Mayor Graham congratulated Mr. Fink, Mrs. Shaw and the Board members on a successful start up and the 2000 Holiday Lighting Program and plans for 2001.

<u>HEARING ON ORDINANCES</u>

1. Ordinance #1-01, Prosecutor and Alternate Prosecutor

The Clerk reported that the Ordinance was published as introduced in the Courier, issue of January 18, 2001, that copies of the Affidavit of Publication are on file in her office, that copies were posted on the Bulletin Boards and made available to the public.

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER II, ENTITLED "ADMINISTRATION" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT TO DEFINE THE POSITION OF MUNICIPAL PROSECUTOR AND TO ESTABLISH AND TO DEFINE THE POSITION OF ALTERNATE MUNICIPAL PROSECUTOR

The Hearing was opened to the public at 8:35 P.M. for comments or questions. There being none, the Hearing was closed to the Public at 8:35 P.M.

Mr. Bergen said that if additional Alternate Municipal Prosecutors are needed the Ordinance would be amended.

Offered for adoption by Mr. Bergen, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

1a. Motion authorizing the Clerk to publish the Ordinance, as finally adopted, according to law in the Courier, issue of February 8, 2001 moved by Mrs. Atkins, seconded by Mr. Pedersen with Ayes by all present.

<u>INTRODUCTION OF ORDINANCE</u>

1. Ordinance #2-01, Auctions

The Clerk read the Ordinance by Title:

AN ORDINANCE AMENDING CHAPTER 5, LICENSING AND BUSINESS BUSINESS REGULATIONS OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT

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

<u>SECTION 1.</u> Section 5-8 entitled "Auctions" is hereby amended as follows:

5-8 AUCTIONS.

5-8.2 Application. In addition to the provisions of subsection 5-1.2, the application for a license under this section shall state the place where the goods to be sold are located and the auction sale conducted and the further averment that all the good to be sold have been in and upon the premises where the sale is to be held for more than six (6) months prior to the time of sale and be accompanied by an inventory of the same; and the further averment that no other goods than the goods as above specified shall be offered for sale or sold at such sale. Where the applicant has, within the period of six (6) months prior to the date of the application, conducted auction sales in the Borough of Keyport on at least four (4) occasions and said sales were conducted in compliance with Borough ordinances, the six (6) months holding period shall be waived for the license issued under said application.

SECTION 2. **Severability.** If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION 3. **Effective Date.** The Ordinance shall take effect upon final adoption and publication in the manner prescribed by law.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

1a. Motion authorizing the Clerk to publish the Ordinance, as introduced, according to law, in the Courier, issue of February 8, 2001 for a Hearing to be held on February 20, 2001 moved by Mr. Merla, seconded by Mrs. Atkins with Ayes by all present.

2. Ordinance #3-01, Cable TV Franchise Renewal

The Clerk read the Ordinance by Title:

AN ORDINANCE GRANTING MUNICIPAL CONSENT TO THE RENEWAL OF THE FRANCHISE OF CSC TKR, INC TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN KEYPORT, NEW JERSEY

WHEREAS, the Mayor and Council of the Borough of Keyport have determined that the CSC TKR, Inc ("Cablevision"), d/b/a Cablevision of Raritan Valley and formerly the TKR Cable Company, having the address of 275 Centennial Avenue, CN-6805, Piscataway, New Jersey 08855, has demonstrated the technical competence and general fitness to construct, connect, operate and maintain a cable television system in the Borough of Keyport throughout its prior ten year franchise term; and

WHEREAS, Cablevision maintains a Certificate of Approval from the Office of Cable Television of the State of New Jersey Board of Public Utilities ("OCT"); and

WHEREAS, Cablevision's current non-exclusive franchise agreement ("Agreement") expired on August 15, 1999 and by application for renewal consent filed with the Borough of Keyport and the OCT on or about March 4, 1999 (the "Application"), Cablevision has sought a renewal of the Agreement; and

WHEREAS, the Borough of Keyport has made due inquiry to review Cablevisions performance under the Agreement and to identify the Borough of Keyport's future cable-related needs and interests, and has concluded that Cablevision has substantially complied with its obligations under the Franchise; and

WHEREAS, the Mayor and Council of the Borough of Keyport have accordingly concluded that the Agreement should be renewed, subject to the representations by Cablevision in its Application, and subsequent approval by the State Office of Cable Television; and

WHEREAS, the Borough granted its consent to said renewal under such terms as set forth Ordinance #23-99 and as modified by Ordinance #1-00, but Cablevision did not accept those terms, rendering Ordinance #23-99 as modified null and void; and

WHEREAS, Cablevision filed a Petition with the Office of Cable Television on or about September 27, 2000 seeking an order compelling the Borough to grant its consent under certain terms and conditions sought by Cablevision; and

WHEREAS, the Borough and Cablevision have agreed to settle said Petition, having reached agreement to the terms set forth herein.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Keyport in the County of Monmouth as follows:

Section 1. Definitions.

For the purposes of this Ordinance, the following terms, phrases, words and their derivations, shall have the meaning given herein. Such meaning or definition of the terms are supplemental to those definitions of the Federal Communications Commission ("FCC"), FCC Rules and Regulations 47 C.F.R. 76.1 et seq. and the Cable Communications Policy Act, 47 U.S.C. 521 et seq., as amended, and the Cable Television Act, NJSA 48:5A-1 et seq. and shall in no way be constructed to broaden, alter or conflict with the federal or State definitions.

a. "Borough" is the Borough of Keyport, County of Monmouth in the State of New Jersey;

b. "Cablevision" is the grantee of rights under this Ordinance and is known as CSC TKR, Inc.;

c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey; and

d. "Board" is the Board of Public Utilities; and

e. "Office" is the State Office of Cable Television within the New Jersey Department of Energy.

Section 2. Statement of Findings.

A public hearing concerning the franchise herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of this Act. Said hearing, having been held as above stated and the hearing having been fully open to the public, and the Borough having received at the hearing all comments regarding the qualifications of Cablevision to receive this franchise, Keyport, after due consideration of the application of Cablevision, which is attached and is made a part hereof, and of the applicants financial, technical and other qualifications, and the adequacy and feasibility of the applicant's financial arrangements, hereby finds that Cablevision possesses the necessary legal, technical, character, financial and other qualifications and that Cablevision's operating and construction arrangements are adequate and feasible.

Section 3. Statement of Findings.

The Borough hereby grants to Cablevision its consent to place in, upon, along, across, above, over and under the streets and public places in the Borough, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Borough of a cable television system and cable communications system. Construction pursuant to this consent is conditioned upon Cablevision prior approval the Board, as provided by law.

Section 4. Duration of Franchise; Expiration and Renewal.

The consent herein granted shall expire five (5) years from the expiration date of the Certificate of Approval as issued by the Board of Public Utilities. In the event that Cablevision does not accept the issuance of the consent provided in this section in writing within ten (10) days of service of the Ordinance, said consent should be null and void. The Borough shall cause a copy of the Ordinance to be served upon Cablevision within two working days of adoption.

Cablevision shall be required to petition the Board for a certificate or approval authorizing continued operation during the period following expiration of the consent granted herein until such time that a decision is made by the Mayor and Council relative to the renewal of said consent. Such petition shall be filed in accordance with relevant laws and regulations promulgated by the Office.

<u>Section 5.</u> **Franchise Fee.**

Pursuant to the terms and conditions of the Act, Cablevision shall, during each year of operation under the consent granted herein, pay to the Borough two percent (2%) of the gross revenues from all recurring charges received by Cablevision from subscribers to its cable television reception service in the Borough. In the event the Act permits the Borough to collect additional fees during the term of this franchise, the Borough may amend the Ordinance to collect said fees. Such an amendment shall require an agreement between the Borough and Cablevision, and a petition to the Board for approval of the modification, pursuant to NJAC 14:17-6.7.

Cablevision shall, on or before, January 25, each year, file with the Chief Fiscal Officer of the Borough, a statement verified by oath showing the gross receipts from such charges and shall at the same time pay thereon to the Chief Fiscal Officer, the two percent (2%) charge hereby imposed as a yearly franchise revenue for the use of the streets.

<u>Section 6.</u> **Franchise Territory.**

The consent granted herein to Cablevision shall apply to the entirety of the Borough and any property hereafter annexed thereto.

<u>Section 7.</u> **Conditions of Construction.**

a. *Restoration.* In the event that Cablevision or its agents shall disturb any pavement, street, surfaces, sidewalks, driveways or other surfaces in the natural or extant topography. Cablevision shall at its sole expense restore and replace such places or things so disturbed in as good condition as existed, prior to the commencement of its work.

b. *Relocation.* If at any time during the period of this consent the Borough shall alter or change the grade of any street, alley or other way or place, Cablevision, upon reasonable notice by the Borough, shall, at its own expense, remove, re-lay and relocate its equipment.

c. *Temporary Removal of Cable.* Cablevision shall, upon request of the Borough, or other party, temporarily raise, lower or remove its lines or other equipment or facility in order to facilitate the moving of buildings or machinery or in other similar circumstances. The expenses shall be borne by the party requesting such action, except that when the Borough requests same, Cablevision shall bear the cost. Whenever the request for removal is made by private parties, the cost will be borne by those same parties.

d. *Trimming of Trees.* During the exercise of its rights and privileges upon this franchise, Cablevision shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires and cables of Cablevision. Such trimming shall be only to the extent necessary to maintain proper clearance for Cablevision's wires and cables.

e. *Inspection.* The Borough shall have the right to inspect all construction or installation work performed by Cablevision in the easements, streets and other public places or lands of the Borough and make such other inspections as the Borough deems necessary to insure compliance with the terms of this consent and other provisions of law, pursuant to its police powers for the purpose of protecting its citizens and in such matters as street openings, fire safety regulations and restoration of all streets.

f. *Construction*. All wires, cables, conduits and fixtures required in the installation of the system, shall be placed or constructed so as not to unreasonably inconvenience public travel on the highways or the use thereof by public utilities or other persons or organizations having rights therein.

g. *Compliance*. All construction and installation by Cablevision shall be effectuated in a manner that is consistent with any applicable Federal Communications Commission and Public Utilities Commission Rules and Regulations as to technical standards in full compliance with the ordinances of the Borough, to the extent consistent with State and Federal Law.

Section 8. Office.

a. During the term of this franchise, and any renewal thereof, Cablevision shall maintain a local business office or agent for the purpose of receiving, investigating and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters. Such local business office shall be open during normal business hours and in no event less than 9:00 AM to 5:00 PM, Monday through Friday, except holidays.

b. Cablevision shall provide notice to the borough and its subscribers therein of any change in either the location of said office or in its normal business hours in accordance with applicable law.

Section 9. Complaint Officer.

The Office of Cable Television is hereby designated as the Complaint Officer for the Borough pursuant to the provisions of NJSA 48:5A-26B. All complaints shall be received and processed in accordance with the provisions of NJAC 14:17-6.5.

Section 10. Performance Bond.

Cablevision shall post a bond which shall remain in effect for the life of the franchise, in the amount of Twenty Five Thousand ($25,000) Dollars. Such bond shall be to insure the faithful performance of all undertakings of Cablevision as represented in its application for municipal consent or which may be required by law or by this section. The right to resort to such bond shall be a cumulative remedy which may exist in law or equity for any default by Cablevision, which other remedies are expressly reserved to the Borough in its sole discretion. The amount of the bond shall not be deemed to constitute or suggest any limitations on the amount of damages for which Cablevision may be liable for any default in its said undertakings.

Section 11. Rates for CATV Reception Service.

The Borough, having determined that the rates proposed in the application and subsequent amendments thereto for cable television reception service are reasonable, approves them as presented, subject to review by the Board and regulation as permitted by State and Federal law. In the event there shall be the passage of any law permitting preferred rates for any class of users, nothing herein shall be constructed as prohibiting Cablevision from offering such preferred rates in the Borough.

Section 12. Emergency Uses.

Cablevision shall comply with the Emergency Alert System that is currently being developed and implemented by Federal, State and County officials, in accordance with applicable law.

Section 13. Public, Educational or Governmental Access Channels.

Cablevision shall designate two (2) local access channels for exclusive use by the Borough for the cablecasting of non-commercial programming and non-commercial public, governmental and educational entities. The Borough shall determine the programming that is to be shown on these local access channels. It is understood and agreed by the parties that Cablevision shall have the right to use any fallow time on such PEG access channels to the extent that they are not being utilized by the Borough for the cablecasting of qualified PEG access programming.

Section 14. Free Services.

a. Cablevision shall provide at no cost to the Borough, standard installation of one cable outlet, as well as basic monthly service to each municipal building, public library and fire stations in the Borough; together with one cable outlet and basic monthly service for each accredited school (K-12). The Borough shall pay for incremental costs for installations requiring more than 150 feet of cable wire.

b. Each additional outlet installed, if any, shall be paid for, by the Borough or institution requesting the same on a material plus labor basis. Monthly service charges shall be charged at the regular tariffed rates for additional outlets.

c. Cablevision shall provide one free cable modem and Internet access to all public libraries and to each accredited school (K-12) capable of being served by a standard installation, upon the introduction of cable high-speed modems becoming commercially available in the Borough through Cablevision. The Borough remains liable for incremental costs for installations requiring more than 150 feet of cable wire.

d. As set forth in Section 13, Cablevision shall designate two (2) local access channels for the exclusive use of the Borough. The cost of materials and installation for a fiber return link from the Keyport High School or Municipal Building, at the option of the Borough, to the Cablevision head end facility will be borne entirely by Cablevision. Cablevision shall provide the necessary fiber transport, switching mechanisms and modulator(s) in the company's head end facility. Upon proof of purchase by Keyport, Cablevision shall reimburse Keyport up to Fifteen Thousand ($15,000) Dollars to be applied against the purchase of a character generator, camera with battery pack, microphones, monitor(s), a playback deck and other similar equipment. Any such reimbursed amounts shall not result in any pass through of such costs as part of any rate or rate increase. Cablevision will provide initial training to volunteers and/or students who will be operating the aforementioned equipment.

Section 15. Reduced Rates for Senior Citizens.

Within one year, Cablevision has agreed to implement a discount for senior citizens and disabled persons as defined under the Pharmaceutical Assistance to Aged and Disabled Act pursuant to NJSA 30:4D-21, and consistent with the terms of NJAC 14:18-3.20.

Section 16. Indemnification and Insurance.

Cablevision shall indemnify, protect and hold the Borough harmless at all times from and against all claims for injury and damaged persons or property, both real and personal including payments made under Workmen's Compensation Law, arising out of the construction, erection, operation, repair, installation, replacement, maintenance of any structure, equipment or appliance used pursuant to this section or caused by the awarding of this municipal consent. Cablevision shall also provide evidence by Certificate of Insurance, or otherwise of sufficient insurance insuring the Borough and Cablevision with respect to all liability for any death, personal injury, property damage or other liability arising out of Cablevision's construction and operation of its CATV system in the following minimum amounts:

a. One Million ($1,000,000) Dollars for bodily injury or death to any one (1) person.

b. Two Million ($2,000,000) Dollars for each occurrence, within the limit.

c. One Million ($1,000,000) Dollars for property damage resulting from one (1) accident

d. One Million ($1,000,000) Dollars for auto liability.

e. One Million ($1,000,000) Dollars for excess liability.

<u>Section 17.</u> Entry by Competitive Providers.

In the event that another multi-channel video program provider's service within the Borough creates a significant competitive disadvantage to Cablevision, Cablevision shall have the right to request from the Borough lawful amendments to its franchise that relieve it of burdens which create the unfair competitive situation. Should Cablevision seek such amendments to its franchise, the Borough and Cablevision agree to negotiate in good faith appropriate changes to the franchise in order to relieve Cablevision of such competitive disadvantages. If the parties can reach an agreement on such terms, the Borough agrees to endorse Cablevision's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Borough acknowledges that Cablevision shall have the right to petition the Board directly for such amendments in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7; provided, however, the Borough shall be under no obligation to support Cablevision's request for such relief from the Board.

Should Cablevision accept this Ordinance, such acceptance shall constitute a representation and acknowledgment from Cablevision that as of the date of its acceptance of such acceptance, competition with the Borough has not yet risen to the level of creating a significant competitive disadvantage sufficient to enable Cablevision to seek relief under this Section 17.

<u>Section 18.</u> Incorporation of Application.

All of the written commitments contained in the written application of Cablevision and all of the correspondence submitted in connection therewith, except as modified herein, are to be considered to be binding upon the applicant as terms and conditions of this consent, and the application is annexed hereto and made a part hereof by reference. The application and any other relevant writing submitted by Cablevision shall be annexed hereto and made part hereof by reference as long as they do not conflict with State or Federal Law.

<u>Section 19.</u> Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court or federal or State agency, of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portion hereof.

<u>Section 20.</u> Consistency with Future Federal and State Rules, Regulations and Orders.

It is understood that should any State or Federal agency or body modify, change or alter any of its provisions with respect to cable television, generally, such modification, changes or alterations shall be incorporated into this consent ordinance on the applicable dates specified in such change.

<u>Section 21.</u> All ordinances and provisions of the Ordinance shall be and are hereby repealed as to the extent of such inconsistencies.

<u>Section 22.</u> The Ordinance shall take effect upon the issuance of a Certificate of Approval by the Board.

Mr. Litwin said that this took a long time; the minor issues have been resolved. There is $15,000 in funds for an on site television station with the school, there are most favored rates for Senior Citizens and the disabled. Cablevision approved this Ordinance and it is not worth requesting further funds. Mr. Wolfsohn is no longer with Cablevision. Mr. Merla commended Mr. Litwin and his office for protecting the interests of the Keyport residents; Mrs. Atkins agreed.

Offered for adoption by Mr. Bergen, seconded by Mr. Merla

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

2a. Motion authorizing the Clerk to publish the Ordinance, as introduced, according to law, in the Courier, issue of February 8, 2001 for a Hearing to be held on February 20, 2001 moved by Mr. Pedersen, seconded by Mr. Merla with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Request from A.M. Chuderski for use of the Benjamin Terry Park on April 7, 2001 to celebrate World T'ai Chi& Qigong Day.

A Certificate of Insurance is needed.

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

2. Letter from Laura Hallam regarding property Block 67, Lot 3.

Mr. Bergen said the Borough needs to address foreclosures. Mr. Litwin will research the matter.

Motion to refer to the Finance Committee moved by Mr. Merla, seconded by Mr. Pedersen with Ayes by all present.

3. Letter from Mark Messinger regarding docking of a fishing charter boat.

Motion to refer to the Harbor Commission moved by Mr. Merla, seconded by Mr. Pedersen with Ayes by all present.

4. League of Municipalities notice regarding State Budget Proposal(Bell Atlantic).

Mr. Bergen explained this matter to the audience.

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

UNFINISHED BUSINESS

1. Keyport PBA 1st Annual Bike Tour. This will not interfere with any other activity in the Main Street Park.

Motion to Approve moved by Mr. Merla, seconded by Mrs. Atkins with Ayes by all present.

2. Fire Department Membership Application-Nicholas DeVincinzo. Mr. Merla spoke with the applicant who is aware he is not entitled to benefits.

Motion to Approve moved by Mrs. Atkins, seconded by Mr. Merla with Ayes by all present.

3. Fire Patrol 1972 Hahn Pumper (see Resolutions)

Motion to hold this matter until after the budget moved by Mr. Merla, seconded by Mr. Bergen with Ayes by all present.

4. **Planning Board response regarding Municipal Land Use Law**

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

5. **Ferry Service.** Mr. Bergen said that a memo was received from Mr. Merla, Mrs. Ashmore and Mrs. Atkins and he recommended that the Borough move ahead. Mr. Litwin will draft the specs ($40,000 for one year) with 40 spaces; everything else remains the same. Mr. Litwin said that after 7 or 10 months into the first year the lease should be revised and a one year extension can be requested. Mr. Bergen felt that $40,000.00 was a reasonable number. Mr. Merla agreed on going to bid, but said that he has no problem with the Ferry being docked Monday through Friday. Mr. Merla felt that $40,000 was a lot of money and asked that Green Acres be asked to advise on the docking overnight. Mrs. Ashmore said that she spoke with Mr. Bergen. Regarding the overnight stay, approach Green Acres; it is not a hindrance, if it could be changed. There are people who are interested in the Ferry. Mr. Pedersen said that he is not in favor of using the pier; they could use the Bulkhead.

The Harbor Commission does not feel the pier should be used; he is not opposed to a one year trial. The pier is not a business venture. Mr. Litwin asked if the pier would be used for loading and unloading; yes. Mr. Bergen said that reopening issues will delay the process. Mr. Merla suggested that the last ferry contract be looked at and how they were parked. Mr. Litwin said that a specific proposal is needed to send to Green Acres (they will not make a recommendation). Mayor Graham said that the Ferry Service never made a request to tie up to the pier overnight; he does not want the pier used as a tie up. The last Ferry Service that Keyport had was a large boat that obstructed the waterfront view. Mr. Bergen said that matters were worked out after being debated for a long time; There will not be Council consensus. Mr. Bergen suggested that people in Keyport be asked about how they feel about the Ferry and the parking. The Ferry will draw revenue and business. Mr. Litwin said that designation is needed for the 40 spaces in Firemen's Lot. Mayor Graham said that the Borough Engineer made a diagram; there will be a limited drop off area. Police Chief Theodore Gajewski said that the departure and arrival times should not be a problem (2 arrivals and 2 departures). Mr. Kriskowski said that the Bulkhead will be constructed during the first year of the lease. Mr. Litwin said that he will prepare a draft spec for Mayor and Council's review. Mr. Cummins, Fast Ferry, will fax a picture of where the boat will be docked to Mr. Litwin. Mr. Merla asked Mr. Bergen if he would rather ask the residents vs. Green Acres about the boat being docked Monday through Friday. Motion to confer with Green Acres on berthing the ferry overnight moved by Mr. Merla, seconded by Mrs. Ashmore with the following Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla, Atkins, Bergen. Nays: Councilman Pedersen. Mayor Graham said that if this comes to a vote he will vote against it. Mr. Litwin said that he will write to Green Acres to see if they have any objection. Mayor Graham asked if the Council is authorizing the Ferry to berth all day or just at night. Mr. Merla said that the pier is closed at 11 PM; last drop off to first pick up. Mr. Litwin asked about pier damage. The owner of the Ferry said that the pier could be modified or a barge brought in; he does not see this size boat being docked. Motion authorizing Mr. Litwin to prepare the specs moved by Mr. Bergen, seconded by Mr. Merla with Ayes by all present except Mr. Pedersen who voted nay.

6. **Diesel for Fire Trucks**. Mr. Merla said that Bill Wright is willing to work with the Borough (federal reimbursement). The State would reimburse 13 cents if the Borough handles the paperwork. The State will be contacted and this matter will be relisted on February 20th.

7. **Faulty Alarms**. Mr. Merla said that the Fire Official wrote summonses.

8. **Aberdeen Interlocal**. Mr. Merla said that Highlands is interested in joining an interlocal for Construction Code Services.

9. **Mosquito Commission Project**. Mr. Merla said that the Mosquito Commission will assist the Borough to clean up the area (cylinders were dropped) in the spring or summer.

10. **Construction Code Services**. Mayor Graham spoke with Mr. Peno of Aberdeen regarding the Interlocal for Construction Services. Information has been completed and a meeting will be set up with Mark Coren, Aberdeen Township Administrator. Mr. Bergen asked to check on a REDI application for start up costs. He also said a REAP application will be filed regarding the Middletown Interlocal.

11. **Cannon Signal**. Mayor Graham said Mr. Brown of the Keyport Yacht Club requested permission last year to fire a cannon (30 discharges over 3 months). The correspondence will be given to Mrs. Ashmore and Mr. Antonucci. This will be relisted under Unfinished Business on the February 20th Agenda.

12. Mr. Bergen inquired on the status of the two houses that burned on Church and Atlantic Streets; Mr. Litwin said that he is working on this. Mr. Bergen said that it should be checked into what banks hold the mortgages.

ADMINISTRATOR'S REPORT

Mrs. Poling reported on the following. January 23rd Payment of Bills: **CURRENT-$96,286.26 AND WATER/SEWER-$17,447.35.** January 30th Payment of Bills: **CURRENT - $187.20**. With regard to the Amboy

Bridge repairs, the Police and Public Works Departments will attend the County preconstruction meeting on February 15th. Mr. Merla reported at the intersection of West Front Street and Broadway, there is ponding at the curb cut by the Deli Boy. This was a County project (traffic light).

ENGINEER'S REPORT

Mr. Kriskowski reported on the following. Regarding the Bulkhead, 60% of the work is done on the survey. Field data, the base map will take 4-6 weeks. The geotechnical work will be started the end of this week and should be ready in the next two weeks. The Engineering design contract should be listed on the February 20th Agenda. The State is responsible for 75% of approvable construction costs. Mr. Bergen said that information is needed to put together the Bond Ordinance. Resolution #8 on tonight's agenda amends the Sutton Mills Developers Agreement Inspection fees as per the Attorney General's ruling, the fees are to be based on actual construction costs, not 120%.

ATTORNEY'S REPORT

Mr. Litwin reported on the following. A hearing will be held on February 15th regarding the RCG Construction Case before Judge Lawson. An appeal was filed by Ray Weber sustaining the fine (crane) to Superior Court; an Answer was filed.

NEW BUSINESS

1. **Keyport Property Owned by Vitt P.Leng/Block 2, Lot 10.01.** Mr. Litwin will contact the County; the field belong to St. Joseph Church.

2. **Historic Preservation Commission Alternate #1 Appointment.**

MAYOR'S APPOINTMENT OF MEMBERS OF THE HISTORIC PRESERVATION COMMISSION

WHEREAS, the Mayor and Council of the Borough of Keyport have established, by Ordinance, a Historic Preservation Commission consisting of five members; and

WHEREAS, the Ordinance provides that the Mayor shall appoint all members of the Commission.

NOW, THEREFORE, I, KEVIN GRAHAM, Mayor of the Borough of Keyport, do hereby appoint the following members of the Historic Preservation Commission for the terms designated:

Alternate #1 Member Kenneth Young, term expiring on 12/31/2002

Mr. Merla said that Timothy Regan is also interested in serving on the Commission.

Mr. Merla said that about 10 days ago a window was broken at a business and three days later aluminum doors were put up over the windows with no permits. This is in violation of the Historic Preservation Ordinance. Mr. Merla spoke with the business who put up the doors; the owner of the business (Ann Boyce) did not authorize this to be done. The doors will be taken down.

3. **Division Street Parking Lot.** Mr. Merla said that the back fence is down and people are parking through our parking lot. The Borough Administrator referred this matter to Harry Aumack, Acting Code Enforcement Officer. There is a pool on one of the properties involved.

4. **Post Office.** Mayor Graham said that there will be major work inside the post office and the lot will be closed 4-6 months. Trailers are being brought, and an underground storage tank is being removed.

5. **Mini Park.** There is a dumpster and a mini van that have been left at the rear property line of the Mini Park. Mrs. Poling will contact the Zoning Officer regarding the dumpster and Chief Gajewski will check on ownership of the mini van. A report will be given at the February 20th meeting.

6. **Cedar Street Park.** Mr. Antonucci reported that there are two light posts that are down at Cedar Street Park. Quotes to replace the light posts are being obtained.

PUBLIC PARTICIPATION

The Meeting was opened to the public for comments or questions at 10:10 P.M. Chris Leigel said that he did a report for school on Councilman John Merla; he presented Mr. Merla with a copy of the report and a gift. Jeff Fink asked if the Amboy Bridge will be closed; yes. He said that BID would like information on the project. He was advised to attend the County Pre-Construction Meeting. Sandra Shevlin applauded Mr. Bergen for fast lining the Ferry matter; she asked what the time line is. Mr. Litwin said that formal approval is needed from Green Acres, an Ordinance must be passed, specifications prepare then go out to bid; the process would be about two months (60 days). It was asked what the amount of the lease payment from Captain John's is; approximately $3500. There has been another fishing boat request received. It was requested that a speed limit sign be installed by Atco. The Administrator will contact the County about painting crosswalks at Maple Place and Main Street. The meeting was closed to the public at 10:24 P.M.

RESOLUTIONS

2. Sale of 1972 Hahn Pumper - This Resolution was held.

3. Resolution #72-01, Appointment of Alternate Municipal Prosecutor

WHEREAS, there exists a need for an Alternate Borough Prosecutor in the Borough of Keyport, County of Monmouth, and

WHEREAS, funds are or will be available for that purpose, and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution awarding the contract shall state the supporting reasons and be printed in a newspaper of general circulation not more than ten days after the passage of the Resolution.

WHEREAS, pursuant to P.L. 1996, c. 95, subsection 14, a municipality may employ an attorney at law as a prosecutor under the supervision of the Attorney General or County Prosecutor, who may represent the state, county or municipality in any matter within the jurisdiction of the Municipal Court.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Keyport, County of Monmouth, that the appointment for the year 2001, by the Mayor, be and the same is hereby confirmed. The person hereby appointed, Allen Falk, Esq. , is a member of the legal profession and it is not possible to obtain competitive bids.

BE IT FURTHER RESOLVED this appointment is made pursuant to the authority conferred by P.L. 1996, c. 95, subsection 14; and

BE IT FURTHER RESOLVED that a copy of this Resolution be published in the Courier, as required by law, within ten days of its passage.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

4. Resolution #73-01, Appointment of Municipal Public Defender

WHEREAS, pursuant to the laws of the State of New Jersey and Borough Ordinance there exists a need for a Municipal Public Defender in the Borough of Keyport, County of Monmouth; and

WHEREAS, funds are or will be available for that purpose; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution awarding the contract shall state the supporting reasons and be printed in a newspaper of general circulation not more than ten days after the passage of the Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Keyport, County of Monmouth, that the appointment for the year 2001, by the Mayor, be and the same is hereby confirmed. The person hereby appointed, John R. Fiorino, Jr. is a member of the legal profession and it is not possible to obtain competitive bids.

BE IT FURTHER RESOLVED that a copy of this Resolution be published in the Courier, as required by law, within ten days of its passage.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonuuci, Merla
Atkins, Bergen, Pedersen

5. Resolution #74-01, Acting Code Enforcement Officer -Harry Aumack

WHEREAS, it is necessary to have an acting Code Enforcement Officer available to replace the designated Code Enforcement Officer in the event that said officer is absent from the Borough or from his office; and

WHEREAS, Harry Aumack is qualified to perform the duties of the Code Enforcement Officer and has agreed to serve as acting Code Enforcement Officer in the absence of the Code Enforcement Officer.

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

1. Harry Aumack is designated as acting Code Enforcement Officer in the absence of the designated Code Enforcement Officer for the purpose of performing Certificate of Occupancy inspections.

2. For said services in serving as acting Code Enforcement Officer and performing Certificate of Occupancy Inspections, Harry Aumack shall be paid at the rate of Twenty ($20.00) Dollars per inspection, said amount to be due and payable yearly for services rendered during the calendar year.

3. The term of the Acting Code Enforcement Officer shall be for one (1) year from January 1, 2001 to December 31, 2001, or until a successor is appointed.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

6. Resolution #75-01, PST Trainee 2001 Salary

BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that the following annual salaries be and hereby are established for the indicated positions effective January 1, 2001 or the date of hire or transfer, whichever is later, in accordance with salary ordinances.

	Effective January 1, 2001
Public Safety Telecommunicator Trainee	$23,400.00 annually

BE IT FURTHER RESOLVED effective August 15, 2000, the sum of $5.00 per pay will be deducted from the pay of each of the above full time employees receiving Health Insurance and the money applied against Insurance premiums.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

7. Resolution #76-01, Tax Cancellation, Block 22, Lot 12.03

WHEREAS, the Tax Collector of the Borough of Keyport, New Jersey has determined that action is required as a result of the 2000 tax reduction granted by the Monmouth County Board of Taxation; and

WHEREAS, the Tax Collector has certified to the foregoing as well as to the amount of the tax cancellation which is set forth with the name and address of the tax payer.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the

Borough of Keyport that the required tax cancellation be made and a refund issued since all taxes were paid.

Block	Lot	Owner	Location	Canceled	Refund
22	12.03	Kathryn Fenimore	164 W Front St	$683.50	$683.50

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

8. Resolution #77-01, Developer's Agreement, Sutton Mills Developers, Inc., Block 134, Lots 35, 36, 40, 41, 42 & 43

WHEREAS, on October 17, 2000, the Mayor and Council adopted Resolution #289-00 authorizing a Developer's Agreement between Sutton Mills Developers, Inc. and the Borough of Keyport pertaining to Block 134, Lots 35, 36, 40, 41, 42 and 43 situated on Fulton Street in the Borough of Keyport, County of Monmouth and State of New Jersey; and

WHEREAS, pursuant to the opinion of Attorney General, it is necessary to revise downward the inspection fee provided for the Borough Engineering from $4,343.16 to $3,619.30.

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

1. The Developers Agreement between Sutton Mills Developers, Inc and the Borough of Keyport authorized on October 17, 2000 is hereby amended to reduce the five (5%) percent inspection fee from the amount of $4,343.16 to $3,619.30.

2. The Borough Clerk is authorized to advise the Developer of said change by letter and to take such steps as may be necessary to implement same.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Atkins
Bergen, Pedersen
Abstain: Councilman Merla

9. Resolution #78-01, Payment of Bills

See full copy of Resolution as pages 17-18 of these minutes

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

10. Resolution #79-01, Urging State Funding to Address Revenue Shortfall Caused by State Inaction on Telecommunications Business Personal Property Tax Reductions

WHEREAS, Business Personal Property taxes have, for years, been paid by corporations involved in the telecommunications industry to help finance the vital municipal services and essential local programs on which that industry depends; and

WHEREAS, in 1999, one such corporation, now known as Verizon, was permitted to change the manner in which it calculated depreciation on its property, which change resulted in a significant reduction in its Business Personal Property tax liability; and

WHEREAS, the Borough of Keyport, informed the Whitman Administration and the Legislature that, absent State action, the reduction in Business Personal Property taxes paid by the corporation now known as Verizon would shift a greater proportion of the property tax burden onto our already over-burdened residential property taxpayers; and

WHEREAS, both the Whitman Administration and the Legislature immediately accepted analysis and responded with an appropriation to prevent the shift in tax burden onto our residential taxpayers; and

WHEREAS, both the Administration and Legislature also recognized the need for, and embarked on a process to find, a politically acceptable manner in which to enact a permanent solution to this crisis, as well as to extend to the people of our State a policy that would permit them to enjoy the benefits of greater telecommunications market competition; and

WHEREAS, the fact that such a solution still awaits implementation is in no way the fault of municipal officials or our property taxpayers; and

WHEREAS, the fact that such a solution still awaits implementation has caused the Borough of Keyport to again inform the Whitman Administration and the Legislature that, absent State action, the reduction in Business Personal Property taxes paid by the corporation now known as Verizon will shift a greater proportion of the property tax burden onto our already over-burdened residential property taxpayers; and

WHEREAS, despite this call, the Whitman Administration, in its proposed budget, has allocated only $16 million, to be apportioned among 43 municipalities, rather than the $40 million, which will need to be apportioned among over 540 municipalities.

NOW, THEREFORE, BE IT RESOLVED that we do call on the Legislature to ignore the underfunded provision contained in the Administration proposal and to appropriate $40 million, so that every taxpayer in all municipalities will be spared a greater share of the property tax burden because of a reduction in the Business Personal Property liability of the corporation now known as Verizon; and

BE IT FURTHER RESOLVED that copies of this Resolution be forwarded to our State Legislators, the League of Municipalities, neighboring municipalities and the Whitman Administration.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

11. Resolution #80-01, Assignment of Lease from Outdoor Advertising Systems, Inc. to Infinity Outdoor, Inc. (Billboard Lease)

WHEREAS, on or about April 1, 1992, the Borough of Keyport entered into a lease with Gannett Outdoor Advertising, Inc., which was subsequently assigned, with the approval of the Borough of Keyport, to Outdoor Advertising Systems; and

WHEREAS, the Borough of Keyport has been advised that, on or about December 7, 1999, Outdoor Advertising Systems, Inc., assigned said lease to Infinity Outdoor, Inc., and they have requested that the Mayor and Council approve said assignment of the existing lease agreement to Infinity Outdoor, Inc. located at 185 U.S. Highway 46, Fairfield, New Jersey; and

WHEREAS, the said lease provides in paragraph 9 that said lease may be assigned only with the written consent of Keyport which shall not be unreasonably withheld.

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

1. The assignment of the lease dated April 1, 1992 from Outdoor Advertising Systems, Inc., to Infinity Outdoor, Inc., 185 U.S. Highway 46, Fairfield, New Jersey is approved and the Borough Clerk is authorized to advise Infinity Outdoor, Inc., of this acceptance of the assignment.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

12. Resolution #81-01, Appoint Acting Superintendent of Public Works

BE IT RESOLVED by the Mayor and Council that George Sappah is hereby appointed Acting Superintendent of Public Works until further action of the Mayor and Council and as allowed by law.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

13. Resolution #82-01, Appoint Acting Supervisor of Public Works

BE IT RESOLVED by the Mayor and Council that David Rooke is hereby appointed Acting Supervisor of Public Works until further action of the Mayor and Council and as allowed by law.

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

Roll Call Vote: Ayes: Councilmembers Ashmore, Antonucci, Merla
Atkins, Bergen, Pedersen

ADJOURNMENT

Motion to Adjourn moved by Mr. Pedersen, seconded by Mrs. Ashmore with Ayes by all present.

Time of Adjournment: 10:26 P.M.

Respectfully submitted,

Judith L. Poling/amc

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

Allyson M. Cinquegrana

per Allyson M. Cinquegrana, RMC
Deputy Borough Clerk