approved 5/20/2008

Keyport, New Jersey
March 27, 2007

Minutes of the Special Meeting of the Mayor and Council, held on the above date in the Council Chambers, Borough Hall, 70 West Front Street, Keyport, New Jersey pursuant to being called by Mayor and Council. Notice was forwarded to the Asbury Park Press, Courier, Independent, Two River Times and Newark Star Ledger and posted on the Bulletin Board in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Mayor Bergen called the meeting to order at 7:04 P.M. and The Borough Clerk read to Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Sheridan, Ortman, Walling, Hassmiller, Bolte. Absent: Councilmember Hill. Others Present: Peter Valesi, Borough Administrator, Ken Ebner, Borough Attorney, Tom Fallon, CFO (arrives 7:22)

CONTINUATION OF LIQUOR LICENSE HEARING

1. Person-to-Person and Place-to-Place Liquor License Transfer Application - Keyport Trinity, LLC

Motion was made and carried to move closed session until after hearing.

Capitan - police report dated 3/8/07 marked as evidence.

Testimony completed for Charles Merla

Mr. Sheridan asks what is the barrier going to be between Trinity and Dunkin Donuts? Mr. Merla replied there will be arborvitis and wrought iron. Mr. Sheridan asked how business is? Not opened yet. There is no site plan approval before Board? No

Mayor asked whether they are going to submit a planting plan? Mr. Merla replied the landscaper has one. Please submit to council. Mr. Hassmiller, planting plan is voluntary not mandatory. Mr. Merla - correct.

Ms. Bolte - how many tables are you going to have? Mr. Merla responded 25 tables. Will there be food served outside? Yes. Can restrictions be put on? Mr. Ebner responded yes. Will there be a bar outside? No plans for outside bar.

Ms. Bolte asked the attorney whether one could smoke and eat outside. Mr. Ebner said yes.

Mr. Walling asked what will be the hours? Mr. Merla, seven days a week to start from 11 am to 2am. He doesn't anticipate it being that late. Will door with no steps be used for delivery? - No, only for musicians to bring equipment. Is there agreement between owner of property and neighbor to use that door? Mr. Merla - not sure doesn't know the tenant.

Mayor - there is a back door and porch but no stairs; is that a construction code problem? Mr. Valesi said that is considered a small loading dock no ingress.

Ray Laytham, if there is no verbal agreement, cannot be used. Mr. Walling, how will door be kept closed. Mr. Merla, with a lock and key. Think of it as a wall. That door will only be used to bring in equipment. Ms. Bolte - Did the door exist prior? No.

Mayor, 50% owned by Ms. Schwartz she transferred to LLC. Liquor license passed to Charles Merla by brothers, yes. Bringing in 50% as part of estate. The other 50% sold for $1.00.

Mr. Ortman - walked through premises. Mr. Merla - half the basement is kitchen and office space. Is there a dumb waiter? Yes

Mr. Hassmiller, Original application filed in September or October, recommends Clerk handle it. Mr. Merla, hoping not to own three establishments. The Uptown has been for sale for six months. Mayor - when is opening projected? Doesn't know - Depends on this meeting, hopefully as soon as possible. Mr. Ortman - what is the soonest you could open? 30 days.

Ms. Bolte - Would like a resolution drawn up with conditions to vote on April 10th. Could Council see ahead of time?

Conditions are food served outside, no packaged goods.

Mayor, exception for wineries, if affiliated with that winery.

Mr. Walling - seating on first floor? 40 people Second floor - 30 on each side, two mezzanines one on each side, third floor same amount. Mr. Walling, roughly at 2:00AM 100 people exiting? Not likely but possible.

Ms. Bolte, asked about the parking situation? Possibly valet parking.

Mayor - there is a question of indemnification and having Borough as additional insured due to use of municipal parking lot?

Mr. Laytham, talking as a condition? Mayor just thinking out loud, worried about more trip and fall tort suits. It may not cost applicant to add Borough as an insured. Mr. Laytham, commercial insurance company may not offer to insure off-site.

Motion made by Mr. Walling, moved by Mr. Sheridan to open hearing to public for comments or questions.

It was asked that comments be reserved to anything new.

PUBLIC HEARING ON LIQUOR LICENSE TRANSFER

The Meeting was opened to the public for comments or questions at 8:46 P.M. moved by Mr. Walling, second by Mr. Sheridan.

Mike Lane feels Italian restaurant would be a great asset. Bands on Thursday, Friday, and Saturday would impact the neighborhood.

ABC handbook requires sketch. Same sketch received with numerous areas. Mr. Lane feels that criteria is not met. Second floor deck shown on sketch although not going to be one, now it is a patio.

Mr. Ebner, can be approved pending conditions be met.

Mr. Lane, Joseph Merla is listed as sole member of LLC, but Ken Schwartz still listed on LLC

Mr. Laytham, mortgage documents don't list who is on LLC. Issue between landlord and tenant does not reflect ownership of LLC. That ownership

has been transferred to Mr. Merla. Mr. Ebner agrees with Mr. Laytham. Mortgage does not reflect ownership interest.

Mr. Lane, Mr. Schwartz still carries responsibility on mortgage? Yes The Letter identifies fact that this is a restaurant. I looked up definition in ABC handbook. If more than two establishments, all need to be restaurants. Mr. Laytham, not so, misinterpretation of statue.

Mr. Ebner, only those held in excess of two licenses must be restaurants.

Mayor read statute under "Exceptions". Statute allows to sell package goods as long as any additional are restaurants.

Mr. Lane, look at construction drawings - basement has a number of levels. A significant area of restaurant is a bar.

Mayor requests that the fire inspector look at building for projected capacity.

Mr. Merla, GC for project would have number for projected capacity. I don't understand the issue. This is not a neighborhood, it is a business district.

Mayor, has a hard time believing that it can hold 300-400 people

Mr. Ludwig, comments that Mr. Merla was not sworn in this time

Mr. Ebner, swears Mr. Merla in and asks if he wishes to change any of his testimony - Mr. Merla replies "no"

Mr. Ludwig, since renewal comes up every year, if they are not meeting the conditions, the renewal should not be given. Also, there are alot of promises in the letter and he would like it presented as evidence.

Mayor Bergen, states if later on there are certain things found to be wrong, the conditions can be added on at renewal.

Mr. Ebner enters as Evidence. Marked as Exhibit the four-page letter with attachments dated February 1, 2007.

Mr. Merla gave Captain Mitchell two pictures and diagram. Mr. Merla and Captain Mitchell followed up by a walk thru. Mayor Bergen asks for clarification on the drawing. Mr. Merla made corrections to sketch, and it was marked as a final sketch for the record.

Mr. Ludwig, since the Borough has financial recourse against John Merla due to illegal activity, will the Borough be waiving further recourse?

Borough does not preclude subsequent related assets.

Mayor replies that Mr. Ludwig's point has been made. Borough not to use taxpayer funds to try to recoup monies.

Mr. Ludwig, put caveat in Resolution so Borough does not preclude related assets. Why was no action taken to recover funds from John Merla?

Mayor, does not wish to spend money on that.

Resident asks how far is church from Trinity. Capitan replies 250 feet. The law states more than 200 feet, Mr. Ebner adds.

Mr. Lane, disagrees, problem with this law gives the church the right to waive this issue. Can be raised at any renewal as well.

Motion made by Mr. Walling, moved by Mr. Sheridan to close public session.

Roll Call Vote: Ayes: Councilmembers Bolte, Hassmiller, Sheridan Walling, Ortman
Nays: None
Abstain: None
Absent: Hill

Mayor clarifies conditions: use of patio, keep kitchen open - not just throw sandwich together. This is due to the exception. Kitchen must be fully functional while serving liquor.

Mr. Merla asks once the other one is sold then what happens?

Mr. Ortman, will vote in favor but would like to see an updated sketch.

Mr. Walling, feels bar being downstairs is a problem. Can't drinks be sent down by dumbwaiter? Ten to twelve people sitting at a bar, how many would be standing? Mr. Merla, doesn't know.

Mayor, opening and closing will be set by Ordinance.

Mr. Walling, will wait for report from Fire Marshall.

Ms. Bolte, believes she will vote in favor. Would like to see an updated sketch. Wants it maintained as a food establishment and not a club.

Mr. Hassmiller, will probably vote for it. It is the same as Charlie Brown's or Ye Cottage Inn.

Mr. Sheridan, will vote yes, but is concerned about 2AM closing. Does live in the area but is still inclined to say "yes".

Resolution listed at the next council meeting.

Mr. Ebner will draw up the Resolution.

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

Roll Call Vote: Ayes: Councilmembers Bolte, Hassmiller, Sheridan, Walling, Ortman
Nays: None
Abstain: None
Absent: Hill

Motion made and carried to close public Hearing.

Motion made and carried to go into closed session at 8:15 PM

RESOLUTION

123-07
TITLE: CLOSED EXECUTIVE SESSION

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:

A. Personnel

B. Litigation
Municipal Building
DeFino case
Loitering of Day Workers

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 on Personnel 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. Ortman, second by Mr. Hassmiller

Roll Call Vote: Ayes: Councilmembers Sheridan, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: Hill

ROLL CALL

On Roll Call the following were present: Councilmembers Sheridan, Ortman, Walling, Hassmiller, Bolte. Absent: Councilmember Hill. Others Present: Peter Valesi, Borough Administrator, Ken Ebner, Borough Attorney, Tom Fallon, CFO

Mayor Bergen called the meeting to order at 8:46 P.M. and the Borough Clerk read to Sunshine Law Notice.

DISCUSSION

1. Discussion of Municipal Budget

The Hearing is opened to the public for comments or questions:

Roll Call Vote: Ayes: Councilmembers Bolte, Hassmiller, Sheridan, Walling, Ortman
Nays: None
Abstain: None
Absent: Hill

Ms. Bolte would like to consider an additional $6,000 to their line item for first aid utilities - currently $18,000.

Mr. Fallon, we pay Fire Department utilities out of our budget.

Mayor Bergen will sit down with First Aid to establish a pay system for the ambulance. Mayor knows that First Aid is afraid if residents get a bill then the elderly will not call. Collect money by billing insurance for insurance purposes by setting up another non-profit entity.

Mr. Fallon suggests meeting with Mr. Sheridan to educate him on what he does not understand. Mr. Sheridan asked a few questions regarding the budget. Answers were explained.

Mr. Sheridan asked why recycling listed separately not under public works? Mr. Fallon explains it is an interlocal outside the budget Cap.

Mayor, the Borough purchased ambulances in 1994. First Aid is a separate entity and is not part of the Borough like the Fire Department.

Mayor Bergen, wants to talk about how we move on the Waterfront meetings

Ms. Bolte, spoke about the Waterfront on Pride Day which was Saturday, April 14th. We advertised and passed out flyers, there will be a meeting on Saturday, April 21st at 10:30 A.M.

Ms. Bolte we should come up with options and then present them.

Mr. Valesi, current public works facility not a separate lot. There has been some confusion about that facility.

Ms. Bolte does not want to give the public options that are not choices. Reach out to First Aid; make sure they are available on April 21, 2007

RESOLUTIONS

RESOLUTION NO: 124-07

RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KEYPORT AMENDING RESOLUTION NO. 361-06 APPOINTING TEMPORARY SECRETARY FOR THE ZONING OFFICE AND CODE ENFORCEMENT OFFICE

WHEREAS, the Mayor and Council of the Borough of Keyport have created the position of Zoning Officer and Code Enforcement Officer pursuant to *N.J.S.A.* 40A:60-6, and

WHEREAS, the position of Zoning Officer is set forth in Keyport Borough Ordinance ' 2-3.9 and Code Enforcement Officer is set forth in Keyport Borough Ordinance § 2-3.10, and

WHEREAS, the Borough of Keyport recognizes the need to have a secretary to assist the Zoning Officer and Code Enforcement Officer on a full time basis, and

WHEREAS, the Mayor and Council of the Borough of Keyport hereby temporarily appoint Carole Cerase as Secretary to the Zoning Officer and Code Enforcement Officer effective June 1, 2006 pursuant to Borough Ordinance 12-3.10, and

WHEREAS, on December 18, 2006 the Mayor and Council of the Borough of Keyport passed an amended resolution temporarily appointing Carole Cerase as the secretary for the Zoning Officer and Code Enforcement Office, and

WHEREAS, the Mayor and council of the Borough of Keyport wish to amend Resolution No. 361-06 to provide for an extension of time to Carole Cerase's appointment, and

WHEREAS, sufficient funds are available and have been or will be appropriated for this specific purpose,

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

1. Carole Cerase is temporarily appointed, retroactive to June 1, 2006, as the Secretary to the Zoning Officer and Code Enforcement Officer of the Borough of Keyport, for the annual salary of ten thousand ($10,000.00) dollars, to be pro-rated.

2. The temporary appointment is until such time as the Mayor and Council may take further action with regard to this position.

3. Copies of the within Resolution shall be forwarded to the Municipal Finance Officer and the Borough Clerk, who shall retain a copy for public inspection.

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

Roll Call Vote: Ayes: Councilmembers Bolte, Hassmiller, Sheridan, Walling, Ortman
Nays: None
Abstain: None
Absent: Hill

RESOLUTION NO: 125-07

Be it resolved by the Mayor and the Council of the Borough of Keyport, New Jersey that the following numbered vouchers be paid to the person therein respectively and hereinafter named, for the amounts set opposite their respective names, and endorsed and approved on said vouchers.

NUMBER OF VOUCHERS	BANK ACCOUNT	AMOUNT
See attached listing	CURRENT	$ 138,368.28
	WATER/SEWER	$ 23,155.52

AUTHORIZED PER RESOLUTION #39/07

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

Roll Call Vote: Ayes: Councilmembers Sheridan, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: Councilman Hill

PUBLIC PARTICIPATION

This meeting is opened to the public at 9:29 PM for comments or questions. Offered by Mr. Sheridan and carried.

Al DeGrassia, asked about the DPW positions. Would like to see water tower left alone.

Closed to the public 9:31.

ADJOURNMENT

Time of Adjournment: 9:32 P.M.

Budget Appropriation	From	To
Administrative - S&W		$ 650.00
Administrative - OE		150.00
Mayor and Council- O/E		300.00
Municipal Clerk - S&W	$ 3,200.00	
Assessment of Taxes - OE	4,000.00	
Collection of Taxes - S&W	5,000.00	
Legal Services - O/E		5,000.00
Engineering - O/E		2,000.00
Planning/Zoning - O/E		1,000.00
UCC - S&W		800.00
Police - S&W	9,400.00	
Streets and Roads - O/E		3,000.00
Garbage and Trash Removal - O/E		1,000.00
Building and Grounds - Board of Ed.		6,000.00
Municipal Court - S&W		1,600.00
Public Defender - S&W		100.00
	$ 21,600.00	$ 21,600.00

Offered for adoption by Mr. Sheridan, second by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Sheridan, Hill, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: None

5. Resolution #119-07, Authorizing CFO to Prepare and Submit Extraordinary Aid Application to Dept. of Community Affairs

RESOLUTION NO. 119-07
RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KEYPORT AUTHORIZING THE CHIEF FINANCIAL OFFICER THOMAS FALLON TO PREPARE AND SUBMIT TO THE NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS AN APPLICATION FOR $400,000.00 IN EXTRAORDINARY AID OR SUPPLEMENTAL MUNICIPAL PROPERTY TAX RELIEF

WHEREAS, the Mayor and Borough Council of the Borough of Keyport wish to maximize its revenues in order to provide the maximum municipal government services at a minimum cost to the municipal property taxpayers; and

WHEREAS, the Mayor and Borough Council of the Borough of Keyport recognize that because of the Borough's geographic size and property tax ratable, extraordinary circumstances exists that if not addressed could result in a property tax increase or a reduction of municipal services without the infusion of additional revenues; and

WHEREAS, the foregoing constitutes sufficient ground for the Borough to apply to the State of New Jersey, Department of Community Affairs for Extraordinary Aid or Supplemental Property Tax Relief.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport authorize Chief Financial Officer, Thomas Fallon, to complete and file an application with the New Jersey Department of Community Affairs for $400,000.00 in Extraordinary Aid or Supplemental Municipal Property Tax Relief.

Offered for adoption by Mr. Sheridan, second by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Sheridan, Hill, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: None

6. Resolution #120-07, Payment of Bills

See full copy of this resolution on file in the Borough Clerk's Office

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

Roll Call Vote: Ayes: Councilmembers Sheridan, Hill, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: None

7. Resolution #121-07, Rescheduling April 3, 2007 and April 17, 2007 Meetings of the Mayor and Council - April 10th and 24th

Offered for adoption by Mr. Sheridan, second by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Sheridan, Hill, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: None

8. Resolution #122-07, Resolution approving request from St. Joe's Café to solicit funds for the ARC at Broad and Route 36 subject to county approval

Offered for adoption by Mr. Sheridan, second by Ms. Bolte

Roll Call Vote: Ayes: Councilmembers Sheridan, Hill, Hassmiller, Ortman, Walling, Bolte
Nays: None
Abstain: None
Absent: None

ADJOURNMENT

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

Time of Adjournment: 10:04 P.M.