April 19, 2004
Keyport, New Jersey

Minutes of the Regular Meeting of the Mayor and Council, Borough of Keyport, held on the above date in the Municipal Complex, Council Chambers, 70 W. Front Street, Keyport, N.J., pursuant to the adoption of 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 Board in accordance with the Open Public Meeting Act, P.L. 1975, Ch. 231.

Councilman Bergen, in the Mayors absence, called the meeting to order at 7:08 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Wedick, Bergen, Doyle, Hyer. Absent: Councilmembers Atkins, Stalter. Others present: Mr. Kain, Borough Attorney, and Mr. Palamara, Administrator.

RESOLUTION

1. Resolution #143-04, Closed Meeting - Personnel, Litigation, Labor Relations and Contract Negotiations

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

<u>Personnel</u>
1. Tax Office
<u>Litigation</u>
1. The Major Property
2. Borough Property Adjacent to Apollo Sewer Co.
<u>Labor Relations</u>
1. Construction Code Office
2. Grievance, IUOE, Various Employees Salaries
3. IUOE Clerical Unit-Christmas Holidays
4. Grievance, PBA
5. PBA Negotiations
6. Administrative and Non-Union Employees Agreement
<u>Contract Negotiations</u>
1. Health Services
2. New Municipal Complex
3. Water Utility

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 Council Chambers for the purpose of discussing the following subjects:

Personnel, Litigation, Labor Relations, Contract Negotiations

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

Offered for adoption by Mr. Doyle, seconded by Mr. Hyer

Roll Call Vote: Ayes: Councilmembers Wedick, Bergen, Doyle, Hyer
Absent: Councilmembers Atkins, Stalter

Council went into Closed Session at 7:08 P.M. and this meeting

was reconvened at 8:15 P.M.

Mayor Merla called the meeting to order at 8:18 P.M. and read the Sunshine Law Notice. Councilman Hyer led the Pledge of Allegiance and Moment of Silence.

ROLL CALL

On Roll Call the following were present: Councilmembers Wedick, Bergen, Doyle, Hyer. Absent: Councilmembers Atkins (Mrs. Atkins brother passed away), Stalter. Others present: Mr. Kain, Borough Attorney, Mr. Freda, Borough Engineer, Mr. Palamara, Administrator and Mr. Fallon, CFO.

HEARING ON 2004 MUNICIPAL BUDGET
RESOLUTIONS

2. Resolution #144-04, Authorizing the Borough Clerk to Read the Budget by Title

WHEREAS, the Borough Clerk heretofore posted a complete copy of the approved 2004 Budget in accordance with R.S.40A:4-8 (1a,1b); and

WHEREAS, copies of said Budget were available to each and every person requesting the same during the week prior to this Hearing and t the time of this Hearing; and

WHEREAS, a Budget Summary was advertised in the Courier on April 1, 2004, said Budget Summary was published in accordance with N.J.S.A.40A:4-6.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport, that the 2004 Budget as advertised, posted and distributed, be read at the Public Hearing by Title.

Offered for adoption by Mr. Doyle, seconded by Mr. Wedick

Roll Call Vote: Ayes: Councilmembers Wedick, Bergen, Doyle, Hyer
Absent: Councilmembers Atkins, Stalter

Mr. Bergen, Finance Chairman explained the 30 cent increase. There is the municipal tax, school tax, county tax and BID tax. There was poor budget planning over the past few years. $32,850 = 1 cent. The Budget is driven by revenues. The surplus is not there-14 cents, water/sewer deficit-4.2 cents, Construction Code Services (Interlocal with Union Beach) was not implemented-1.5 cents, increase in the Administrator's salary-1 cent, police salaries-4.1 cents, insurance-2 cents, pensions-.8 cents and debt service-2 cents. Mr. Bergen said from 1995, the surplus rose and the budgets were maintained up to 2003 and taxes were stable. The surplus minus grants and state revenues equals what has to be raised. Appropriation reserves (cushion) is money not spent. A 2 cents cut in the long run could hurt. Things come up during the year, money is spent and a reasonable budget is needed. The budget is driven by revenues. The Borough has submitted a discretionary aid application to the State.

The Hearing was opened to the public for comments or questions at 8:20 pm. Edward Burlew, 59 W. Front Street asked about the Union Beach Interlocal. Mayor Merla said is was anticipated, put in the budget and then Union Beach backed out. Mr. Burlew said once there was a lot of money in the water surplus, what happened. Mayor Merla said there was a one time and it was used to offset taxation and the Bayshore Regional Sewer costs are up. Anthony DeMarzo said his taxes keep going up and one the Borough has a cushion, they should lower the taxes. Mayor Merla said the Council

chose to give the surplus back to the taxpayer and taxes were up in 2003 and 2004. The tax collection rate is off 1% which equals 7-8 cents. Mr. Fallon said between 1994-$650,000 to 2004-$1,860,000 there has been a 200% increase in Bayshore Regional fees. The surplus was utilized. Mike Lane, First Street said the Borough has to do better planning. The Independent article of 3/12/03 cited that the surplus was reduced to $50,000 and it was not like this wasn't coming. Mayor Merla said $35,000 was spent on the Benjamin Terry Park bulkhead. Mr. Fallon said the entire contract, $96,000 was encumbered but not expended. There is the Charter Fishing Boar Lease and the Catamaran Lease, etc. On the whole, poor management. The water/sewer is up 11%, the insurance is up 16% and pension is up 13%. Mr. Lane asked what the Borough was going to do to get under control and that there shouldn't be any increase in staffing. Mr. Lane asked, under the Capital Budget for 2004, are all the projects on the waterfront and where is the multi-year plan. In Block 94 there are supposed to be 57 homes built which would average an increase of $903.00. Mr. Bergen said the Borough cannot afford to do capital items. If the budget was cut to 15 cents this year, then the 2005 budget would also be cut 15 cents. Mr. Fallon said the water/sewer budget is up 8.15% The PFRS pension is going to be increase 20% in 2004 and 40% in 2005. Mayor Merla said there are contractural agreements which go up, there is health (the Borough opted out of the State Health Plan because there was an anticipated increase) and property casualty insurance. The biggest portion of the salaries and wages is the Police Department and the Mayor said he would not lay off officers, that he would not risk safety. The Public Works Department has less men then 20 years ago. Mr. Lane said a staffing report should be made part of the budget. Mayor Merla said a decision has to be made regarding the water plant. Mr. Bergen said certain costs go up. Mrs. Reardon, Chingarora Avenue asked that the water bill increase be explained. Mayor Merla said that out dated systems have to be addressed. Andrew Willner, 85 Osborn Street said years ago the BRSA wanted to increase capacity two times and Keyport opposed and he asked what recouse is there to recoup. Mayor Merla said for the past 19 years Keyport said it was a mistake to increase, but Keyport is not a voting member. The Borough needs to fight for the State Mandate/State Pay. There would be legal costs to fight the BRSA. Mr. Willner said it should be negotiated to pass on the BRSA state money to the Borough. Mayor Merla said the Borough is trying to reduce the flow to the BRSA. Mr. Bergen said the Borough has applied for discretionary aid. Earl Swift asked if there was any study as to financial advantage to the taxpayers for a ferry service. Mayor Merla said the service would use a barge, not the pier and that Green Acres approved temporary parking. Mr. Bergen said those costs have to be reviewed again. Mayor Merla said the Planner would have to be asked first, that the Master Plan addresses the waterfront activities, i.e. ferry service. Mr. Swift said he cannot see the revenues supporting. Jennifer Henning, Main Street said a cost analysis has not been done and Mayor Merla said that's what the Planner will do. Mr. Freda said the Borough is funding 10% of the bulkhead, that is will cost approximately $200,000 to relocate American Legion Drive, that the marina expansion will afford two more boar slips and permits should be received within 2 months. Mr. Bergen asked about engineering costs. Mr. Henning said there is no plan and Mayor Merla said yes there is a plan, to replace the pier won't cost anything. There was poor planning regarding the Municipal Building. Mr. Bergen said is was not bad planning. Mayor Merla said there should be one bond ordinance for everything on the waterfront. Mr. Bergen said the bulkhead construction could start in the fall, there is no plan and no money for behind the bulkhead and the Army Corp got involved. Mr. Freda said it is a better project now but there was no interaction between State departments and agencies. William Reardon, Chingarora Avenue said he doesn't believe American Legion Drive has to be there. Sandra Shevlin, Beers Street said the school tax increase 13.7 cents and that 30 cents is a bitter pill. She asked if this would be a one time increase and then would he stay. She asked if the State aid would reduce the 30 cents' yes. She asked about the revaluation in 2005 and Mr. Bergen said older homes taxes may go up. A resident asked how can the Borough increase revenues, that he and senior citizens cannot afford the taxes. Mayor Merla said ratables are needed and that a recommendation was given to Mr. Bergen to raise fees, i.e. permit fees, Landlord Registration fees. A resident said he does not want dense housing and Mayor Merla said committees are working with the Planner. A resident of Atlantic Street asked what were the increases in the 2004 budget that resulted in a tax increase this year. Mr. Fallon said there was $850,000 of surplus in 2003 and that he would have to look at the 2002 budget. Mayor Merla said county landfill costs, insurance (9-11) costs and contractural salary and wages all contributed. A resident said the Borough should try to consolidate the garbage contract and that the Borough should be getting something back for recycling. Mr. Bergen said to consolidate garbage contracts, other towns may be on different cycles. Mayor Merla said taxes are going up in other municipalities. Mr. Headdon, Main Street asked if something was squandered if the surplus is gone. Mayor Merla said there have been one time revenues and that the surplus goes back to stabilize the tax rate. Mr. Headdon asked if there was anything that was not needed. Mayor Merla said he made recommendations which could cut 5-6 cents. He said you cannot anticipate all water/sewer breaks, and they have to be fixed. Mr. Bergen said if something is not budgeted for, then the money should not be spent. Mayor Merla said you can pay over a period of years for items that are bonded. Joanne Staeger, Main Street asked Tom Fallon in 2003 what was the total amount bonded; over $250 million and gave an accounting; Therese Street Project, Municipal Building, Public Works Complex, Atlantic Street, Benjamin Terry Park Bulkhead and various others (2003 Road Program, computers for the Tax/W&S/Finance office, Public Works Truck, Fire Equipment). Mayor Merla was asked about computer maintenance; is is being consolidated; Mr. Fallon said there is one vendor-United Computer for a IT technician. Kevin Graham, Myrtle Avenue said this is a shocking increase, that in the past nine years the rate only went up a total of 10 cents and for one year it is 30 cents. The right people have to be in the key positions and in 2002 the majority changed. Mr. Bergen was not on the Finance Committee and this year he has been put back on. The management of the finances in the past was handled badly. He said they should listen to Mr. Bergen and follow his direction. Mayor Merla said all Councilmembers are involved. Years ago, some Councilmembers were not included (Mrs. Atkins, Mr. Merla and Mrs. Montanti). He said in 1994 there was $1 million in surplus and that both parties have taken credit over the years. He said everyone in his administration received information. Mayor Merla said in 2001 the CFO recommended raising the water/sewer rates. There was a question placed on the ballot on selling the water plant. Everything costs money and mistakes have been made. Employees should recommend increasing the fees. Mr. Wedick said when he took over as Police Commissioner that had not been any new police cars in three years. In 1994 an emergency appropriation was passed to pay the insurance. David Vickery, Maple Place said they should stop being political. Mayor Merla said he is optimistic, that there are new businesses opening. He said he and Mr. Bergen are going to the State together. Mr. Swift said the budget is tight and asked if the Business Improvement District is paying part of the cost to sweep the business district and Mayor Merla said the Borough opted to clean the business district. The Hearing was closed at 10:24 pm

3. Adoption of the 2004 Municipal Budget (held over to the May 4, 2004 meeting).

HEARING ON 2004 BUSINESS IMPROVEMENT DISTRICT BUDGET

RESOLUTIONS

4. Resolution #145-04, Authorizing the Borough Clerk to Read the Budget by Title

WHEREAS, the Borough Clerk heretofore posted a complete copy of the approved 2004 Budget in accordance with R.S.40A:4-8 (1a, 1b); and

WHEREAS, copies of said Budget were available to each and every person requesting the same during the week prior to this Hearing and at the time of this Hearing; and

WHEREAS, a Budget Summary was advertised in the Courier on April 1, 2004, said Budget Summary was published in accordance with N.J.S.A.40A:4-6.

NOW,M THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport, that the 2004 Budget as advertised, posted and distributed, be read at the Public Hearing by Title.

Offered by Mr. Wedick, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Wedick, Bergen, Doyle, Hyer
Absent: Councilmembers Atkins, Stalter

The Hearing was opened to the public for comments or questions at 10:24 pm. Earl Swift said the BID should be supported by people who want it, that it should be optional. He said his facilities and tenants derive nothing from the BID, that he doesn't want it, that some businesses may leave town resulting in loss of revenues. Mayor Merla said his tenants could have voted against the budget. A resident said that two years ago it was changed to encompass the whole town and he asked if any study was done about who the BID benefits. Mayor Merla said the BID holds open meetings. A list was requested but not received Mayor Merla said he goes to the meetings, and the minutes are on the web site. Mr. Swift was advised that his 22 tenants can run for the BID board. The main thing is marketing. The resident asked if the Council would look at the 25 cents and if it was excessive. Mr. Swartz said 10 years ago he invested in Keyport and there were empty store fronts, that the residents don't pay into the BID and his tenants are asking about a ferry. Mr. Swartz said he had a tenant in the old Newberrys with a 12 year lease and he went to court to get him out and it took two years. He said the BID helped him and the downtown and is an icon for the town. John DiSilvestri asked if the BID is a municipal tax and who collects it; the Borough of Keyport. He asked if he doesn't pay, would a lien be put on his property; yes. He asked if all the businesses pay the same rate; yes. He asked if the businesses can vote on who wants it and who doesn't. Mr. Bergen said he has a problem with the concept, if you don't want it then organize against it. Mr. DiSilvestri said he has his own internet, not because of the BID. Edward Burlew, 59 W. Front Street said three years ago the BID was not wanted and the Council voted it in. Last year $120,000 was spent on advertising and the downtown doesn't look any different then 10 years ago, that businesses come and go, that there are franchises in town and Red Bank is having a problem. Joanne Staeger, Main Street said that it was said that Borough doesn't collect 100% of the BID taxes then the residents have to pay to make up the difference. Mr. Bergen asked if there were any who haven't paid the BID tax and have any liens been sold. Kathaleen Shaw of the BID said suppose someone doesn't want to pay open space, county or school tax. Chris Fernacola said there are 18 new businesses in town. Mr. Swift asked if the BID goes on forever. Mayor Merla suggested going to meetings, running for office and make decisions on the budget. Mr. Burlew said the Mayor wants them to go to meeting and make it political. Mr. Swift asked if they got enough votes would the BID be abolished. Kathaleen Shaw, Keyport Business Alliance said she wants to look outside to the State of New Jersey. Smart Growth is the way to make the community grow, that it is challenging for the board members and positive things are happening. The Hearing was closed at 11:18 pm.

4. Resolution #146-04, Adoption of the 2004 Business Improvement District Budget

(Full copy of Resolution attached hereto and made part of these minutes)

Offered by Mr. Doyle, seconded by Mr. Wedick

Roll Call Vote: Ayes: Councilmembers Bergen, Doyle, Hyer
Nays: Councilman Wedick
Absent: Councilmembers Atkins, Stalter
(Mr. Wedick voted a symbolic No, Mr. Bergen said he is in a quandary, and Mr. Doyle said the tax will be passed onto the tenants)

THE ABOVE RESOLUTION DID NOT PASS ADOPTION DUE TO THE FACT IT DID NOT HAVE A 2/3RD AFFIRMATIVE VOTE

APPEARANCE/DISCUSSION

1. Mr. Christopher Knight/Green Grove Associates. Deleted.

APPROVAL OF MINUTES

Motion to approve the minutes of the Work Meeting of January 6, 2004 and Regular Meeting of March 16, 2003, moved by Mr. Hyer, seconded by Mr. Doyle, with Ayes by all present, except Mr. Wedick who abstained on the 2003 minutes.

PROCLAMATIONS

Mayor Merla read a Proclamation for Municipal Clerk's Week, May 2 through May 8, 2004.

HEARING ON ORDINANCE

1. Ordinance #5-04, Bond Ordinance Amending Bond Ordinance #8-03, Increasing the Appropriation to $650,000 (Therese Street)

The Borough Clerk reported that the Supplemental Debt Statement has been received from the Division of Local Government Services approved.

The Borough Clerk reported that the Ordinance was published as introduced, in the Courier, issue of April 8, 2004, that the Affidavit of Publication is on file in her office, that copies were posted on the Bulletin Board and made available to the public.

The Clerk read the Ordinance by Title:

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE NUMBER 8-03 (WHICH PROVIDES FOR THE RECONSTRUCTION AND RESURFACING OF THERESE STREET) HERETOFORE FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, ON APRIL 1, 2003, AS AMENDED AND SUPPLEMENTED, TO THEREIN INCREASE THE APPROPRIATION TO $650,000, TO THEREIN INCREASE THE AUTHORIZATION OF BONDS OR NOTES TO $428,500 AND T6O THREIN INCREASE THE DOWN PAYMENT TO $21,865

(FULL COPY OF ORDINANCE ATTACHED HERETO AND MADE PART OF THESE MINUTES)

The Hearing was opened to the public for comments or questions at 11:24 PM. There being none, the Hearing was closed at 11:24 PM

Offered for adoption by Mr. Hyer, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Doyle, Hyer

Nays: None
Abstain: Councilman Wedick
Absent: Councilmembers Atkins, Stalter

THE HEARING WAS HELD AND ORDINANCE NO. 5-04 WAS HELD OVER TO THE MAY 4, 2004 WORK MEETING FOR ADOPTION DUE TO THE FACT THERE WAS NOT A 2/3RD AYE VOTE

INTRODUCTION OF ORDINANCE

1. Ordinance #6-04, Bond Ordinance Amending Ordinance #21-96 (Improvements to Various Roads)

The Clerk read the Ordinance by Title:

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBER 21-96 (WHICH PROVIDES FOR IMPROVEMENTS TO VARIOUS ROADS) HERETOFORE FINALLY ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY ON NOVEMBER 19, 1996, TO AMEND THE DESCRIPTION SET FORTH THEREIN

(SEE FULL COPY OF ORDINANCE ATTACHED HERETO AND MADE PART OF THESE MINUTES)

Offered for adoption by Mr. Wedick, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Wedick, Bergen, Doyle, Hyer
Absent: Councilmembers Atkins, Stalter

1a. Motion authorizing the Clerk to publish the Ordinance, as introduced, in the Courier, issue of April 22, 2004 for a Hearing to be held May 4, 2004 moved by Mr. Wedick, seconded by Mr. Hyer, with Ayes by all present.

COMMITTEE REPORTS

Councilman Wedick; Police.
Councilman Bergen; Finance
Councilman Doyle; Building & Grounds/Library
Councilwoman Atkins; Health/Recreation/Parks
Councilman Stalter; Fire.
Councilman Hyer; Public Works/Recycling/Property Maintenance.
Engineer Freda.
Attorney Kain.
Administrator Palamara.
Mayor Merla.

Motion to waive the reading of all Committee Reports, moved by Mr. Bergen, seconded by Mr. Wedick, with Ayes by all present.

REPORTS OF DEPARTMENTS

January, 2004

1. Detective Bureau - Firearm/Fingerprint Report

Total Amount received $-0-

Submitted by Theodore Gajewski, Police Chief

2. Traffic Safety Report

Total Amount received $407.00

Submitted by Theodore Gajewski, Police Chief

March 2004

3. Property Maintenance Report

See full copy of report on file in Borough Clerk's Office

Submitted by William R. Cerase, Property Maintenance Officer

4. Tax Collector's Report

2004 TAXES	$ 173,457.41
2003 TAXES	75,634.83
2005 PREPAID TAXES	-0-
PRIOR YEARS TAXES	-0-
PROPERTY REDEEMED	-0-
INTEREST AND COSTS	10,011.30
TAX SEARCHES	-0-
POST OFFICE LAND RENT	412.50
SENIOR CITIZEN HOUSING IN LIEU OF TAXES	20,000.00
RETURNED CHECK CHARGES	40.00
ALL OTHER MISCELLANEOUS REVENUE	478,334.29
TOTAL CURRENT RECEIPTS	**$ 757,890.33**

WATER & SEWER RENTS	$ 72,950.48
INTEREST AND COSTS	1,560.11
TURN ON CHARGES	-0-
RETURNED CHECK CHARGES	24.00
POOL PERMITS	-0-
WATER METERS/WITH TURN ON	200.00
NEW METERS AND INSTALLATION CHARGE	-0-
WATER & SEWER CONNECTIONS	-0-
METER TEST CHARGE	-0-
FIRE SERVICE	-0-
METER REPLACEMENT, PARTS ETC	-0-
DEMOLITION PERMIT	-0-
ALL OTHER MISCELLANEOUS REVENUE	6,483.51
TOTAL WATER/SEWER RECEIPTS	**$ 81,218.10**

Submitted by Pauline Redmond, Tax Collector

5. Building Department Report

PERMITS	NUMBER OF PERMITS	AMOUNT RECEIVED
CONSTRUCTION STATE FEE	48	$1014.00
CERTIFICATE OF OCCUPANCY	03	938.00
PLUMBING PERMITS	21	1906.00
ELECTRICAL PERMITS	24	3012.00
BUILDING PERMITS	37	11096.00
FIRE SUB CODE	12	1180.00
CONST CERT OF OCCUPANCY	73	1875.00
ZONING PERMITS	21	210.00
200 FT PROPERTY LIST	05	50.00
TRANSFER OF TITLE	13	470.00
REINSPECTION FEES	00	-0-
CONSTRUCTION VIOLATIONS	00	-0-
COPIES	02	12.00
MISC.	10	235.00
CONST. DEBRIS DEPOSIT	13	650.00
CONST. VIOLATIONS	00	-0-
TOTAL		**$24578.00**

ACCOUNTS PAYABLE

AMOUNT PAID TO BOROUGH, CHECK #2450	$22914.00
STATE FEE DUE - CHECK $2451	1379.00

Submitted by Carole Cerase, Senior Permit Clerk

6. Borough Clerk's Office

WATER/SEWER ACCOUNT

WATER CONNECTION	$ -0-
WATER METER	100.00
TURN ON CHARGE	-0-
SEWER CONNECTION	-0-
SEWER/POOL PERMIT	-0-
WATER METER W/TO	-0-
DEMOLITION	-0-
TOTAL WATER/SEWER, CHECK #3595	**$ 100.00**

CURRENT ACCOUNT

BINGO LICENSE	$ -0-
GUN PERMITS & ID'S	-0-
LIMO LICENSE	-0-
PHOTOCOPIES	143.00
POSTAGE	-0-
RAFFLE LICENSE	10.00
TAXI LICENSE, DRIVER	-0-
TAXI LICENSE, OWNER	-0-
POLICE DEPT ACCIDENT REPORT	322.00
SEARCHES	-0-
VENDING LICENSE	-0-
PEDDLAR LICENSE	-0-
LIQUOR LICENSE	-0-
STREET OPENING	375.00
FISH & GAME	-0-
RECYCLING PERMITS	240.00
PARKING PERMITS	-0-
AUCTION LICENSES	-0-
FINGERPRINT & FIREARM FEES	22.00
TOTAL CURRENT, CHECK #3596	**$1112.00**

ESCROW ACCOUNT

CASH REPAIR DEPOSIT, CHECK #3597	$ 135.00
TOTAL RECEIPTS	**$1,347.00**

Submitted by Judith L. Poling, Borough Clerk

7. Municipal Court Report

STATE FINES	$ 330.00
STATE SURCHARGE	71.00
STATE UNINSURED	856.00
COUNTY FUNDS	1910.28
COUNTY FINES	6992.25
MUNICIPAL FINES	6992.25
MUNICIPAL COSTS	4783.00
MUNICIPAL PARKING	2283.00
MISCELLANEOUS	2503.72

Submitted by Kathie Coffey, Court Administrator

8. Board of Health Report

TOTAL COLLECTED IN THE BOARD OF HEALTH OFFICE $2288.80

DOG LICENSES	$ 272.00
CAT LICENSES	80.80
MARRIAGE LICENSES	140.00
BURIAL PERMITS	136.00

DEATH CERTIFICATES	1140.00
MARRIAGE CERTIFICATES	115.00
BIRTH CERTIFICATES	5.00
POOL PERMITS	-0-
PLAN REVIEW	-0-
FOOD HANDLERS	400.00
MISCELLANEOUS	-0-

DISBURSEMENTS

CHECK #2789 - BOROUGH OF KEYPORT MISC. ACCT	$1811.00
CHECK #2790 - BOROUGH OF KEYPORT TRUST ACCT	125.00
CHECK #2791 - BOROUGH OF KEYPORT DOG ACCT	304.80
CHECK #2792 - NJ STATE DEPT OF HEALTH	48.00

Submitted by Anne R. Biagianti, Treasurer

9. Fire Department Report for February, 2004

On file in Borough Clerk's Office for review.

Submitted by Roy Jimenez, Fire Chief

Motion to approve all reports as read, moved by Mr. Hyer, second by Mr. Bergen, with Ayes by all present.

COMMUNICATIONS & PETITIONS

1. True Jesus Church, Elizabeth, New Jersey request to use Borough Property for Church Baptisms (approved by the Special Events Committee).

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

2. Request from Elks Lodge to have the fee waived for the pull tab instant raffle.

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

3. Cash Raffle License Application from St. Joseph's Girls Softball (7/10/04).

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

PUBLIC PARTICIPATION

The Meeting was opened to the public for comments or questions at 11:31 P.M. George Walling, Second Street asked if Mr. Kain has received an answer regarding Brian Mullen; no. He asked about Robert Burlew using a Borough car. Mr. Palamara followed up on this matter and the use was appropriate to Mr. Burlew's job; he had an inspection on Sunday, stopped for a bagel and went to the job site. The Borough is working on a vehicle use process. Mr. Bergen asked that an analysis be done on anyone who uses the vehicles.

Mike Lane, First Street, asked if a decision was made on the Kara Homes land swap; Mr. Doyle said a Committee will review the matter. It was asked what the second function would be; Mayor Merla said this cannot be discussed and these types of questions are for the Planning Board. Mr. Lane asked if the Borough will be selling land to Kara Homes. There was a write up in their application. Mr. Lane asked Mr. Kain about a State House Committee Application for land opposite Lot 49, he asked if any other places will be involved. Mr. Kain said Lot 49 is correct and also riparian grant areas. Engineer Freda said there is room for both marina slips.

There being no one further from the audience who wished to be heard, the meeting was closed to the public at 11:45 PM.

RESOLUTIONS

5. Resolution #147-04, Hiring of Part Time Motor Vehicle Operator No. 1, Eleanor Mary Magee

WHEREAS, the Mayor and Council hereby establish the position of Part Time (as needed) to drive the Senior Citizen Bus; and

WHEREAS, our current driver Mr. Markey has potential schedule conflicts and another driver who can work on an "as needed" basis would benefit the Borough; and

WHEREAS, Eleanor Mary Magee has all the required state certification, has considerable experience and has passed a Police Department review of her driving record; and

WHEREAS, the Mayor and Council have established the salary range for this position by the adoption of Ordinance #31-03; and

WHEREAS, funds are available in the 2004 budget for the position.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that Eleanor Mary Magee is hereby hired as Part Time Motor Vehicle Operator 1, effective April 19, 2004 at an hourly rate of $10.00 on an as needed basis.

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

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

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

6. Resolution No. 148-04, Requesting Modifications to the Notification Procedures and Requirements of Megan's Law

WHEREAS, the Governing Body of the Borough of Keyport recognizes the benefits as a result of the adoption of "Megan's Law" by the New Jersey State Legislature; and

WHEREAS, said requirements have been modified by the Courts; and

WHEREAS, it is the belief of the Governing Body that additional modifications are necessary to protect the children of our community; and

WHEREAS, it is the Governing Body's belief that they should be notified if a classified sex offender has moved into the municipality; and

WHEREAS, this Governing Body has a strong belief that there should be restrictions against said individuals being allowed to live within certain distances from a school, park, playground or other recreational areas where children would be frequently present.

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

1. That the Mayor and Council of the Borough of Keyport hereby formally request the Legislature to enact legislation to modify the notification requirements of

"Megan's Law" to include those herein above set forth in this resolution.

2. That upon adoption of the within resolution, the Clerk is authorized and directed to forward certified copies to Governor James McGreevey, Senator Leonard T. Connors, Jr., Assemblymen Christopher J. Connors and Brian E. Rumpf and all other members of the New Jersey Legislature, the Monmouth County Board of Freeholders and all Monmouth County municipalities.

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

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

7. Resolution No. 149-04, Award of Contract to Precision Analytical Services, Inc. for Laboratory Services/Water Plant, 5/1/04-4/30/05 ($3,670)

WHEREAS, seven (7) quotes were solicited and whereby four (4) quotes have been obtained for Laboratory Services for the period of May 1, 2004 through April 30, 2005:

Precision Analytical Services, Inc. Toms River, New Jersey	$3,670.00
Garden State Laboratories, Inc. Hillside, New Jersey	$3,980.00
Aqua Pro-Tech Laboratories Fairfield, New Jersey	$4,456.00
J.B. Henderson Labs, Inc. Beachwood, New Jersey	$4,596.00

and

WHEREAS, Edward S. Rainer, Water System Licensed Operator has recommended the contract be awarded to Precision Analytical Services, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that Precision Analytical Services, Inc. 726 Bernice Court, Toms River, NJ 08753 is hereby awarded the Laboratory Services/Water Plant contract in the amount of $3,670.00 as per quote submitted for the period of May 1, 2004 through April 30, 2005.

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

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

8. Resolution No. 150-04, Authorize Agreement with Visiting Nurse Association of Central Jersey, Inc. for Public Health Nursing Services for the year 2004 - $7,000.00

WHEREAS, the Borough of Keyport has been notified by the Borough of Matawan that it will terminate health services provided in accordance with a Health Service Interlocal Agreement on June 30, 2004; and

WHEREAS, the Mayor and Council of the borough of Keyport have previously authorized an application be submitted to the Monmouth County Regional Health Commission No. 1 for full membership and to obtain the requisite health services for the residents of the Borough of Keyport; and

WHEREAS, the Mayor and Council have determined to independently retain the Visiting Nurse Association to provide nursing related services as required by the Borough of Keyport and the Keyport Board of Health; and

WHEREAS, the Mayor and Council of the Borough of Keyport have reviewed a proposed Contract with the Visiting Nurse Association to provide nursing related services in the amount of Seven Thousand Dollars ($7,000.00) which will provide the expected required services to the Borough of Keyport; and

WHEREAS, the Mayor and Council wish to authorize the Mayor to execute the within Contract with the VNA and have been advised by the Municipal Finance Officer as to the availability of funds for the within contract.

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

1. The Mayor and Borough Council hereby authorize the Mayor to execute a contract with the Visiting Nurse Association in the amount of Seven Thousand Dollars ($7,000.00) to provide nursing related services to the Borough of Keyport and the Keyport Board of Health.

2. Copies of the within Resolution shall be forwarded to the Visiting Nurse Association, Keyport Board of Health and Municipal Finance Officer and a copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

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

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

9. Resolution No. 151-04, Temporary Emergency Appropriation

WHEREAS, an emergency condition has arisen with respect to the operation of the Borough and no adequate provision has been made in the 2004 temporary appropriations for the aforesaid purpose, and NJSA 40A:4-20 provides for the creation of an emergency temporary appropriation for the purpose above mentioned; and

WHEREAS, the total emergency temporary resolutions adopted in the year 2004 pursuant to the provisions of Chapter 96, P.L. 1951 (NJSA 40A:4-20) including this Resolution total $1,399,100 for the General Budget and $840,000 for the Water/Sewer Utility Budget.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Keyport, County of Monmouth that in accordance with the provisions of NJSA 40A:4-20:

1. An emergency temporary appropriation be and the same is hereby made for Borough Operations as per the attached schedule in the amounts of $1,399,100 and $840,000 for the General and Water/Sewer Utility Budgets, respectively.

2. That said emergency temporary appropriations will be provided for in the 2004 municipal budget.

3. That one certified copy of this resolution be filed with the Director of Local Government Services.

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

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

10. Resolution No. 152-04, Payment of Bills

See full copy of Resolution as pages - of these minutes.

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

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

11. Resolution No. 153-04, Release Performance Guarantees, Block 67, Lots 11 and 11.01

WHEREAS, Barbara Currie has requested the release of the performance guarantees posted on November 13, 1999 for the minor subdivision, Block 67, Lots 11 and 11.01; and

WHEREAS, Thomas P. Fallon, Chief Financial Officer has recommended that the guarantees be released.

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

1. That the 90% Performance Guarantee in the amount of $901.80 and the 10% Cash Guarantee in the amount of $100.20 and any unexpended balances are hereby released.

2. The posting of a two year Maintenance Bond is not required.

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

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

12. Resolution No. 154-04, Support S-264/A315, The Clean Indoor Air Act

WHEREAS, one out of every five American deaths is smoking related; and

WHEREAS, smoking is the number one preventable cause of death responsible for 440,000 deaths nationally, including 13,000 in New Jersey; and

WHEREAS, smoking kills more people than cocaine, heroine, alcohol, fire, automobile accidents, homicides, suicides and AIDS combined; and

WHEREAS, each pack of cigarettes sold in the United States costs the nation an estimated $7.18 in medical care costs and lost productivity; and

WHEREAS, estimates show that smoking causes over $150 billion in annual health related economic losses; and

WHEREAS, Environmental Tobacco Smoke (ETS) known as "second hand smoke" is the third leading preventable cause of death responsible for 53,000 deaths per year of nonsmokers including 1,600 in New Jersey. This includes 37,000 to 40,000 deaths from heart disease and 3,825 lung disease deaths; and

WHEREAS, ETS is responsible for 150,000 to 300,000 lower respiratory infections, 400,000 to 1,000,000 attacks of asthmas and 8,000 to 26,000 new cases of asthma; and

WHEREAS, infants exposed to ETS are two times more likely to die from SIDS (Sudden Infant Death Syndrome) than infants never exposed; and

WHEREAS, ETS contains more than 4,000 chemicals, including 401 poisons and 43 carcinogens such as nicotine; and

WHEREAS, the Environmental Protection Agency (EPA) designates ETS as a Group "A" carcinogen, a rating used only for dangerous substances, such as asbestos, known to cause cancer in humans.

BE IT HEREBY RESOLVED that the Mayor and Council of the Borough of Keyport petition members of the New Jersey Legislature to support Senate Bill S-264 (Adler/Kean, Jr.) and Assembly Bill A-315 *Weinberg/Gusiora), which may be cited as the "Clean Indoor Air Act" and which would prohibit smoking in common areas of indoor places and workplaces throughout the State.

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

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

13. Resolution No. 155-04, Deny PBA Local 223 Grievance

WHEREAS, the Mayor and Council of the Borough of Keyport did hear and consider the grievance of Keyport PBA Local 223 as it relates to claims filed for call-in pay pursuant to Article XXIII of the Collective Bargaining Agreement between the Borough of Keyport and Keyport PBA Local 223; and

WHEREAS, the Mayor and Council have reviewed the applicable circumstances concerning the meeting which occurred on January 27, 2004 relative to the operation of the municipal building and the attendance of members of Local 223 at such meeting; and

WHEREAS, the Mayor and Council of the Borough of Keyport have further considered that the within meeting held with various Borough employees concerning policies for the operation of the new municipal complex did not constitute a situation under Article XXIII requiring the payment by the Borough of call in pay to those members of Local 223 who attended the within meeting; and

WHEREAS, the Mayor and Council have further determined that the within grievance should be denied based upon the facts and circumstances present.

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

1. The Mayor and Borough Council hereby deny the grievance filed by Keyport PBA Local 223 as it relates to the payment of call in pay pursuant to Article XXIII of the Collective Bargaining Agreement between the Borough of Keyport and Local 223.

2. The Mayor and Council conclude that the provisions of the Collective Bargaining Agreement pertaining to the meeting of January 27, 2004 did not constitute a situation requiring the payment of call in pay as provided under the Collective Bargaining Agreement.

3. Copies of the within Resolution shall be forwarded to

Kenneth Marr, Delegate, PBA Local 223 and a copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

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

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

14. Resolution No. 156-04, Authorize Participation in Safe and Secure Communities Program Grant

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

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

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

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

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

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

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

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

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

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

15. Resolution No. 157-04, Extend Susan Yundzel's employment

WHEREAS, Susan Yundzel was hired as a temporary part time Account Clerk; and

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

WHEREAS, funds are available for said position.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that the employment of Susan Yundzel, temporary part time Account Clerk is hereby extended to May 19, 2004.

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

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

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

16. Resolution No. 158-04, Retain Realty Appraisal to Appraise Borough Property/Block 22, Lot 29

WHEREAS, the Borough of Keyport is the owner of a small parcel of undeveloped land located on Beers Street and identified as Block 22, Lot 29 on the Tax Map of the Borough of Keyport; and

WHEREAS, the Borough of Keyport has entered into preliminary discussions with a developer relative to the sale or exchange of the within Borough owned property in connection with the proposed development of an adjoining parcel of land; and

WHEREAS, the Mayor and Council of the Borough of Keyport have determined that it would be in the best interests of the Borough to obtain an appraisal of the property to determine the fair market value of the property; and

WHEREAS, Realty Appraisal Services, Inc., West New York, New Jersey has previously performed appraisals in connection with various tax and condemnation matters for the Borough of Keyport; and

WHEREAS, the Mayor and Council are resolved to authorize Realty Appraisal Services, Inc. to perform an appraisal of the within property for the purposes stated above.

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

1. The Mayor and Council hereby direct Realty Appraisal Services, Inc. to immediately undertake an appraisal to determine the current fair market value of the property identified as Block 22, Lot 29 on the Tax Map of the Borough of Keyport, which property is presently owned by the Borough of Keyport.

2. Copies of the within Resolution shall be forwarded to Realty Appraisal Services, Inc., West New York, New Jersey, the Municipal Finance Officer and the Borough Attorney and a copy of the within Resolution shall be retained in the Office of the borough Clerk for public inspection.

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

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

17. Resolution No. 159-04, Appoint Committee to Negotiate Agreement with Shorelands Water Company

WHEREAS, the Mayor and Council did receive a report from the Licensed Water Plant Operator that the Keyport Water Plant would require significant capital improvements and upgrade to security before the Water Plant could properly operate and produce water for the Borough of Keyport; and

WHEREAS, the Mayor and Council have considered a recommendation for the purchase of water through Shorelands Water Company at a fixed rate with credit for the temporary transfer of diversion rights from the Borough to Shorelands; and

WHEREAS, THE Mayor and Council of the borough of Keyport have determined to appoint a committee to negotiate an Agreement with Shorelands Water Company to provide water to the Borough of Keyport on an emergency basis for a short term period together with options to protect the long term interests of the Borough of Keyport; and

WHEREAS, the Committee and appropriate Borough Professionals shall discuss an agreement subject to the review and final approval of the Governing Body of the Borough of Keyport.

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

1. The Mayor hereby appoints to a special ad hoc Committee, Councilman Bergen and Councilman Hyer to review with Shorelands Water Company as to the feasibility of purchase and delivery of finished water to the Borough of Keyport on an emergent short term basis while the Borough of Keyport explores options relative to the capital improvements required at the Keyport Water Plant and to explore a potential long term solution for the Borough.

2. The special ad hoc committee shall work with the Attorney and Administrator to review available emergent options for the Borough of Keyport in light of the recommendations of the Water Plant Operator.

3. The special Ad Hoc Committee will make specific recommendations to the Mayor and Council for appropriate review and determination by the Governing Body.

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

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

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

18. Resolution No. 160-04, Closed Session - Possible Litigation

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

Litigation

1. Possible Litigation-Transfer of Liquor License 1322-33-003-007 to Garibaldi Restaurant

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 t he 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 following subjects:

Litigation

BE IT FURTHER RESOLVED that the discussions on Litigation at said Closed Session shall be disclosed when the matters discussed are resolved and this meeting shall continue in approximately 5 minutes.

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

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

Council went into Closed Session at 11:54 PM and this meeting was reconvened at 12:05 AM on April 20, 2004. On Roll Call the following were present: Councilmembers Bergen, Wedick, Doyle and Hyer. Absent: Councilmembers Atkins and Stalter.

RESOLUTIONS

19. Resolution No. 161-04, Denying Application for Transfer of Liquor License to Garibaldi 2 Restaurant

WHEREAS, the Mayor and Council of the Borough of Keyport did receive an application for the transfer of State Assigned Liquor License 1322-33-003-007 to Garibaldi 2 Restaurant; and

WHEREAS, the proposed application included both a person to person and place to place transfer of the within license which sought to transfer the license to Garibaldi 2 Restaurant and to permit the license to be located at 34 East Front Street, Keyport, New Jersey; and

WHEREAS, the Mayor and Council of the Borough of Keyport were advised of several concerns relative to the proposed transfer of the within license and determined to hold a public hearing to hear and considered the comments of the applicant and public with respect to the within application transfer; and

WHEREAS, the Mayor and Council did hold an initial public hearing on February 17, 2004 in which the public and the applicant appeared before the Mayor and Council relative to the within application; and

WHEREAS, the Mayor and Council had the opportunity to hear from the applicant under oath and to consider the basis of the within applicant and his proposed plans for the use of the State Assigned Liquor License; and

WHEREAS, the Mayor and Council did further consider the opinion of the Keyport Police Department with respect to the favorable review of the within license application transfer; and

WHEREAS, the Mayor and Council did have the opportunity to review the transcript of the public hearing and the testimony offered by the applicant before the Mayor and Council; and

WHEREAS, the within matter was continued to April 6, 2004 at which time the applicant and counsel appeared before the Mayor and Council and concluded their presentation in support of the within application; and

WHEREAS, the Council did review the testimony of the applicant in support of the within application and reached certain findings of facts and conclusions in arriving at the determination with respect to the license transfer application; and

WHEREAS, the Council did reach certain findings of facts and conclusions of law with respect to the within application:

1. The applicant, Garibaldi 2 Restaurant, was represented by Mr. Martinez who appears to be both the Manager and Owner of the within business entity.

2. Mr. Martinez was the only witness who appeared on behalf of the applicant in the matter before the Borough Council.

3. The applicant indicated that it is a tenant at the premises located at 34 East Front Street, Keyport, New Jersey.

4. The Applicant presently operates a restaurant at the within location which seats approximately 65 patrons.

5. The Applicant became incorporated by the filing of a Certificate of Incorporation on or about May 9, 2003.

6. The Applicant has been somewhat personally connected with the restaurant operation since approximately 2001.

7. The Applicant was aware of the incident involving the unauthorized sale of alcohol at the within restaurant when he was involved in the business as the manager. No action was taken to correct this situation.

8. In August 2003, an incident occurred outside the restaurant establishment involving the stabbing of an individual. Applicant was aware of the incident and took no measures to correct same.

9. Applicant was aware of complaints of the presence of beer bottles and cans arising from a BYOB policy at the restaurant and took no measures to address these complaints.

WHEREAS, based primarily upon the inconsistent testimony of the applicant and the findings of fact set forth above, the Borough Council reaches the following conclusions:

1. The applicant is a duly authorized corporation within the State of New Jersey commencing May 9, 2003.

2. The Applicant is owned solely by Mr. Martinez who is both the sole shareholder and manager of the business.

3. Mr. Martinez has been connected with the family owned restaurant since 2001 either as a manager or owner of the restaurant.

4. Since 2002, there have been certain incidents in which Mr. Martinez initially denied knowledge and later admitted knowledge which occurred while he was the owner or manager of the within restaurant. Specifically, these incidents include the unlawful sale of alcohol at the restaurant establishment and the stabbing which occurred outside the restaurant. The Council finds his testimony concerning these incidents to be vague, inconsistent, contradictory and not credible. The Council finds that the Applicant took no steps to correct these conditions to insure that they would not be repeated.

5. The Council finds that there have been numerous complaints with respect to litter and debris outside the restaurant associated with the BYOB policy utilized by the restaurant. The Applicant has since acquiring ownership, failed to address this concern.

6. The Council has considered the finding of the Police Department, but concludes that the granting of the license to this establishment would pose additional health and safety risks to the surrounding community.

7. The Council further concludes that the testimony of the applicant relating to the ownership, acquisition and operation of the restaurant business is vague, inconsistent, contradictory and overall not credible.

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

1. Based upon the foregoing findings of facts and conclusions of law, the Borough Council hereby DENIES the application to transfer State Assigned Liquor License 1322-33-003-007 to the Applicant.

2. The Borough Council reaches this conclusion, based upon the testimony of the applicant, Mr. Martinez, which the Borough Council finds vague, inconsistent, contradictory and not credible. Based upon the aforesaid testimony, the Borough Council has concluded that the applicant should be denied the license and the concerns of the Council for the health and safety of the surrounding community.

3. The Council also specifically finds that the Applicant has not satisfactorily addressed issues relative to parking, ingress and egress, lighting, security and exterior maintenance which the Council finds significant in light of the proposed location to a residential area, which factors further warrant the within denial.

4. The Council did further consider the comments of the Public and the Police Department elicited during the public portion of the within application. The Council did consider the comments of the Public and Police Department to the license transfer, but has denied the application based predominantly upon the testimony of the applicant.

5. Copies of the within Resolution shall be forwarded to the State of New Jersey, Division of Alcoholic Beverage Control, Antonio Cruz, Esq., attorney for the applicant and to the Borough Attorney and a copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

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

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

20. Resolution No. 162-04, Increase Maximum Authorized Weekly Hours Part Time PSTO/Fortunato Campesi

WHEREAS, Resolution 84-04 authorized the hiring of Fortunato Campesi as a Part Time Public Safety Telecommunications Operator for a maximum of 28 hours per week; and

WHEREAS, due to the temporary medical absence of Public Safety Telecommunications Operator Eleanor Sappah, additional temporary coverage is needed and Fortunato Campesi is available and capable of performing this work on a temporary basis; and

WHEREAS, the Police Chief has recommended Mr. Campesi be permitted to work up to 40 hours per week at the same conditions of his existing employment.

NOW, THEREFORE, BE IT RESOLVED that the employment of Fortunato Campesi is continued with the maximum number of hours increased to not exceed 40 hours per week on a temporary basis during the absence of Eleanor Sappah and that all of the other conditions provided in Resolution 84-04 shall continue.

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

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

ADJOURNMENT

Motion to Adjourn moved by Mr. Doyle, seconded by Mr. Wedick, with Ayes by all present.

Time of Adjournment: 12:09 A.M, April 20, 2004.

Respectfully submitted,

Judith L. Poling

Judith L. Poling, RMC/CMC
Borough Clerk

Allyson M. Cinquegrana

per Allyson M. Cinquegrana, RMC
Deputy Borough Clerk