

Approved 8/21/07

April 4, 2006
Keyport, New Jersey

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

The meeting was called to order at 6:04 P.M. by Council President Robert Bergen, who asked the Borough Clerk to read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Hassmiller, Walling, Wedick, Bergen, Sheridan, Ortman. Absent: Mayor Merla. Others Present: John Wisniewski, Borough Attorney, and Thomas Antonucci, Borough Administrator.

HEARING ON LIQUOR LICENSE

1. Uptown Bar and Grill - Expansion of Premise Application

Charles Merla came forward with Louis Granata, Esq. for the Expansion of Premises and Extensive Improvements extending to a deck. Charles Merla was sworn in by Councilman Bergen. The Liquor License was acquired in December 2005. Mr. Merla said his mother passed away in April 2005 and he took over. The deck was built because of the smoke free environment laws; the Uptown Bar wanted patrons who smoke to have a place to smoke. The Deck is behind the building facing the parking lot and waterfront. Mr. Merla presented a picture of the covered deck (Exhibit A-2), retaining wall, patio, and horseshoe pits. The Application was marked as Exhibit A-1. Mr. Bergen asked how big the expansion would be; there are side lots and a patio. Charles Merla approached the dais to show the area they are looking to expand to. There would be amusements such as Video Games and a pool table and possibly live entertainment inside for events. Mr. Wedick asked what the capacity of the 30 x 30 deck is; there are 40 seats not including standees. It was asked how big the speakers are; there are no speakers. It was asked if they were going to put in speakers; yes.

Mr. Ortman asked about internal security. There are one or two bouncers at the door to check IDs and they will add more due to the expansion. It was asked what the capacity of the building is; less than 99 patrons. Mr. Walling said there was a building permit for a 25 x 30 deck taken out, but it has been stated the deck is 30 x 30. Mr. Walling asked if a final inspection was done; there was no final inspection. Mr. Walling also asked if there were stairs going down the deck; yes. Mr. Granata said the work was done before Charles Merla took over. The Zoning Application was marked as Exhibit A-3 and the Building Permit was marked as Exhibit A-4. Mr. Merla said his mother and brother, Joe, took the building permit out. Mr. Bergen asked if Mr. Merla was looking to go beyond what is there now: no. There is an Ordinance prohibiting live entertainment. Mr. Merla was asked if he is opposed to a noise limit until a certain time. Mr. Merla said yes, if it is just for his establishment, it should be everyone. Mr. Sheridan said it is a beautiful renovation, but his concerns are the number of people and crowd control. Mr. Merla said he owns the Bulkhead and the crowd is controlled there; the establishment would be closed if it were filled to capacity. Mr. Sheridan asked if additional bouncers would be called; Mr. Merla said yes. There have been some incidents outside the bar after it has closed. Mr. Bergen said it is the Uptown's responsibility.

Mr. Granata asked permission to submit support letters from Ken

Schwartz (marked as Exhibits A-7 & A-8), Ana Caban (Exhibit A-5), Pastor Vazquez (Exhibit A-9), and United Community Mortgage Company (Exhibit A-6). The Borough received letters of opposition from Mike Lane (Exhibit O-1), Liliana Hughes (Exhibit O-2), Robert Ludwig (Exhibit O-4) and Angel Matos (Exhibit O-3). Council reviewed the letters of support that were just received (A-5 to A-9). Mr. Granata said he will question the opposers when they testify. Mr. Walling asked if there were any partnership with Mr. Schwartz; yes. Mr. Walling asked if they were buying or expanding property; Mr. Granata said he is not aware any. Mr. Wedick asked if the Church and Mortgage Company are open at night during the bar's operating hours; they were not sure. Mr. Ortman asked if there were any violations since Mr. Merla owned the premise; no. Mr. Ortman asked how often Mr. Merla is on the site. Mr. Merla said he will be retiring from his current job and will be on site, but right now he is there twice a week. Mr. Wedick asked who is on site when Mr. Merla is not there; the staff is (three bouncers, a manager, and a bartender). Usually there are half a dozen to eight employees. His brother, Joe, handles the utilities and no one else from the family is involved.

Mr. Bergen asked the Police if they had anything to say. Lieutenant Mitchell asked Mr. Merla if 49% was owned by his mother and when. Mr. Granata asked why there was a cross examination; there are two LLCs and a corporate name, not in an individual's name. Lieutenant Mitchell said there is no record of Mrs. Merla owning the business. There was a discussion on the shareholders. There was no person to person transfer application or corporate structure change done purchasing of all shares. Lieutenant Mitchell presented both LLC Applications to Mayor and Council. Mr. Bergen asked if there was a question or what should Council consider. Lieutenant Mitchell said there are pending investigations on the matter; the LLC ownership does not change the responsibility. Mr. Granata said further information will be provided. In 2003/2004 Leroy Robinson had 100% ownership which will be marked as Exhibit K-1.

PUBLIC COMMENT PORTION

The Hearing was opened to the public for comments or questions at 6:50 P.M. Mike Lane, First Street, said he wrote a letter of objection. He said in 2005 he gave a handout to the Mayor and Council asking who owns the property and if there was a zoning permit obtained for the deck. The permit shows the wrong block and lot and that Josephine Merla was the owner. Council must consider the property; there are conflicts in the lot and the ownership. He obtained tax information from Keyport and the County. Mr. Granata said deeds will be provided; He showed Council the Appraisal with the lots. Mr. Merla said he will provide proof of the deed and ownership. Mr. Lane said there was no proof of ownership of lot 63. Mr. Lane asked Mr. Merla if the ownership of the Building is in the LLC; yes. The shape of the property is a "T". Mr. Lane went over the history of transfers and spelling of Grille. The Mayor and Council should solicit under what conditions the license is held. Mr. Granata asked Mr. Merla who owns the property; Mr. Merla said he has 100% of both LLC's. Mr. Lane said it shows he owns two liquor licenses; the Bulkhead Bar & Grill (executor) - 100% and Keyport LLC (inactive and owned by the estate) 50% and Jolie Schwartz owns the other 50%. It was asked if there was ownership in McDonagh's; no. The various licenses were marked into evidence. Mr. Lane asked who owns the building, where are they expanding and said the nearest church is adjacent to the bar. There is video of this location taken during the present management and there has been no change in the management. There is a list of instances that have taken place.

Lieutenant Mitchell said one of the investigations of an incident should be concluded by the end of April.

Angel Matos, said there is video taken by a business owner and the order it was taken was reversed. Some of the incidents needed mutual aid. Video was taken by Mrs. Hughes on St. Patrick's Day. Mrs. Hughes owns property to the right of the bar and wrote a letter of opposition (O-2). She lives in an apartment and rents out to others in her building. She said there is no parking and frequent urination by bar patrons. Mr. Matos stated the video is 18 minutes long. It was shown to Mayor and Council and the public; there were a total of 8 incidents. Two of them were on the outside and others were 3/19, 3/11, 2/12, 9/25, 9/4, and 12/5. Mr. Bergen asked Mrs. Hughes if the problems are at closing time; yes.

Donald Blanks, 23 Main Street, stated he works security at the Uptown Bar and all incidents shown happened after hours. There are no problems during hours and it is a professional establishment. There is adequate security and there is a license scanner. You cannot enter without going through the bar code scanner.

Robert Ludwig, 50 Beers Street, submitted an opposing letter (O-8) and distributed a handout on legal and illegal noise. There is no noise ordinance. Mr. Bergen stated there is a Noise Ordinance. Mr. Ludwig said amusements could be a problem.

Mr. Lane said an accident occurred and there was a Police report filed. Mr. Granata objected to Mr. Lane's comment; on the Grounds of hearsay. Mr. Lane asked Council to be sensitive to closing issues. Management will not change with the expansion. Joseph Merla is heavily involved and he works hard (Charles Merla said so). The Mayor also works there and receives a salary and compensation. Mr. Bergen asked the Police if they can address any of the disturbances shown in the video. Chief Gajewski said arrests and citations were made, but not to the establishment. There have been twenty-eight verbal and physical altercations, nine public intoxications, thirty-six miscellaneous complaints and twenty-four arrests in the span of one year. There is no number on mutual aid calls and there is one investigation taking place. Mr. Wedick asked with regard to the bouncers, is there any background check or training done? Mr. Sheridan asked how this rates on police perspective; it is one of the busiest establishments in town. Mr. Matos said he has four hours of video.

Mr. Blanks said customers come from other establishments and park in the same area (there is another bar a few doors down). The Uptown patrons are let out at 1:30 A.M. not at 2:00 A.M. to avoid crowding. The Proprietor is trying to give a Saratoga Springs atmosphere. The age requirement is 30 years old for the males and 25 years old for the females; they want a mature crowd. Mr. Blanks said he has worked for the Uptown since September 2005 and has also owned a bar in Perth Amboy. Mr. Merla said early closing seems to be more orderly. Jennifer Henning, 102 Main Street, said ages are specified and that concerns her especially since the requirements for females is 5 years younger.

Eugenio Gonzalez, 52 Church Street, has been employed for one year. There was one fight outside, not inside and heard about other fights. There is no video of the instances stated.

Joe Vecchio, 315 Broad Street, said the Merla's are lifelong residents and want the best for the town. There is an establishment with a deck two doors down. The Objectors are people who object to everything happening in the town.

Mr. Granata submitted. Mr. Matos said the Council will get

copies of the video. Mr. Granata will be given copies of the exhibits given. Mr. Bergen said the record will remain open for additional information on the ownership.

There being no more comments or questions, the meeting was closed to the public at 8:10 P.M.

ADJOURNMENT

Motion to Adjourn moved by Mr. Walling, second by Mr. Sheridan with Ayes by all present.

Time of Adjournment: 8:10 P.M.

Respectfully submitted,

Allyson M. Cinquegrana, RMC
Borough Clerk