

approved 5/30/2008

April 24, 2007
Keyport, New Jersey

Minutes of the Regular Meeting of the Mayor and Council, Borough of Keyport, held on the above date in the Borough Hall Council chambers, 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, Two River Times and Newark Star Ledger and posted on the Bulletin Board in accordance with the Open Public Meeting Act, P.L. 1975, Ch. 231.

Mayor Bergen called the meeting to order at 7:03 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Sheridan, Ortman, Bolte, Hill, Walling, Hassmiller (arrived 7:04PM) and Mayor Bergen. Others present: Mr. Wisniewski, Borough Attorney and Borough Administrator Valesi.

RESOLUTION

1. Resolution #139-07, 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:

Personnel

1. Police Department Interviews
2. Disciplinary Action - Building Department Employee

Litigation

1. K. Hovnanian - May 6th Special Meeting
2. Municipal Building

Contract Negotiations

1. Lease for DPW

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, Contract Negotiations

BE IT FURTHER RESOLVED that the discussions on Personnel, 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. Sheridan, seconded by Mr. Ortman

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

Nays:
Abstain:
Absent:

The meeting was reconvened and called to order at 8:01 PM by Mayor Bergen. The Municipal Clerk read the Sunshine Law Notice which was followed by the Pledge of Allegiance and a Moment of Silence.

On Roll call the following were present: Councilmembers Sheridan, Hassmiller, Hill, Ortmann, Walling, Bolte and Mayor Bergen. Others Present: Administrator Peter Valest, Borough Attorney Wisniewski and Borough Engineer Donald Norbut.

HEARING ON ORDINANCE

1. Ordinance #13-07, SMOKING IN MOTOR VEHICLES PROHIBITED

The clerk read the ordinance by title: AN ORDINANCE CREATING CHAPTER 4-10 MOTOR VEHICLES; SECTION 4-10.1 SMOKING IN MOTOR VEHICLES PROHIBITED, OF THE ORDINANCES OF THE BOROUGH OF KEYPORT

WHEREAS, the Mayor and Council of the Borough of Keyport finds that second hand smoke is detrimental to the safety, health and general welfare of the public;

WHEREAS, children that are exposed to secondhand smoke have an increased risk of asthma, respiratory infections, and sudden infant death syndrome (California Environmental Protection Agency (Cal EPA), Health effects of exposure to environmental tobacco smoke, Tobacco Control 6(4): 346-353, Winter, 1997);

WHEREAS, in 2006, the United States Surgeon General's Report concluded that the evidence is sufficient to infer that there is a causal relationship between exposure to secondhand smoke after birth and a lower level of lung function during childhood (U.S. Department of Health and Human Services. The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2006, Chapter 6, p. 400); and

WHEREAS, pursuant to N.J.S.A. 40:48-1 the power to adopt public ordinances for public health, safety and welfare of the borough is coterminous with the power of the legislature.

BE IT ENACTED by the Mayor and Council of the Borough of Keyport that Chapter 4-10, of the Revised Ordinances of the Borough of Keyport is created as follows:

4-10 MOTOR VEHICLES

4-10.1 Smoking in Motor Vehicle - Prohibition. No person shall smoke, while occupying a motor vehicle, if a person under the age of eighteen (18) is also occupying the vehicle.

"Motor vehicle" under this section means any self propelled vehicle licensed for on-road usage, other than a motorcycle, moped, motor scooter or motorized bicycle, regardless of whether the motor vehicle is publicly or privately owned, leased or rented; whether the motor vehicle is operated for public, private or commercial purposes; or whether the windows or doors of the vehicle are in an opened or closed position.

"Smoke" under this section shall mean the burning, inhaling, exhaling, or being in possession of a lighted cigarette, cigar, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked.

Enforcement of this act by State or local law enforcement officers shall be accomplished only as a secondary action when the operator of a motor vehicle has been detained for a violation of Title 39 of the Revised Statutes or another offense.

A person who violates this section shall be fined \$75.00.

No motor vehicle points or automobile insurance eligibility points pursuant to section 26 of P.L.1990, c. 8 (C.17:33B-14) shall be assessed for this offense.

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

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

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

The Public Hearing was opened at 8:02 P.M. for comments or questions.

Jon Barone, Board of Health, spoke on the ordinance. He feels that it is not much different from the New Jersey Smoke Free Air Act. Currently Ordinances exist in Maine, San Diego, Arkansas, Louisiana and Puerto Rico

- restriction only applies when children are in a car with smoking in a confined space
- a preventative measure for healthy children
- Ordinance complements laws already in place banning sale of tobacco to children
- If one child is saved, then we've made a difference.

At the Mayor's request - John Wisniewski explained what a secondary offense is since violation of this ordinance is a secondary offense; the fine would be \$75.00.

Isaiah Cooper, 135 Atlantic Street, asked what has been the history of litigation in places that currently have such an ordinance?

Mr. Wisniewski explained, the ordinance is presumed valid and can only be challenged in Superior Court by an appeal. Mr. Wisniewski did not know of any appeals within the state right now. This could only be challenged by someone who has been charged.

Daniel Rice, 35 Maple Place - thinks it is a good idea but doesn't think every good idea needs to be made a law. What gives this council or the state the right to tell parents how to act around their children? What's next? Too much TV watching, poor diet?

A Reporter asked since this is not a state law, if someone from out of town gets stopped, does it apply only to residents? No

Motion was made by Sheridan, second by Walling to close the public hearing at 8:14 P.M.

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

Roll Call Vote: Ayes: Councilmembers Sheridan, Ortman, Bolte, Hill, Hassmiller

Nays: Walling

Abstain:

Absent:

Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, April 26, 2007 issue moved by Mr. Sheridan, seconded by Mr. Ortman, with Ayes by all present.

COMMUNICATIONS & PETITIONS

1. Letter from Joseph Merla regarding property at 84 Broad Street requesting he be put on a payment plan for water/sewer connections.

Mayor Bergen explains, \$5,000 down, 1/4 pay by December 1, 2007 the other half by December 2008.

Motion to refer to Administrator Valesi to negotiate, moved by Mayor Bergen, second by Mr. Sheridan, with Ayes by all present.

2. Application for a Special Permit for Social Affair submitted by St. Joseph Church - Annual Parish Fair, May 30th to June 3rd

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

3. KBA 2007 Proposed Calendar or Events

Ms. Bolte asked whether we could approve and then amend. Concerned about the July concert series. It clashes with Fireman's Fair.

Motion made to Receive and List for the May 1st meeting, with Ayes by all present.

REPORTS OF DEPARTMENTS

1. Monthly Report of the Building Department for March 2007
2. Board of Health Minutes for March 13, 2007 and Treasurers Report for the Month of March 2007
3. Report of Receipts for Tax/Water/Sewer for February 2007, March 2007
4. Keyport Harbor Commission Minutes of the March 19, 2007 Special Meeting
5. Recreation Committee Minutes of March 1, 2007
6. Property Maintenance Report - March 2007
7. Monthly Cashbook Report of the Municipal Court for March 2007

All reports are on file in Borough Clerk's Office for review.

Motion to Receive and File all reports as read, moved by Mr. Sheridan, second by Mr. Walling, with Ayes by all present.

COMMITTEE REPORTS

Councilman Sheridan; Fire. Mr. Sheridan updated on the Fire Department and First Aid

Councilman Hassmiller; Building & Grounds/Library: Would like old municipal building cleaned out and all records removed. More emergency vehicles are needed. The library dug hole to clean-up water, did not work; other options discussed. Administrator explains solution being worked on. Currently a seasonably high water table. Parking in Municipal Building lot.

Administrator said this Municipal building leaks during storm.

Mayor requests that this not to be discussed in open session since it is possible litigation.

Councilman Hill; Health/Recreation/Parks: Mr. Hill reported on the following. Board of Health hosting poster contest for first and second graders. These posters will be judged on June 5th and the awards will be given out on June 12th. Mr. Hill would like to have them displayed in Municipal building and would like council to do something at the next meeting for the winners.

Councilman Walling; Public Works/Recycling/Property Maintenance. Mr. Walling reported on the latest storm. Harbor commission minutes and Dinner Boat presentation given to Harbor Commission. Okayed hot dog lease.

Councilwoman Bolte; Finance: Over 200 residents attended the waterfront meeting. Discussion involved green space and parking. We are now in planning phase to determine. There is a meeting tomorrow regarding the Manchester hearing. Proposed budget available in Clerk's office. Grant Coordinator has identified properties and designated areas of the Neighborhood Preservation Program.

Councilman Ortman; Police: Mr. Ortman had no report.

Administrator Report: Gave update on the bulkhead project. Electrical work commence within a week.

Pier Project - changed contract to approve a single piece concrete floating dock. Harder to handle but a much better and more stable piece of equipment. Better for handicap accessibility. Same price. Could be towed into Peterson's Marina or put on a trailer and towed it somewhere.

NPP Program - target area identification survey nearly complete, \$125,000 for first year and \$100,000 for next four years.

Revaluation tax maps about 95% complete. About four weeks out before getting to the state.

Mr. Sheridan asked what the \$758.16 for parks and playgrounds was for. Mr. Valesi responded doggy poop bags purchased for the whole year.

Mr. Sheridan asks who is in charge for the Beach St. Park Renovation; Pete Valesi. Do we have a group working on a plan? No

Mr. Valesi explains that he submitted a plan to the county as to what was proposed. Not ready to jump into anything yet.

Mayor Bergen thanked all who came out to the meeting on Saturday. Mayor felt it was informative and that residents were appreciative. Mayor stated that he missed Girl Scout clean up on Maple Place, and apologized to Mr. Seckinger and said he will be at Beach Clean Up.

Mr. Sheridan stated that there were miscommunications on where the Osprey nest will be build. He now needs a new location, and Mayor suggests contacting Aberdeen. Verizon like the idea of the camera. Mr. Sheridan feels Aberdeen may be too far for the camera.

Engineer Norbut: Mr. Norbut had no report

Attorney Wisniewski: Mr. Wisniewski had no report

NEW BUSINESS

Mr. Sheridan mentioned the job fair, and thanked Matt McGrath who is moving to New York.

UNFINISHED BUSINESS

Mr. Walling: Atlantic Street punch list. Yellow painted curbs at corners. Mayor doesn't like to see curbs painted. When the paint peels it looks bad. Mr. Valesi asked whether it could be done with signage, Captain Mitchell says "yes"

Ms. Bolte thanked Clerk for providing results at 11:00 P.M. on election night.

RESOLUTIONS

2. Resolution #140-07 Payment of Bills
3. Resolution #141-07 Appointing Water/Sewer Engineer - Hatch Mott McDonald
4. Resolution #142-07 Refunding Overpayment of Water/Sewer Bill
5. Resolution #143-07 Appointing Ronald F. Gardner to Audit the 2007/2008 Defeated School Budget
6. Resolution #144-07 Authorizing CME Associates to work with the Keyport Brownfields Committee on the BDA process and Plan Amendment
7. Resolution #145-07 Authorizing Excel Environmental Resources, Inc. to work with Keyport Brownfields Committee on the BDA process
8. Resolution #146-07 Approving T&M for Engineering Services for Cedar Street Improvements

9. Resolution #147-07 Authorize Administration to enter into payment plan for Trinity

Offered for adoption by Mr. Sheridan, seconded by Mr. Walling
Roll Call Vote: Ayes: Councilmembers Sheridan, Ortman, Bolte, Hill,
Walling, Hassmiller

Nays:
Abstain:
Absent:

All resolutions are on file in Borough Clerk's Office for review.

PUBLIC PARTICIPATION

The Meeting was opened to the public for comments or questions at 8:47P.M.

Mr. Ludwig, 50 Beers Street, stated he is offended by the special treatment the Merta's receive, and is also upset that the town is not trying to recover damages from John Merta. Mr. Ludwig wants to go out to bid for civil suit against John Merta.

Mr. Ludwig asked about the additional Environmental Commission Members, now that Ordinance has been amended. Mayor has thought about who to appoint. Mr. Ludwig feels there should be more public participation on the Brownfields projects.

Mr. Barone, would like to thank Council for Smoking in Motor Vehicle Ordinance, has a copy of surgeon general's report. Mayor thanks John Barone for his efforts.

Rowland Seckinger, comments about spring clean up. Thanks Councilwoman Bolte for sponsorship of KBA. The Beach Clean up is Saturday morning at 9AM rain or shine.

Michael Vinik, a citizen of the community, owns two (2) tug boats and would like to bring a "dinner boat" to Keyport.

Ms. Gerin, 75 First Street, start with someone who resides here. (Michael Vinik wants to bring in a dinner boat - gave all information to John Olsen.) Mr. Walling said dinner cruise idea has been tabled. Scheduled to come to next Harbor Commission meeting.

Mike Lane, First Street, when there is a late payment on water/tax bill one gets charged interest. Are we charging for carrying expenses? Keri Stencel, Collector of Water/Sewer, explains those are connection fees. By state law governing body has right to offer payment plan without interest. Feels Borough is financing connection with tax payer money.

Says he heard of a 2004 bribe for a residential four (4) unit development for the Keyport Planning Board, who was it? Mayor thinks it was the former Mayor regarding Masonic Temple Property.

Mr. Lane always concerned about integrity, what about adopting a pay-to-play?

Mayor supports no contribution at all. He made a pledge not to accept money from any developer or any applicant before the Planning Board. Feels it is a question of personal integrity.

Mayor - water and sewer connection fees are not services that have already been given. Do not wish to discourage businesses, which is why Mr. Vales, revised ordinance so rate-payers would be compensated for additional usage.

Bob Ludwig feels the Borough needs a policy. Mayor comments that ultimately council must approve.

There being no one further from the audience who wished to be heard, the meeting was closed to the public at 9:13PM.

Motion was made and carried with Ayes by all present to adjourn at 9:13 P.M.

ADJOURNMENT

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