

Approved 6/10/08

Borough of Keyport
May 29, 2008 – 6:00PM

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 published, as required, in a display ad in the Thursday, May 15th issue of the Courier. Notice was sent to the Asbury Park Press, Courier, Independent, and Two River Times and posted on the Bulletin Board in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Council President Sheridan called the meeting to order at 6:18 P.M. and Borough Clerk Valerie Heilweil read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Kovacs, Sheridan, Hill (arrived 6:23 PM), Bolte, and Ortman. Also present were Carla Cefalo, NPP Coordinator, and Administrator Pete Valesi. Absent: Councilman Walling and Mayor Bergen.

PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE

DISCUSSION AND PRESENTATION

Pete Valesi, our Community Development Representative and Borough Administrator, explained that this is a federally funded program which supplies money through local community development boards. Enhancements to target areas of municipalities are looked for. The area that has been selected is an area around St. Joseph's Church near the overpass by Nappi Place. The goal is for an improvement streetscape and traffic-calming project. It includes handicap accessibility using a standard streetscape format. This is not a road-improvement project but an off-road/accessibility/streetscape project. The County's overlay project for 2009 should include Maple Place. This will be followed up by a road improvement project.

Administrator Valesi stated that he had a meeting today which set some parameters for the vegetation.

(Councilman Hill arrives at 6:23PM)

He went on to say that the area will be improved with landscaping. The Council will tonight pass a resolution allowing the Administrator to submit an application. There will be three meetings in the month of August. It is a very competitive process. The Borough is looking for \$250,000. Construction estimate is \$330,000. The Borough will have to commit to any funding over \$250,000. Mr. Valesi asks whether there are any questions.

Councilman Kovacs and Administrator Valesi discussed the pedestrian signal and the proximity of the school crossing.

Mr. Valesi explained that both the project and the town fall within a HUD zone. He feels he could leverage the project with the State funding from the NPP Program. Councilman Kovacs mentioned there is no marked crossing near the highway. Mr. Valesi said permission would be needed to do curb cuts. He said the final design depends on whether it meets ADA criteria. He will also look into possible DOT involvement.

Councilman Sheridan asked whether that is a dangerous intersection; yes. He further asked whether any studies have been done. Chief Mitchell responded that not a lot of accidents happen there but there are a lot of complaints about the site. The Chief stated that he had pedestrian crossing signs there but had to take them down because there was no proper permission, but he is working on that now. Mr. Valesi said the County had an indemnification agreement.

Councilman Kovacs discussed the type of sign that may attract people and also possible slow traffic.

Councilman Sheridan asked whether we could contact Aberdeen to inform them that we are doing this and, perhaps, they would eventually continue the streetscape on their side. He also discussed the possibility of enhancing parking or allowing more parking in the area.

Carla Cefalo mentioned that the curb there is high and not pedestrian-friendly. There are also problems with parking and speeding. Mr. Valesi said County permission would be needed to move the curb back. This would increase space for parallel parking. This is the concept for the application before the plan.

Carla Cefalo also asked about the small vacant lot owned by the Borough in that area. We could consider parking there. Those business owners don't feel a part of the community.

Councilman Sheridan asked whether we could get a "Welcome to Keyport" sign. Ms. Cefalo agreed and also expressed interest in getting an exit sign as well. She stated that people there are receptive and ready.

At 6:42PM motion was made and carried to open the meeting to the public. Seeing no one, motion was made and carried to close the public portion at 6:42PM.

The following Resolution was put before the Council:

RESOLUTION

**RESOLUTION NO: 159-08
RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH
OF KEYPORT AUTHORIZING THE PREPARATION AND
SUBMITTAL OF A COMMUNITY DEVELOPMENT BLOCK GRANT
FUNDING APPLICATION FOR FISCAL YEAR 2009**

WHEREAS, the Mayor and Borough Council recognize that Maple Place between Nappi Place and the Aberdeen Township Boundary is in need of restoration and improvement, and

WHEREAS, the Mayor and Borough Council wish to submit an application for a Community Development Block Grant in order to help offset the costs of said reconstruction, and

WHEREAS, The Borough Administrator has presented the concept to be included in the application at a hearing on this date; and,

WHEREAS, The Mayor and Borough Council recognize that the aforementioned proposed streetscape and accessibility improvement project is in the best interests of the Borough of Keyport, and

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

1. The Borough Administrator is authorized to prepare and submit, a Community Development Block Grant Application to the Monmouth County Community Development Office for the Streetscape Improvements to Maple Place.
2. A copy of the within Resolution shall be forwarded to the Borough Administrator, the Borough Attorney, the Municipal Finance Officer, and a copy shall be maintained in the office of the Borough Clerk for public inspection.

Offered for adoption by Bolte
Second by Ortman

Roll Call Vote: Ayes: Kovacs, Sheridan, Hill, Bolte, Ortman
Nays:
Abstain:
Absent: Walling

Councilman Ortman asked what the turn-around time might be. Mr. Valesi said we should know sometime around November. That is usually when announcements for the awards are made.

ADJOURNMENT

Motion to adjourn was moved by Councilman Kovacs and carried by Councilman Sheridan with all ayes in favor.

Time of Adjournment: 6:44 PM

Respectfully submitted,

Valerie T. Heilweil, RMC
Municipal Clerk.

Approved 6/10/08

May 29, 2008 – 7:00PM
Keyport, New Jersey

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 published in the Thursday, May 22nd issue of the Courier. Notice was sent to the Asbury Park Press, Courier, Independent, and Two River Times 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 7:06 P.M. and Borough Clerk Valerie Heilweil read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Kovacs, Sheridan, Hill, Bolte, Ortman, Walling and Mayor Bergen. Also present were Ken Ebner, Borough Attorney, and Administrator Pete Valesi.

This Special meeting was called in order to hold a public hearing on the place-to-place liquor license transfer application of DTV Pizza, Inc.. The license is an inactive license formerly held at 45 West Front Street. The applicant is seeking to move the license to 27 West Front Street to a food establishment known as Tropical 8

Attorney Thomas Pieper spoke on behalf of the applicant, Ruben Bea. Ken Ebner swore Mr. Pieper in and Mr. Pieper gave some background. Ruben and Ida Bea are the owners of a restaurant known as Tropical 8 and are also the owners of a plenary retail consumption liquor license. They wish to move the license to that location. Testimony was given that Mr. Bea owns other food establishments. He owns an Italian restaurant in Old Bridge known as LaRiviera, which he has been operating for one and a half years. He intends to use the license to serve beverages and do package sales.

Let the record reflect that Mr. Pieper submitted an updated diagram and sample menu to the Council. He is seeking to amend the application with this new diagram.

Tropical 8 has approximately 15 tables and two to four patrons per table. Mr. Bea was asked where package sales will take place. He answered "to the left." Food Service would not be offered anywhere else on the premises.

When asked what he anticipates having in the basement, Mr. Bea said it would be used to purchase package goods and that it would be accessible to patrons to purchase wine. Patrons would enter through the ground floor only.

He was asked about his business at La Riviera. He explained that La Riviera used to be Jerry Byers. It is a restaurant with a dining room and a bar. On weekends, there is music. He does not propose any type of entertainment at 27 West Front due to the lack of room.

He envisions having four employees at Tropical 8. Parking for employees is provided in the back. The menu would stay the same as what is currently being served.

Questions have floated around about a New Year's Eve party held at 27 West Front Street on December 31, 2007. Mr. Bea was asked how this New Year's Eve party came to be advertised. He said he rented the room out for the party. The people he rented to were promoters that he met through La Riviera. They did promotional work for him there. He expects Tropical 8 to be open regular hours. Closing time would be 8:30 – 9:00 and 11:00PM on the weekends. He would like to stay opened late if it were busy. He does not plan for it to become a dance club or another bar. He currently rents the space at 27 West Front Street.

At 7:24PM motion was made and carried to open the hearing up to the public.

Mike Lane was sworn in by Attorney Ken Ebner. He brought up the discrepancy in the original submitted application and the final submitted application. The patio outside is not being licensed. Mr. Lane feels question 3.3 should read “yes.”

The Mayor asked Mr. Bea where he was proposing to serve alcohol. Mr. Bea responded that he would serve it on the main floor only, not in the basement or outside.

Mr. Lane spoke of the large room in the basement. Under the type of license Mr. Bea holds, wine cannot be sold from that room. If the council opposes the use of the basement for liquor sale or consumption, Mr. Lane asked Mr. Bea if he would abide by that. Mr. Bea said he would and that there would be no entertainment or dining in the basement area. Mr. Lane asked whether the landlord has access to the licensed premises; yes. He further asked what would be done to secure the access of liquor. Mr. Bea replied that he has a camera system on the premises. Mr. Lane asked about hours and entertainment. Mr. Bea would like to remain open until 2AM, if allowable. He stated there would be no entertainment on the main floor. Mr. Lane asked whether Mr. Bea had any objection to the Borough prohibiting entertainment on the first floor. Mr. Lane asked other questions and Mr. Bea responded that he would manage the restaurant and will have four employees who would all be employees of DTV Inc.

Mr. Lane asked about Mr. Bea's being listed as a registered agent at 45 West Front Street at an establishment listed as La Parolaccia. Mr. Bea explained that was filed in anticipation of opening next to the mini-park (at 45 West Front Street).

Mr. Lane went on to ask Mr. Bea about what his relationship was with those who rented the space on New Year's Eve. (Mr. Lane approached the dais and distributed copies of *My Space ads that were posted on the internet. These were marked Exhibit 3*.) Mr. Bea said he has no relationship with them. He was only involved with them for about a month. Mr. Lane said he would like to see a nice Mexican restaurant with good food and drinks. He asked that the Council put restrictions on the hours of operation. He mentioned the Uptown where the State ruled that the hours of operation be limited.

Mr. Bea apologized and said that he had made a mistake in renting to the promoters.

Rich, the owner of Once Upon a Stitch at 32 West Front Street, was sworn in by Ken Ebner. He asked Mr. Bea if his establishment would be similar in hours to McDonough's. Mr. Bea replied that “Yes, it would be similar in hours.” Rich stated that he did not feel Mr. Bea was asking for anything other than what any other bar in town has. He thinks it would be prejudicial to deny the transfer.

Sandra Shevlin, whose business is at 6 East Front Street and who resides at 314 Beers, asked whether one could have a license where only beer and wine be sold as packaged goods. The Mayor explained that this is a type of license that would allow the sale of packaged goods. He further explained that Mr. Bea's license is currently associated with 45 West Front Street and that he now wishes to have it moved to 27 West Front Street. Ms. Shevlin asked whether the police were in favor of the transfer. The Mayor responded that they recommended acceptance of the license and don't object to the transfer. She asked Chief Mitchell “How do the Police feel?” He replied that the Police Department has no objection. She said that the bar would be to enhance the food service and she has not seen much food business going on there. She thinks that, like Drew's, people will eat there if they want to eat there. She does not feel that it will enhance the food service. Ms. Shevlin asked whether there could be rentals of the main floor once they had the liquor license there. Mr. Bea responded that he would not rent a licensed establishment. Councilman Ortman mentioned that the Council would have the option at each renewal to put restrictions on it. Ms. Shevlin said that she would hate to see anything cast in stone that could not be undone. The Mayor asked her to specifically site what issues she felt would not be good. Ms. Shevlin said that she was concerned about the clientele. The Mayor asked whether she was concerned about the traffic. She replied “No” but she did

have a concern about the type of ad in the window of the establishment. She does not think that it represents an appropriate element.

Nuray Aiken was sworn in by Attorney Ken Ebner. She asked Mr. Bea what his intention was in using the basement. Is he proposing to sell alcohol downstairs? Mr. Bea replied, “Yes, if allowable.” Attorney Ebner explained that Mr. Bea could store inventory downstairs but he cannot sell from the basement. The Mayor asked Mr. Bea if he was proposing to serve downstairs; No. Ms. Aiken felt she had no feeling of any clear answers. No dimensions and no determination of how many people. The Mayor clarified that Mr. Bea could only sell alcohol for consumption on the premises and packaged goods at the bar area. He is only requesting liquor be sold from the first floor. The basement would then be used for storage only.

Councilwoman Bolte had a concern that food could be served downstairs even if no alcohol was served there. She was worried about the enforcement of that. The occupancy could go up or down from 49 persons.

Rich, from Once Upon a Stitch, asked whether Mr. Bea has room to have a meeting in the basement. Can you accommodate ten to twelve people? Yes.

A resident of 22 First Street asked about Mr. Bea’s relationship with the promoters for four to five weeks. What were the dates of those weeks? The approximate month and year? Mr. Bea said around March of 2007. Why did you allow those people to have a party? Mr. Bea responded that he was told it was just going to be a company party. The resident felt this should be a concern since the applicant was familiar with the promoters’ clientele. Mr. Bea said that the problem was with the kind of people that the promoters brought in. The resident had a concern that Tropical 8 has no reputation as an established restaurant. The Mayor asked the resident to cite his specific concerns about the location. The resident replied that he was worried about the operation of a bar with parties and cover charges. Mr. Bea said that no one said there would be parties and cover charges. The resident went on to say that that is what is done at La Riviera. Will any further security be installed? No, currently the restaurant does have a camera system. The resident was worried that Mr. Bea has nothing to restrict him from running a night club.

Councilwoman Bolte asked, “When he stops serving food and continues as a bar, can we restrict that? Mayor Bergen stated that Council could discuss that amongst themselves after consulting with the attorney. The Mayor wanted to do an informal poll of the Council on granting a license to the restaurant so long as it is not a nightclub.

Terry Bolte, of 65 Elizabeth Street, was sworn in by Attorney Ken Ebner. She stated that no so long ago the Borough was looking into a high-end Italian restaurant and she was telling everyone about the benefits of having such a restaurant in town. Currently, the business at 27 West Front Street is often not even opened. No one there seems to speak English. She felt it would become more of a liquor store than a bar.

At 8:35PM motion was made by Councilman Sheridan and carried by Councilman Ortman to take a five-minute recess. At 8:41PM the meeting was reconvened.

Councilman Bolte explained that she sat on the Planning Board during Mr. Bea’s original application on February 23, 2006. She said she wished to present the situation at 45 West Front Street as an issue of credibility. Mr. Bea testified that he had purchased the property eleven years ago. At that time Mr. Bea had not wished to open a bar but wanted to focus on the food. He guaranteed a streetscape in front of 45 West Front Street. She asked him whether it was his testimony that he did put an extension on the back but could not afford to continue with this plan. Mr. Bea explained that it was a dream. He planned it and he meant it but sometimes the economy affects your dream. Ms. Bolte asked Mr. Bea whether he financially benefited by adding a 780 sq. foot addition to the building. She went on to say that the intent of enlarging the building came from Mr. Bea’s

Planning Board application. He had also agreed to all fees associated with the added usage. What about the trash? Mr. Bea explained that he takes care of the trash himself. Mr. Bolte asked how long Mr. Bea planned on serving dinner. Mr. Bea replied until 11:00PM or 11:30PM. Sometimes the business can be unpredictable. She asked him about the beer taps that went in as soon as the restaurant opened. Mr. Bea explained that he had made a deal with the company who provided the taps for La Riviera and had to put in the taps before the bar was installed. She asked about the size of the kitchen. Was it good enough to serve the first floor and serve more than ten or twenty diners at one time? Yes. The new floor plan shows eliminating tables in order to sell packaged goods. Was there any written contract with the promoter? No. He terminated them and is no longer using those promoters. Ms. Bolte asked whose insurance was used during the New Year's Eve party. Mr. Bea replied that it was his insurance. Ms. Bolte asked whether Mr. Bea had employed any other DJ's at Tropical 8. He responded that no, he had never hired any other DJ but the business does have a stereo system. Ms. Bolte asked if Mr. Bea could say that there would be no DJ's. Mr. Bea's concern was what if there was a private party and they bring in a DJ? Ms. Bolte said that Tropical 8's lease would be up in June 2009 with a five-year option to purchase. What happens if you don't purchase the building with your first option to buy? What happens if the rent is increased? Mr. Pieper, the applicants' attorney, said that this is a comparatively new business and we cannot give concrete answers. Ms. Bolte said, "The building is for sale. Do you plan on buying it?" Mr. Bea said that he would like to buy it. Should someone else make a offer, he has the option to match it.

Ms. Bolte then addressed the Chief. She asked if this business would create a hardship for the Police Department. Chief Mitchell responded that the bars are now all in a general area which actually makes it easier to patrol and enforce. He does not see overtime becoming a issue. Ms. Bolte asked the Chief whether the police often need to call in backup for the bars. The Chief replied that he would not say it is often. Ms. Bolte went on to further state that she does not see any effort to push this establishment as a restaurant. She feels the restaurant is just opened until the license is issued and that Keyport got the raw end of the deal when the building at 45 West Front Street was left empty. Mr. Bea stated that he had tried to sell the building with the liquor license but was unsuccessful. He also mentioned that La Riviera is for sale.

Councilman Walling stated that Ms. Bolte took most of the questions. He had some questions about the lease but those questions were answered tonight. He did ask Mr. Bea why he did not just purchase the building now. Mr. Bea stated that he has money put aside and would like to buy the building. He asked Mr. Bea whether the license was for sale now with the building at 27 West Front Street. Mr. Bea said that the license is not for sale with the building at 27 West Front Street and that he is not actively soliciting the sale of the license. Mr. Walling asked about the patio that is shown on the drawing. Mr. Bea said they were actually just pavers.

Councilman Ortman asked for a more specific diagram with square footage dimensions.

Councilman Sheridan expressed his concern that Mr. Bea may have plans for the outside. He was also concerned about this bar closing at the same time as the other bars in town. He asked about Mr. Bea's wife owning 51% of the business and Mr. Bea owning 49% of the business. Are her views similar to yours? Mr. Bea responded that his wife controls the money.

Councilman Kovacs asked about whether Mr. Bea will be putting in a separate fire exit. Mr. Bea replied that the separate fire exit is already there.

Mayor Bergen stated that he had a number of concerns. "Is this business for sale for \$599,000?" Mr. Bea replied "No, it is not for sale." The Mayor mentioned a concern about the size of the kitchen in the new drawing. It appears to be much smaller. Mr. Pieper stated that his client will give a better rendering showing square footage. Mayor

Bergen said the Planning Board approval granted a variance to increase the size of the building. Then the building was sold with no restaurant. He asked Mr. Bea, "During the entire time that you were putting in the addition, did you not realize that you would run out of money? Do you understand that you had a variance that allowed you to have a bigger building that what would have been permitted? Would you be interested in putting the license at 45 West Front Street if the new owner would have allowed it?" Mr. Bea replied that he would.

The Mayor spoke about the verified petition for 12:39 Relief. From March 2006 to May 2007 isn't it true that no hardship was created due to failure of approval? Unlike the other restaurants, this restaurant has tenants and residential activity above and on both sides of the building. Is there a problem with providing a smoking area in the back? Mr. Bea stated that he does have lighting in the back of the building and that it could be arranged. The Mayor asked him if he would be the manager; Yes. What other employees do you have? Mr. Bea replied a bartender, a chef and a waitress. Will you wife work the business? "I hope not," Mr. Bea responded. Where the double door is in the back, would you be willing to put in an 8' deck in the back for smoking?" "Not right now," Mr. Bea replied. The Mayor stated that he would like to see a more precise drawing. He said he is worried about having a walk-in cooler. He would like to be able to restrict the sale of packaged goods by ending the hours of sale at 10:00PM.

(In talking about the size of the building Rich, from Once Upon a Stitch, says the space is 19' X 88' feet deep.)

Mayor Bergen asked whether Mr. Bea could get us the drawing by next week. He would like to close the record tonight and only take any additional submissions. The public would have up to five days after any submissions (due June 2nd) to respond. That would be by June 6th. He would like to make a decision at the Tuesday, June 10th council meeting.

Mr. Pieper summed things up for his client. He felt that any of his client's prior intentions were made in good faith regarding 45 West Front Street. Mr. Bea is very sorry about his mistake in renting out his establishment for New Year's Eve. He said that both Mr. Bea and his wife have experience in this business. He hopes the Council allows some flexibility in imposing conditions. Mr. and Mrs. Bea have made this commitment to the Borough. He does not think the town will regret the decision to approve.

The Mayor said that he would like to go into closed session for approximately ten minutes.

At 9:38 PM motion to adjourn and go into closed session was made by Councilman Ortman and carried by Councilman Sheridan with ayes by all present.