Approved 10/7/08

Regular

June 24, 2008
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 6:35 P.M. Clerk Valerie Heilweil read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Kovacs, Sheridan, Bolte, Ortman, Walling, Mayor Bergen. Others present: Mr. Ebner, Borough Attorney and Borough Administrator Valesi. Absent: Councilman Hill

RESOLUTION

1. Resolution #170-08 Closed Session Meeting - Personnel, Litigation, Attorney - Client Privilege

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, Mayor and Council of the Borough of Keyport are of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss:

1. Personnel
   - NPP Coordinator
   - Senior Center employee
2. Litigation
   - Paff v. Borough of Keyport, et. al.
   - Ma settlement
3. Attorney-Client Privilege
   - DTV liquor license transfer

NOW, THEREFORE, BE IT RESOLVED by the Governing Body that a meeting of the Mayor and Council shall be held forthwith from which the public shall be excluded in the Council Chambers, Borough Hall, for the purpose of discussing the above-mentioned items.

BE IT FURTHER RESOLVED that discussions on Personnel conducted at said Closed Session shall be disclosed when the matters discussed are resolved and this meeting shall continue in approximately 20 minutes.

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

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

Council went into Closed Session at 6:37 P.M. and this meeting was reconvened at 7:16 P.M.

Mayor Bergen called the meeting to order at 7:16 P.M. and the Borough Clerk read the Sunshine Law Notice. The Pledge of Allegiance was said and there was a moment of silence.

On Roll Call the following were present: Councilmembers Kovacs, Sheridan, Bolte, Ortman, Walling, Mayor Bergen. Others present: Mr. Ebner, Borough Attorney and Borough Administrator Valesi. Absent: Councilman Hill.

PRESENTATION

Certificate of Appreciation was presented to Matthew Cummins in appreciation of the Planning and Coordinating of the Mott Street Bridge Clean-Up

Motion was made to amend the agenda and continue with the DTV hearing by Councilman Sheridan and carried by Councilman Ortman with Ayes by all present.

CONTINUATION OF PUBLIC HEARING

Application of a liquor license transfer of DTV Pizza, Inc.,
(T/A Tropical 8 Bar & Grill)

A newly - submitted floor plan includes:

- 14 tables
- Entrance in front
- Bar with ten bar stools
- Proposed fridge for beer and wine 3′ x 15′ in size - 6 feet high
- Kitchen behind bar with grill, fryer, stove, fridge, preparation table.

At this time, no request is being made to license the basement for the sale of alcohol, simply for storage.

Borough Attorney Ken Ebner reminds Ruben Bea that he is still under oath.

The Hearing on the newly submitted floor plan is opened to the public for comments or questions at 7:28 P.M.

Mike Lane stated that he still has a few issues, the hours of operation, how they would check that licenses are valid (he would like them to have the machine that checks as a condition), and that there still will be no entertainment.

Bob Ludwig spoke about the sale of packaged goods.

George, 122 First Street, questioned the occupancy.

Mr. Bea responded that it is now sixty-eight (68) people. Mr. Bea stated he walked it with the Fire Department. Mr. Bea asked that he would like conditions set for private parties.

There being no further comments or questions from the closed to the public at 7:37 P.M.

Mayor and Council spoke regarding the use of the basement.

Mr. Walling asked if Mr. Bea is concerned that the building is up for sale; Yes. He asked whether Mr. Bea had spoken with Mr. Merla about purchasing the building; yes.

Mr. Pieper explained that the lease would supersede any transfer of title; it would be sold subject to the existing lease. The buyer would be aware of this lease. Mr. Bea has rights in this building potentially for ten years.

Ms. Bolte asked for clarification on the refrigerator size; 15 feet not 30 feet. Mr. Bea explained it might even be smaller.

Mr. Walling mentioned that Mr. Bea gave testimony that he might be renting a restaurant out. Mr. Bea replied no, that was a mistake.

Mayor Bergen asked about any problem with ceasing sale of packaged goods to leave the premises. Mr. Bea replied no, he will respect the 10P.M. restriction on the sale of packaged goods. Mayor asked if there is any problem with limiting the sale of packaged goods ending with the service of food. Mr. Bea stated he has a bar menu available. Mayor asked if 1 A.M. okay to close. Would there be any problem with a condition of no promotional rentals. Mr. Bea replied, no.

Mayor asked about the size of the cooler. Mr. Bea explained it will not exceed 15 feet long. Will be limited to one cooler, not a walk in cooler.

Mayor asked is there any problem with no live entertainment without Council permission. DJ, Karaoke

Mr. Walling asked about how Mr. Bea would limit sale of packaged goods if they rent it out for a party, if your livelihood is the sale of packaged goods. Mr. Bea stated that he would be there.

Mayor asked under what circumstances would you need or want a DJ. Mr. Bea replied that sometimes people ask to bring one to a party.

Mr. Ortman inquired about the basement not being a hangout area where people would drink. Mr. Bea stated no, just used for storage.

Ms. Bolte asked about the current hours. Mr. Bea replied that the current hours are 11 AM to 9PM, closed Sundays. We will work seven days a week. Ms. Bolte asked about parking. Mr. Bea stated he has parking in the back, but people will only enter through the front door. Employees will park in the back. Ms. Bolte asked about employees mentioned, that there would be three to four. Mr. Bea explained that staff would increase after 4-5 PM and then will grow with the business.

Mr. Walling stated that it seems like Council is leaning toward a smoking area in the back. How will you limit people from coming in from the back? Mr. Bea stated he will do everything in his power to run a proper business. Mr. Kovacs asked about fencing the back patio with a gate.

Council summarizes the conditions. Mayor asked whether he will see place up for sale in 30 days. No, unless he receives a wonderful offer.

2. **Resolution No. 171-08**, Resolution of the Mayor and Council of the Borough of Keyport Approving the Place-to-Place Liquor License Transfer and Renewal for DTV PIZZA, INC.

WHEREAS, an application has been filed by DTV Pizza, Inc. for a Place-to-Place Transfer of a Plenary Retail Consumption License, No. 1322-33-007-008, for the exclusive purpose of being able to serve alcoholic beverages in connection with the operation of a restaurant by DTV Pizza, Inc. t/a Tropical 8 Bar and Grill located at 27 West Front Street, Keyport, New Jersey; and

WEREAS, the place-to-place is a transfer from an inactive license held at 45 West Front Street to 27 West Front Street, Keyport, N.J., and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term, and

WHEREAS, the submitted application was reviewed by the Borough of Keyport Police Department, the Code Enforcement Official, the Keyport Board of Health and Construction Code Official with no objections thereto.

NOW THEREFORE BE IT RESOLVED that the Borough Council of the Borough of Keyport does hereby approve, effective upon DTV Pizza, Inc. t/a Tropical 8 Bar and Grill, the Place-to-Place Transfer of the aforesaid Plenary Retail Consumption License from 45 West Front Street to 27 West Front Street, Keyport, New Jersey to the place delineated in the application form and the sketch of the proposed licensed premises attached hereto, and

BE IT FURTHER RESOLVED, that the plenary retail consumption license be issued by the Borough of Keyport and the appropriate officers of the Borough are hereby authorized to issue and sign the same in the name of the Borough for the period commencing on June 30, 2008 and ending June 30, 2009.

BE IT FURTHER RESOLVED that the license is subject to the following conditions:

1) No sale of alcoholic package goods for consumption off premises may occur after 10:00 P.M. Monday through Saturday and after 6:00 P.M. Sunday.

2) No alcoholic beverage sales may occur after 11:00 P.M. on any day unless the kitchen is open and patrons are allowed to order hot food from a full or limited menu. Not withstanding the foregoing, no alcoholic beverage sales are permitted after 1:00 A.M.

3) No alcoholic beverage service, sales or consumption are permitted downstairs.

4) The downstairs is only licensed for alcoholic beverage storage.

5) One package goods cooler is allowed upstairs, in the location specified on the floor plan submitted, in the approximate size of 15 feet long x 3 feet deep x 8 feet high. These approximate dimensions are a maximum.

6) No live entertainment is permitted including, but not limited to, D.J., karaoke, nightclub or discotheque operations.

7) No rental of any portion of the premises to, or use thereof by, event or party promoters of any kind.

8) The downstairs entrance is limited use for deliveries, fire exit and smokers access only.

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

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

At 8:18 PM Motion made to amend agenda and take 5 minute recess, moved by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

Meeting was reconvened at 8:23 P.M.

PUBLIC HEARING

On Olini Merla, Inc., (T/A Bulkhead Bar and Grille)
Liquor License Renewal

The Hearing is opened to the public for comments or questions at 8:23 P.M.

Mike Lane, 51 First Street (sworn in by Ken Ebner), stated that twenty years ago there were two bars within 1200 feet of his home and none had outdoor entertainment. Now there are five. Bulkhead has recently featured live cover bands on their outside patio. Their most recent was June 21st. Understands front doors were to be closed at 9PM, but most restrictions were related to McDonaghs license only. Mr. Lane would like to have Council review this issue as part of this renewal. Mr. Lane is concerned about strong consumption by young people similar to La Rivera. Wants to look at the kind of events being promoted. Does the Council have any concern about noise to residents? Mr. Lane believes that the Borough needs to define ground rules.

Mr. Lane asked about assets and money laundering of Jo-Jo Merla. Mayor stated that the Borough has no jurisdiction. Mr. Lane asked if there have been restrictions on Jo Merla's involvement in the establishment. Mayor stated that no action could be taken at the local level. Action was with the Director of the ABC. Mr. Lane asked for the same restrictions as the Uptown which were similar to those imposed on McDonaghs. Mayor stated that there is nothing from the Police Department that has asked for restrictions in order to keep order. Mr. Kovacs stated that that he does not see any neighbors in closer proximity here complaining.

8:54 P.M. Mr. Lane finished his testimony.

Bob Ludwig, 50 Beers Street stated that he feels Council should consider intrusion on public space and what is appropriate for families that may be in the proposed green space. Mayor asked Mr. Dayback to come up to the front.

John Dayback, manager of the Bulkhead (sworn in by Ken Ebner), stated that they had a Karaoke man there until 10 P.M. There was no live band. Mr. Dayback stated he had gotten nothing but compliments on what they had done. They sometimes have one and two man bands. Friday and Saturday from 10PM to 1:30AM, there are bands inside.

Mr. Sheridan stated that he likes Mr. Lane's idea of being consistent but doesn't see how it is possible. Has walked by there with his family and things there are positive. **Mr. Lane** stated that he heard that outside bands will end at 10 P.M.

Mayor stated that he doesn't want to impose conditions that are already legal requirements.

Mr. Kovacs stated that we are trying to build the town up yet make it harder on businesses.

Motion made to close hearing at 9:09 P.M. moved by Mr. Kovacs second by Mr. Sheridan with Ayes by all present.

APPROVAL OF MINUTES

July 18, 2006 - Special
June 4, 2007 - Work Session

Motion to approve the minutes listed above, moved by Mr. Sheridan, second by Mr. Ortman, with Ayes by all present.

INTRODUCTION OF ORDINANCE

1. **Ordinance – Bond Ordinance Amending Bond Ordinance #9-06**

The Clerk reads the Ordinance by Title:

"BOND ORDINANCE AMENDING BOND ORDINANCE #9-06 OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, FINALLY ADOPTED MAY 16, 2006, AS REVISED BY BOND ORDINANCE #17-08, FINALLY ADOPTED JUNE 10, 2008 , IN ITS ENTIRETY"

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the Borough of Keyport, in the County of Monmouth, State of New Jersey on June 10, 2008 and the 20 day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE AMENDING BOND ORDINANCE #9-06 OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY FINALLY ADOPTED MAY 16, 2006, IN ITS ENTIRETY

Purpose(s): The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

Purpose	Appropriation and Estimated Cost	Estimated Maximum Amount of Bonds or Notes	Period of Usefulness
a) Reconstruction of Warren Street and Coluco Place and drainage improvements to Green Grove Avenue from Warren to Third Street, including all work and materials necessary therefor and incidental thereto.	$245,000	$245,000 ($150,000 NJDOT Grant is expected to be received and a down payment is not required for these purposes)	20 years
b) Improvements to Theresa Avenue Park and Beach Park, including, but not limited to, rehabilitation and expansion of the parks for recreational and access			

purposes, including all work and materials necessary therefore and incidental thereto.	$105,000	$ 99,000	15 years
TOTALS	$350,000	$344,000	

Appropriation: $350,000

Bonds/Notes Authorized: $344,000

Grants (if any) Appropriated: $150,000 of which is expected to be received from the New Jersey Department of Transportation

Section 20 Costs: $125,000

Useful Life: $150,000 of which is expected to be received from the New Jersey Department of Transportation

Section 20 Costs: $125,000

Useful Life: 18.56 years

Motion to Introduce Mr. Walling, second by Mr. Sheridan

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

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, June 26, 2008 issue, for a Hearing to be held on July 15, 2008 moved Mr. Sheridan, second Mr. Kovacs with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Letter from Kiwanis Club of Keyport, Inc. requesting sponsorship through ads to be printed in their journal

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

2. Letter from Keyport Business Alliance regarding the use of the Mini-Park area on September 5, 2008

Motion to receive and file moved by Mr. Walling, second by Mr. Sheridan with Ayes by all present. Date was reserved, had potential meeting that was rescheduled.

3. Letter from Cub Scout Pack 364 requesting the use of Cedar Street Park Ball Field on Sunday, July 27th from 1-4PM

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

REPORTS OF DEPARTMENTS

1. Borough Clerk's Monthly Report for May 2008
2. Tax\Water\Sewer Collector's Report for May 2008
3. Board of Health's Monthly report for May 2008 and Minutes of their May 13, 2008 meeting
4. Monthly Report for Building Department for May 2008
5. Municipal Court's Monthly Cashbook Report for May 2008
6. Property Maintenance Report for May 2008
7. Minutes of the May 1, 2008 Keyport Recreation Commission Meeting

On file in the Borough Clerk's Office for review.

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

COMMITTEE REPORTS

Councilman Kovacs; Building and Grounds and Library: Mr. Kovacs reported that over one hundred people attended the Cub Scout event at Beach Park. Mr. Kovacs spoke about the building department not getting Planning Board resolutions and their not getting revenue from Landlord Registrations in their budget. Mr. Kovacs felt that money would help to keep another employee in that department.

Councilman Sheridan; Fire, First Aid & Emergency Services: Mr. Sheridan reported that the Fire Department is having Blood Borne Pathogen training this Friday, 7:30 P.M. at Engine Company. The Fireman's Fair is July 14th through 19th. Fire Department is receiving new gear. The Relay for Life was a success they raised $1200.00 for the American Cancer Society.

Councilman Hill; Health and Recreation: Mr. Hill was absent.

Councilwoman Bolte; Finance, Grants and Redevelopment: Ms. Bolte reported on the following. The Garden Club Sale on June 14th was a great success. Ms. Bolte mentioned that a mural painting was added to dress up temporary trailer on waterfront. The International Food & Music Festival will be June 28th and 29th. There will be Reggae and Irish Music. Ms. Bolte mentioned the Community Garden will feed food pantry throughout summer.

Councilman Ortman; Police: Mr. Ortman reported that he received a letter from Monmouth County Vocational School District. Mr. Ortman stated he is working with Joint Insurance Fund for September Fire Department and First Aid training sessions. Mr. Ortman mentioned the ranking structure of Police Department. Borough not filling positions, blocking avenue for promotion.

Motion to continue Sergeant Interviews offered by Mr. Ortman, second by Mr. Walling.

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

Mayor stated that they gave Police Department two Lieutenant positions that were asked for, filled all but one Sergeant position, creating a morale situation. Feels we need to save every dime we can. Mayor stated he can't see making a Sergeant position when all other department are taking cuts. Doesn't think remedy to morale problem is to create another situation. Mayor thinks it is a tremendous insufficient use of limited man power. Then looking at Lieutenants and Sergeants to supervise two officers. Ten positions, of a force of 19, would be above the position of patrolman. Average salary in Police Department is $90,000. We can't continue to keep paying more money. Mayor suggests writing to DCA for an evaluation of our Police Department to see where we could save more money.

Mr. Ortman replied that the Chief never used the word "morale" just the ability to progress in their positions. Two lieutenants were always a stop-gap temporary condition.

Mayor replied that he never thought two lieutenant positions was a stop--gap condition. He will send a letter asking for an evaluation.

Councilman Walling; Public Works/Recycling/Property Maintenance: Mr. Walling asked that Council see the letter before it is sent out. Mr. Walling spoke about what a good job Public Works employees do as well as Code Enforcement employees.

Mayor Bergen stated that there is no department working shorter-handed than Public Works.

ADMINISTRATOR'S REPORT

Administrator Valesi reported on the following:

- Sealing of the promenade to be done by public work employees. This will be done a section at a time
- Bulkhead - DEP done final release of the project; outstanding items being inspected. Have not released final voucher yet but petitioning Administration for that release.
- DOT Local Aid - Beers Street, on agenda tonight. Selected streets with the highest chance of DOT approval.
- Skate Park - preliminary discussion with property owners continuing
- Library Bathroom is half done at 40% phase now. Project is on track with no major change orders
- Therese/Beach Park schedule - ordered equipment - 4 weeks out
- Tax Revaluation is in progress, state approved our agreement with Realty Appraisal
- Met with Mr. Currie regarding Kiwanis Flea Market

Mayor asked about handicap parking space on Warren Street by Library.

ATTORNEY'S REPORT

Mr. Wisniewski had nothing to report.

UNFINISHED BUSINESS

Mr. Sheridan mentioned the KBA would like to use old municipal building for haunted house.

Ms. Bolte stated she has concern about KBA procedure. A Garden contest was advertised but she has no details, never inquired as to what the Garden Club was doing. Ms. Bolte believes the KBA is slandering her and other Councilmembers. They are circumventing her as the liaison and then coming to Council to field their positions.

Motion made that all KBA inquiries come the Councilwoman Bole and the Administrator moved by Ms. Bolte, second by Mr. Ortman.

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

RESOLUTIONS

3. Resolution #172-08 Authorizing Payment Plan

Motion to approve moved by Mr. Kovacs, second by Mr. Sheridan

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

4. Resolution #173-08 Liquor License Renewals

Motion to approve moved by Mr. Kovacs, second by Mr. Sheridan

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

5. Resolution #174-08 Authorizing Preparation and Submission of a USDA application for sewer system improvements
6. Resolution #175-08 Authorizing Construction Phase Services for Therese/Beach St Parks
7. Resolution #176-08 Authorizing Application to the New Jersey Department of Transportation for Financial Assistance Through the Transportation Trust Fund Authority Act; Municipal Aid Program for Fiscal Year 2009
8. Resolution #177-08 Amendment to Temporary Budget
9. Resolution #178-08 Authorizing the Acceptance of the Second Amendment to the Manasquan River Reservoir Water and Emergency/Back-Up Bulk Rate Sales between the Borough of Keyport and the Shorelands Water Company, Inc.
10. Resolution #179-08 Payment of Bills
11. Resolution #180-08 Settlement Related to Sewer Lateral Break on East Third Street

Offered for adoption by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

PUBLIC COMMENT PORTION

The Meeting is opened to the public for comments or questions at 10:15 P.M.

Nina Jeandron stated that KBA cannot be held responsible for actions of another board member. Stated she knows nothing about the Garden Contest.

Bob Ludwig stated that Excel completed SI portion of Sauté Bay property. Mr. Ludwig asked for a two color copy of the FEMA Maps. Mayor stated 90 day period is to make technical changes to the map. Will set up a meeting before September.

Resident at 22 First Street hopes council gets together and doesn't allow things going on that Ms. Bolte spoke about. Problems on First Street from 12 midnight to 2 A.M. on weekends.

Al DeGrassia, 23 Osborn Street, said an exciting time for Keyport. People are drawn to the music.

John Dayback stated there is a problem with cars speeding through the parking lot creating a dust situation.

Mike Lane mentioned a problem in Beach Park. Bars close and people are on the beach.

There being no one further from the audience who wished to be heard, the Hearing was closed at 10:39 P.M.

APPROVAL OF RESOLUTIONS

Motion on the Consent Agenda moved by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

ADJOURNMENT

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

Time of Adjournment: 10:51PM