approved 9/16/08

July 15, 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 6:36 P.M. Clerk Valerie Heilweil read the Sunshine Law Notice.

ROLL CALL

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

RESOLUTION

1. Resolution #180-08 Closed Meeting

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:

A. Attorney/Client Privilege
- Panullo Easement Request

B. Potential Litigation
- Dead/Dying Trees in Right-of-Way
- Building Department
- Uptown Bar & Grille

C. Contract Negotiations
- Apollo Sewer Appraisal
- Billboard Lease

D. Litigation
- DeFino Settlement
- Paff Lawsuit

E. Personnel
- **Contract Negotiations**

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 Mr.Hill

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

Council went into Closed Session at 6:39 P.M. and this meeting was reconvened at 7:35 P.M.

Mayor Bergen called the meeting to order at 7:35 and the Borough Clerk read the Sunshine Law Noticed. The Pledge of Allegiance was said and there was a moment of silence.

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

PRESENTATION

Mayor Bergen read the Proclamation for the Keyport Ministerium Food Pantry in honor of their 25 years of service to the community.

APPROVAL OF MINUTES

July 18, 2006 - Regular
September 5, 2006 - Special
May 1, 2007 - Work Session
July 17, 2007 - Regular
August 6, 2007 - Special

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

PUBLIC HEARING/ADOPTION OF ORDINANCE

1. **Ordinance #18-08** - 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"

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section One. Bond Ordinance #9-06 of the Borough of Keyport, in the County of Monmouth, New Jersey (the "Borough"), finally adopted May 16, 2006 and revised by Bond Ordinance #17-08, finally adopted June 10, 2008 is hereby further amended in its entirety to read as follows:

"BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF $525,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF $369,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Keyport, in the County of Monmouth, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to $525,000, $150,000 of which is expected to be received from the New Jersey Department of Transportation (the "NJDOT Grant") for the purpose described in Section 3(a), and further including the aggregate sum of $6,000 as the down payments required by the Local Bond Law for the purposes described in Section 3(b). The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes and in anticipation of receipt of the NJDOT Grant not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of $369,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. 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.	$420,000 ($150,000 NJDOT Grant is expected to be received for these purposes)	$270,000	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	$525,000	$369,000	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the grant and down payment as referenced above.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements that the Borough may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 18.65 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by $369,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding $125,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 7. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 8. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 9. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law."

Section Two. The capital budget of the Borough is hereby amended to conform to the provisions of this amending ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board shall in full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the clerk and is available there for public inspection.

Section Three. This amending bond ordinance will take effect 20 days after the first publication thereof after final adoption, as provided by the New Jersey Local Bond Law.

Motion for adoption made by Mr. Walling, second by Mr. Sheridan

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

The Clerk reports that the Ordinance was published as introduced in the Courier, issue of June 26, 2008, that the Affidavit of Publication is on file in her office and that copies were posted on the Bulletin Board and made available to the public.

The Hearing is opened to the public for comments or questions at 7:40 PM

John Kennedy, 104 Chingarora, what is the purpose of the Ordinance and the amount of money we are talking about? Administrator Valesi explains that the original bond was for $369,000; $270,000 used for Warren and Coluco project and $99,000 is for Therese Ave/Beach Park.

There being no further comments or questions the hearing was closed to the public at 7:41 P.M.

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

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

Motion authorizing the Clerk to publish the Ordinance as adopted, in the Courier, July 17, 2008 issue moved by Mr. Sheridan, second by Mr. Ortman with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Letter from Art Olsen, KBA President, regarding Gallagher Comedy Night Update

Motion to Receive and File moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

2. Letter from Art Olsen, KBA President, requesting permission to allow the use of the old borough Hall building for Halloween Fright Night festivities

Motion to Receive and File with Administrator coordinating moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

3. Application for a Raffle License for Keyport Indians for an On-Premise 50/50 cash raffle to be held 9/20/08

Motion to Approve moved by Mr. Sheridan, second by Mr. walling with Ayes by all present.

4. Application for Raffle License for Keyport Indians for an On-Premise 50/50 cash raffle to be held on various dates from 8/24/08 through 11/23/08

Motion to Approve moved by Mr. Sheridan, second by Mr. walling with Ayes by all present.

5. Memo from Anthony Vecchio, Fire Marshall regarding Resignations/New Hire/Pay Raise

Motion to Add to Agenda - new inspector moved by Mr. Kovacs, second by Mr. Sheridan with Ayes by all present.

6. Letter from St. John's United Methodist Church regarding their August 15th, 2008 CornFest

Motion to Receive and File moved by Mr. Sheridan, second by Mr. walling with Ayes by all present.

REPORTS OF DEPARTMENTS

1. Borough Clerk's Monthly Report for June 2008
2. Tax\Water\Sewer Collector's Report for June 2008
3. Monthly Report for Building Department for June 2008
4. Municipal Court's Monthly Cashbook Report for June 2008
5. Property Maintenance Report for June 2008

6. Keyport Recreation Commission Meeting Minutes from June 5th and July 3rd, 2008

On file in Borough Clerk's office for review.

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

COMMITTEE REPORTS

Councilman Kovacs; Building and Grounds and Library: Mr. Kovacs read the Library report. Mr. Kovacs spoke about keeping people off the grass at the promenade. Administrator Valesi explained it is so the grass can be established for a season or two. It also directs pedestrian traffic.

Councilman Sheridan; Fire, First Aid & Emergency Services: Mr. Sheridan thanked Fire Department and First Aid for help with outdoor movie night. Great job was done by the Recreation Committee. Fireman's fair is through Saturday night.

Mr. Sheridan stated that the Liberty truck has a leak and would like to talk about a replacement of truck as well as police vehicle. They can weld the leak for $2,000.

Councilman Hill; Health and Recreation: Mr. Hill reported that the Summer Recreation program has 120 children enrolled and still getting more enrollments. Movie night was well under budget. Mr. Hill asked the administrator about further talks regarding the skate park; Administrator will look into it further.

Councilwoman Bolte; Finance, Grants and Redevelopment: Ms. Bolte was absent.

Councilman Ortman; Police: Mr. Ortman had letters of appreciation for Police Department from pack 364 regarding the burial Brianna Hedges.

Councilman Walling; Public Works/Recycling/Property Maintenance: Mr. Walling reported that he will speak with Administrator Valesi about the Harbor Commission. Administrator will start process of hiring new people.

Administrator Valesi: Mr. Valesi reported on the following projects:

- Beers Street project award - went with second lowest bidder
- No extraordinary aid this year. Budget discussion will be held in the next few weeks.
- Brownsfield - no major problems
- Waterfront - work in progress
- Therese Street/Beach Park - activities have begun; awaiting delivery of new equipment
- Green Acres - update on closeout William Ralph Pier Project
- July 24th - meeting with Gas station owners on highway to clean up their properties

Mr. Sheridan asked Mr. Valesi how many park rangers? Mr. Valesi stated we have four but only two are active. We are looking to expand program. Ordinance says five park rangers. Mayor suggests having the newspapers do an article.

Attorney Wisniewski: Nothing to report.

UNFINISHED BUSINESS

Mr. Ortman stated Bloodborne Pathogen Training for Fire Department is the last Friday in June.

Mayor mentioned present budget status from Administrator

PUBLIC HEARING

On Uptown Keyport Bar & Grille, LLC
Liquor License Renewal

The Hearing is opened to the public at 8:03 PM for comments or any comments or questions.

Mike Lane, 51 First Street, stated that he would like to take advantage of opportunity to review the conditions of the expansion of the license. One condition of expansion was that the doors and windows will be closed at 9PM there have been multiple violations (6/16, 6/21, 6/5, 6/2, 5/29) on this condition. Joseph Merla is minding the store at the bulkhead during operating hours. Joseph Merla is restricted from being an employee, has a violation been issued? Attorney states that summons were issued for being non-employee and drinking after hours. Mr. Lane stated that his presence after hours is a violation based on the definition of an employee in the ABC handbook. Attorney stated that he has been instructed to issue a notice of violation. Mayor Bergen tells Mr. Lane to give his evidence justifying the charge to the Police Department. Their must be evidence to sustain the charge. Attorney gave dates when condition #1 not adheard to. We will need dates and times. Mr. Lane says there is the issue of the original license application. No landlord is listed. Application states Charles Merla owns the building. Latest county records show Brothers United in Christ still owns and have deed to the building. Attorney was provided with a copy of the 2006 executed deed. Has not received any explanation as to why deed was not recorded. Mr. Lane went on to speak about payment on van. Mr. Lane asks Council not to renew. Mayor states that the police are continuing their investigation on sale of tobacco and alcohol.

Bob Ludwig, 50 Beers Street, would like to affirm the accuracy of Mike Lane's testimony. The violation was on June 27th at 4:30 A.M. Is screening of IDs being used?

Nina Jeandron, 65 Broad Street, has been a resident for many years feels that the Uptown is the same as any other bar. Ms. Jeandron feels that Mr. Lane has something against them.

Ed Burlew, states that he also feels "these two individuals are against the Merlas." Does the council have to listen to it each time? Yes. Attorney states that Governing body sits as the licensing authority. When someone files an objection they must have a hearing. If no action taken, license denied they may appeal in Trenton.

John Dayback, representing Charles Merla, states that the deed is being straightened out. The manager was on site at the Uptown is Sharon the window situation was addressed with the Police. IDs are checked. Mr. Ludwig points out that Mr. Burlew has a vested interest. Mr. Lane states that he does not nor does Mr. Lane.

Mike Lane states that Dayback said Joseph Merla has no role. Has a spotter in making sure people are out b 2 AM. Attorney asks Mr. Dayback to explain what Joseph Merla was doing in the bar at 4AM on June 27th. Mr. Dayback says he can not explain it but it will not happen again.

Resident, 522 First Street, once or twice a month the Uptown has a different type of crowd. Would like Police informed when those promoted parties are happening. Would appreciate this being addressed it seems it is always on a Friday or Saturday. Mr. Dayback responded that there are no promotional events happening.

Bob Burlew, 64 Chandler, what about the crowd from the Yacht Club?

There being no more comments or questions from the public, the public comment portion on the meeting was closed at 8:37 P.M.

RESOLUTIONS

2. Resolution #181-08 Authorizing Award of Contract for Beers Street Road Improvement Project
3. Resolution #182-08 Authorizing Acceptance of Grant Award for the RA and UST activities at the Boat Ramp Site
4. Resolution #183-08 Authorizing Receipt of Bids for Billboard Lease Billboard Lease
5. Resolution #184-08 Authorizing Payment Plan
6. Resolution #185-08 Liquor License Renewals
7. Resolution #186-08 Authorizing Approval of DPW Lease
8. Resolution #187-08 Authorizing Release of Performance Bond – Kerchner
9. Resolution #188-08 Payment of Bills
10. Resolution #189-08 Hiring William Smith Part Time Fire Inspector
11. Resolution #190-08 Authorizing Appraisal of Sauté Bay and Apollo Sewer properties in conjunction with the Brownfields Projects
12. Resolution #191-08 Uptown Renewal

The meeting was opened to the public for comments or questions at 8:40 P.M.

PUBLIC COMMENT PORTION

Bob Ludwig asked what section of Beers Street is being improved? Mayor replied, Beers Street to Highway.

Mr. Ludwig asked if PA report is completed for Sauté Bay. Administrator stated that it was not yet completed.

Mr. Ludwig has trouble understanding why an appraisal on the Apollo Sewer property. Mayor explains that appraisal is only done for a "clean" property.

Mr. Ludwig mentions that there will be another FEMA meeting tomorrow between 2-8 PM at Croyden Hall in Middletown.

John Kennedy asks if there is a letter stating extraordinary aid. Mayor replies "No, not yet". Mr. Kennedy feels we should appeal it. Bound brook got $1 M.

Mike Lane asked about what the next step is for Pay-to-Play. Mr. Lane did review of Monroe Township, ethics case and it did not look like it applied at all. Attorney spoke about the case in the Monroe Township.

Mike Lane asks about the new example at corner of Maple and Main Street (156 Main Street) regarding second story on a garage. Would they have to go before the Planning board? Attorney said he will look at it.

Mike Lane would like an ordinance limiting the height of accessory buildings. What is the progress on Aeromarine, bids on redeveloper? Mr. Lane asks council to consider Aeromarine, Apollo and Sauté Bay appraisal in a tight budget. Would like to know whether there is contamination on the site before, heard that conditions were being added after Planning Board approval. The old post office building is looking ratty, would like to see that development project moving. Councilman Walling says Rowland Seckinger is working on it.

Mr. Lane stated he is delighted that dumpster enclosures being put together on Hovnanian property.

There being no more comments or questions from the public, the public comment portion on the meeting was closed at 9:02 P.M.

APPROVAL OF RESOLUTIONS

Motion on the Consent Agenda made by Mr. Sheridan, second by Mr. Hill

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

Resolution #190-08 and 191-08 Motion made by Councilmember Kovacs and carried by Sheridan to be pulled and voted on separately.

Resolution #190-08 Authorizing Appraisal of Sauté Bay and Apollo Sewer properties in conjunction with the Brownfields Projects

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

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

Resolution #191-08 Uptown Renewal

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

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

Resolution failed to be approved.

ADJOURNMENT

At 9:05 P.M. Motion to adjourn was made and carried with Ayes by all present.