Approved 9/20/05

Keyport, New Jersey
July 22, 2003

Minutes of a Special Meeting of the Mayor and Council, Borough of Keyport, held on the above date in the Keyport Senior Citizen Center, 110 Second Street, Keyport, New Jersey, pursuant to the adoption of Resolution No. 286-03 on July 15, 2003 and notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent and Two River Times and posted on the Bulletin Boards.

Mayor Merla called the meeting to order at 7:06 P.M.and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Hyer, Stalter, Doyle. Absent: Councilmembers Bergen, Atkins and Green. Others present: Mr. Kain, Borough Attorney and Mr. Freda, Borough Engineer.

RESOLUTION

1. Resolution No. 291-03, Closed Meeting - Personnel, 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
2. Public Works Department

Contract Negotiations

1. Water/Wastewater Facilities
2. New Municipal Complex

WHEREAS, the Governing Body has determined that within the provisions of the Open Public Meetings Law, the Public should be excluded from the discussions 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 Senior Citizen Center Meeting Room for the purpose of discussing the following subjects:

Personnel and Contract Negotiations

BE IT FURTHER RESOLVED that the discussions on Personnel and Contract Negotiations 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. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Hyer, Stalter, Doyle
Nays: None
Abstain: None
Absent: Councilmembers Bergen, Atkins, Green

Council went into closed session at 7:07 P.M. and this meeting was reconvened at 8:05 P.M.

DISCUSSION

1. **Sale of Water/Wastewater Facilities.** Mayor Merla said the Borough has had an 18 month to 2 year study regarding the water/sewer business and has determined the pros and cons on the sale. If the Borough continues to operate the water plant, the State and BRSA will raise the rates. The State has mandated buying water. The BRSA is an 8 million to 16 million gallon a day plant; Keyport is opposed to this because we absorbed the 58% increase. The CFO stated the Borough needed to raise the rates in 2003. Mr. DeCotiis should be authorized to do a study to find out if a company should manage this or the plant should be sold.

   Two bids were received and there was quite a difference in the amounts. This matter should be discussed with the higher bidder. The $7.5 million bid met the specifications. An Ordinance could be introduced and the Council can receive the public opinion. In November the public can vote on the question. If the water plant is sold, the Borough will be out of the water business and there would be a new owner. The Borough could raise the rates, but the Board of Public Utilities has to approve a private company raising the rates.

   The County needs a statement for the ballot no later than August 15th. There are experts and legal review needed. The Borough should have been raising the rates to absorb the BRSA increases. We need Middlesex to clarify the rate increases. The Borough infrastructure is old and it is expensive to replace which would also increase the rates. The CFO advised Council two years ago that there should be a rate increase (15-20%). An in-house meeting will be held prior to August 5th in which our experts should attend. There should be two hearings and Middlesex should be there to answer any questions. Meetings were held in 2001. Salaries are charged to the Water/Sewer Budget.

2. **Appointment of Police Officer.** This was deleted from the Agenda.

3. **Change Order to the Contract for the New Municipal Complex.** A change order is needed for the air conditioner in the computer room; money was budgeted for this. August 13th is the deadline to complete this project. A change order is needed for the TV cabling. The bump out in front of Borough Hall will cost $24,000.00 and there is a question on the hydrant. The existing lot needs to be paved.

4. **Bulkhead Project.** The Army Corps of Engineers have been notified of minor changes in the road realignment . Plans have been submitted.

5. **Amendment to Zoning ordinance - Increase square footage of building lot.** Presently it is $5,000 per square feet; the Planner should review. Look to change the RA district to 7500 square feet. The Borough should look at other municipalities. This matter should be referred to committee for a formal recommendation to be made. Mr. Doyle said the lots are too small. The Mayor said this should have been done in 1989. Mr. Doyle recommended proceeding with the amendment prior to hiring a Planner.

COMMUNICATIONS AND PETITIONS

1. Request from Keyport Business Alliance that the parking restrictions in the Main/Broad Street Parking Lot be removed for certain events.

   Motion to Approve moved by Mr. Stalter, second by Mr. Doyle with Ayes by all present.

2. Resignation from Raymond Lee, Unified Planning Board Member.

   Motion to Accept moved by Mr. Hyer, second by Mr. Stalter with Ayes by all present.

PUBLIC COMMENT

The meeting was opened to the public for comments or questions at 8:25 P.M.

Wade Pedersen, Main Street, questioned the figures pumped and treated through the BRSA. Mayor Merla said information is available regarding the manhole covers, thefts, infrastructure leaks. Mr. Pedersen said the sump pumps are treating ground water. Mr. Vecchio said he would not issue a Certificate of Occupancy if it is not tied into the sewer. There are three sump pumps at the corner of Atlantic and Third Streets. It was asked if there was a smoke test done to show who is connected and who is not. Mayor Merla said the ruling was there is no tie in to the sewer.

Ray Weber, Holmdel, New Jersey asked if the Green Grove Avenue Apartment Parking has been resolved or what the status is. Mayor Merla said in August the matter was before the Planning Board. A fence has been put up on the Fulton Street side.

Dan Smith, 82 Second Street, asked where the study of the water system is. The Borough Clerk has the Request for Proposals in her office.

Mike Lane, First Street asked what the square footage of the RA Zone is; Single Family - 5000 and two family - 7500. There is no difference between the RA and RB zones. The RA Zone should be raised to 7500. The Mayor said an Ordinance will be introduced at the August 5th meeting. Mr. Kain will get a recommendation from the Planning Board.

Terry Parker, First Street, said last Friday, Union Beach was awarded a $101 million project for levees, flood walls, etc. They have dunes that do not provide views from the roads (700,000 cubic yards of sand). There will be a Smart Growth/Army Corps of Engineer Meeting. An answer is due August 15th on what impact it will have on Keyport. The Bridge over Chingarora Creek has a 7' high flood gate on the Union Beach side. There will be a bridge replacement by the County. Engineer Freda said there are no answers in getting copies of the plans from the DEP or Army Corps of Engineers on Union Beach's funding. Mayor Merla said the Engineer and Planning Board should review and give comments on the impact it will have on the Borough (liability, assets) and present a statement (due by August 15th). The Borough Administrator was asked to call for a copy.

The Army Corps of Engineers have approved a storm protection wall with a 16' elevation from the area of Lincoln Hose to Luppatatong Creek. American Legion Drive will be raised to a 15-16' elevation down to Lincoln Hose; input is needed from the Borough. Mayor Merla asked that Green Acres be contacted and a meeting be requested ASAP with Lelani Hershey. Engineer Freda said he is available on July 29th or August 1st for the meeting; he can go to Trenton.

Mayor Merla said the DEP does not care what is done on American Legion Drive; they will only replace what is taken out. Green Acres would like to realign the road. Engineer Freda recommended we create our elevation off from the Army Corps of Engineers. The Mayor suggested all groups meet and present the Borough's plan. In April the Borough decided to go with the DEP (they have funds). The Army Corps of Engineers will wave actions. It was asked if there is no money to dredge would there be no transit village?

Terry Parker said the Monmouth County Transportation Council's secretary called and advised the Monmouth Council Planning Board will support the parking structure. The Chairman of the Monmouth County Planning Board will come and drive in town.

The meeting was closed to the public at 9:05 P.M.

RESOLUTIONS

2. Appointment of Police Officer - This matter was tabled.

3. Resolution No. 292-03, Change Order #8, New Municipal Complex

WHEREAS, the Mayor and Council of the Borough of Keyport have previously authorized the construction of a New Municipal Complex; and

WHEREAS, the Mayor and Council have received a written request from the project architect recommending approval of Change Order No. 8 for the Municipal Complex as it relates to the contractor, A&K Excavating; and

WHEREAS, the Mayor and Council have reviewed the proposed change order which consists of the installation of a DSS air conditioning unit in the the police computer room as submitted by the General Contractor, A&K Excavating, Holmdel, New Jersey; and

WHEREAS, based upon the review of the Mayor and Council and the recommendation of the project architect, the Mayor and Council are inclined to authorize Change Order No. 8 for the installation of a DSS air conditioning unit in the police computer room at the new municipal complex for an additional sum of Nine Thousand Seven Hundred and Sixty Four Dollars and Seventy Cents ($9,764.70); and

WHEREAS, the Mayor and Council desire to memorialize the within Resolution approving the change order and authorizing the project architect to proceed with the within change to the Municipal Complex as set forth in Change Order No. 8 to the Keyport Municipal Center dated July 14, 2003.

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

1. The Mayor and Council of the Borough of Keyport hereby approve Change Order No. 8 as recommended by the Project Architect consisting of the installation of pitch pipes to the roof of the new municipal complex dated July 14, 2003.

2. The Mayor and Council hereby approve the change order in the amount of $9,764.70 and further authorize the project architect to proceed with Change Order No. 8 based upon the written proposal submitted. The total current contract between the Borough of Keyport and A&K Excavating is hereby further amended to reflect an increase in the sum of $9,764.70.

3. The within Resolution is specifically contingent upon the certification of the Municipal Finance Officer as to the availability of funds within the appropriate Bond Ordinance adopted by the Mayor and Council and amended thereafter.

4. That a copy of the within Resolution, duly certified, be forwarded to the General Contractor, Project Architect, Clerk of the Works, Borough Engineer, Consulting Engineer and Municipal Finance Officer.

5. Copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mr. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Hyer, Stalter, Doyle
Nays: None
Abstain: None
Absent: Councilmembers Bergen, Atkins, Green

4. Resolution No. 293-03, Change Order No. 10, New Municipal Complex

WHEREAS, the Mayor and Council of the Borough of Keyport have previously authorized the construction of a new Municipal Complex; and

WHEREAS, the Mayor and Council have received a written request from the project architect recommending approval of Change Order No. 10 for the Municipal Complex as it relates to the contractor, A&K Excavating; and

WHEREAS, the Mayor and Council have reviewed the proposed change order which consists of the installation of an additional isolated ground outlet and cable lines in the emergency management room of the new municipal complex as submitted by the General Contractor, A&K Excavating, Holmdel, New Jersey; and

WHEREAS, based upon the review of the Mayor and Council and the recommendation of the project architect, the Mayor and Council are inclined to authorize Change Order No. 10 for the installation of an isolated ground outlet and cable lines in the emergency management room at the new municipal complex for an additional sum of Two Thousand, Eight Hundred and Thirty Dollars and Fifty Cents ($2,832.50); and

WHEREAS, the Mayor and Council desire to memorialize the within Resolution approving the change order and authorizing the project architect to proceed with the within change to the Municipal Complex as set forth in Change Order No. 10 to the Keyport Municipal Center dated July1 5, 2003,

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

1. The Mayor and Council of the Borough of Keyport hereby approve Change Order No. 10 as recommended by the project architect consisting of the installation of an isolated ground outlet and cable lines in the emergency management room of the new municipal complex dated July 15, 2003.

2. The Mayor and Council hereby approve the change order in the amount of $2, 832.50 and further authorize the project architect to proceed with Change Order No. 10 based upon the written proposal submitted. The total current contract between the Borough of Keyport and A&K Excavating is hereby further amended to reflect an increase in the sum of $2,832.50.

3. The within Resolution is specifically contingent upon the certification of the Municipal Finance Officer as to the availability of funds within the appropriate Bond Ordinance adopted by the Mayor and Council and amended thereafter.

4. That a copy of the within Resolution, duly certified, be forwarded to the General Contractor, Project Architect, Clerk of the Works, Borough Engineer, Consulting Engineer and Municipal Finance Officer.

5. A copy of the within Resolution shall be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mr. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Hyer, Stalter, Doyle
Nays: None
Abstain: None
Absent: Councilmembers Bergen, Atkins, Green

5. Water/Wastewater Facilities/Acceptance of Bid - This matter was held.

6. Resolution No. 294-03, Amend Resolution No. 263-03, Engineer Proposal/Pier-Ferry Terminal

WHEREAS, the Mayor and Council of the Borough of Keyport have previously authorized the Borough Engineer to perform certain engineering services including structural design and permitting relative to the construction or a municipal pier or ferry terminal pursuant to Resolution No. 263-03 duly adopted; and

WHEREAS, the Mayor and Council have received a supplemental proposal from the Borough Engineer reducing the original proposal dated July 13, 2003 by the sum of $6,500.00 due to the duplication of costs for the Hydrographic Survey and Bathymetric Plan which was previously authorized in the proposal submitted relative to the Municipal Marina Expansion; and

WHEREAS, based upon the revised proposal dated July 16, 2003, the Borough Engineer has proposed a three (3) phase proposal for the preparation of engineering services relative to the structural design and permitting to include required permit applications to the New Jersey Department of Environmental Protection and the US Army Corps of Engineers relative to expansion of the municipal pier and ferry terminal, including preliminary and final engineering services as required; and

WHEREAS, the Mayor and Council have reviewed the revised proposal dated July 16, 2003 submitted by the Borough Engineer which eliminates the initial Phase I relative to the Hydrographic Survey and Bathymetric Plan and which thereby reduced the overall proposal from $101,300.00 to $94,800.00 for the balance of the engineering proposal relative to the municipal pier and ferry terminal; and

WHEREAS, the Mayor and Council have reviewed the revised proposal prepared by the Borough Engineer dated July 16, 2003 and have determined to authorize the Borough Engineer to undertake this amended proposal in conjunction with the previous authorization granted, subject to the certification of availability of fund by the Municipal Finance Officer.

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

1. Resolution No. 263-03 adopted by the Mayor and Council, that the Borough Engineer is hereby amended consistent with the revised proposal dated July 16, 2003 and the Borough Engineer is directed to proceed accordingly.

2. The revised total for the within proposal is hereby modified to the sum of Ninety Four Thousand, Eight Hundred ($94,800.00) Dollars, broken down into the three (3) remaining phases and options, as contained in the revised proposal dated July 16, 2003, upon certification of availability of funds from the RBIT account, appropriate bond ordinances or general account of the borough of Keyport.

3. All other portions of Resolution No. 263-03 not specifically modified herein are hereby confirmed.

4. That a certified copy of this resolution be forwarded to the Borough Engineer and Municipal Finance Officer and that a copy of the within Resolution be retained in the Office of the Borough Clerk for public inspection.

Offered for adoption by Mr. Hyer, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Hyer, Stalter, Doyle
Nays: None
Abstain: None
Absent: Councilmembers Bergen, Atkins, Green

7. Vacation of Suspension, Acceptance of Resignation, Payment of Accrued Benefits - Jonathan Rhodes - This matter was held.

Mayor Merla asked everyone to recognize the following Keyport residents: Bianca Bethune who acted in the movie "Bad Boys 2" and Joe Fishler who won the Fluke Contest (16 two pound fluke).

INTRODUCTION OF ORDINANCE

1. Ordinance No. 21-03, Sale of Water/Wastewater

The Clerk read the Ordinance by Title:

AN ORDINANCE OF THE BOROUGH OF KEYPORT PROVIDING FOR THE ACQUISITION OF THE BOROUGH OF KEYPORT'S WATER AND WASTEWATER SYSTEMS

WHEREAS, the Borough of Keyport ("Borough") presently owns, operates and manages a water treatment plant and transmission and distribution system and a wastewater collection system (hereinafter, the "Systems"); and

WHEREAS, the Systems date back to the late 1800's and are comprised of approximately 2500 service connections, approximately twenty (20) miles of main, two water towers, two wells and two sewerage pumping stations, serving residential and commercial customers in the Borough; and

WHEREAS, in an effort to enhance its ability to provide for the health, safety and welfare of its residents and to determine whether private operation of the Systems would provide the Borough and its users efficiencies of operation, cost savings and an enhanced technical operation of the Systems, the Borough had authorized a consultant team consisting of legal, technical and financial advisors (hereinafter the"RFQ/RFP") for the potential private operation of the Borough's Systems; and

WHEREAS, subsequent to the receipt and evaluation of the Proposals submitted in response to the RFQ/RFP, the Borough determined that it was not in the best interest of the Borough and the users of the Systems to continue to explore the potential for private operation of the Systems for a finite term, but that it may be more beneficial to sell the Systems, thereby permanently shifting all responsibility for day to day operation and management, predictive and preventative maintenance, capital improvements and regulatory compliance to a qualified firm; and

WHEREAS, the Borough authorized the termination of the RFQ/RFP process for the private operation of the Systems and authorized the Project Team to advertise, prepare and issue a Request for Qualification of Bids ("RFQ/RFB") for the sale of the Systems pursuant to NJSA 40:62-4; and

WHEREAS, the RFQ/RFB was advertised and thereafter issued on May 16, 2003; and

WHEREAS, the RFQ/RFB provided to a Systems Acquisition Fee of not less than $7 million; and

WHEREAS, on July 8, 2003, the Borough received the following two (2) Bids in response to the RFQ/RFB: (1) Middlesex Water Company located at 1500 Ronson Road, Iselin, New Jersey 08830 ("MWC") in the amount of $7,500,000 and (2) New Jersey American Water Company located at 500 Grove Street, Haddon Heights, New jersey 08035 ("NJAWC") in the amount of $1,550,000; and

WHEREAS, the Bid submitted by MWC, the highest responsible Bidder, conditioned its Bid on the New jersey Board of Public Utilities ("BPU") approval of rate increases up to 61.4% for water and up to 56% for wastewater, acknowledging that such rate increases are preliminary projections which are subject to adjustment upon review of additional information concerning the Systems; and

WHEREAS, the Borough believes that upon MWC's review of such additional information pertaining to the Systems, MWC will find that such projected increases exceed what is actually required to support the Systems, and accordingly the Borough intends to seek a reduction from MWC in its projected rate increase; and

WHEREAS, in recognition of the Borough's concern with respect to the impact of the sale upon the ratepayers, MWC has indicated its willingness to cooperate with the Borough to mitigate any such impact by using maximum efforts to keep such projected increases at a minimum and to consider a phase-in application of any such rate increases; and

WHEREAS, in accordance with NJSA 40:62-5, the Borough seeks to submit a question as to the sale of the Systems to the voters of the Borough of Keyport at the next General Election, to be held on November 4, 2003; and

WHEREAS, a copy of this Ordinance, together with the RFQ/RFB and the Bids submitted by MWC and NJAWC are available for public inspection in the Borough Clerk's Office, 18-20 Main Street, Keyport, New jersey during regular business hours; and

WHEREAS, a public hearing on the Ordinance will be held by the Mayor and Council on August 5, 2003 at 8:00 P.M. at which time all persons having an interest in the Ordinance will be given an opportunity to be heard thereon.

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

1. The MCW of 1500 Ronson Road, Iselin, New Jersey 08830, proposes to purchase the Systems for a Systems Acquisition Fee of $7.5 million.

2. The MWC has initially conditioned the sale on approval by the BPU of a rate increase up to 61.4% for water and up to 56% for wastewater.

3. The MWC has indicated its agreement to work cooperatively with the Borough to reduce such rate increases and/or to phase in such rate increases to mitigate any such impact to ratepayers.

4. In light of the MWC's willingness in this regard, the Mayor and Council desire that the question of the sale of the Systems be placed upon the ballots used at the next succeeding general election in the Borough of Keyport.

5. The Borough Clerk is hereby directed to serve a certified copy of this Ordinance upon the officer charged with the duty of preparing election ballots with a request that the following question be placed upon the ballot: "Shall the Water and Wastewater Systems owned and operated by the Borough of Keyport be sold for the sum of $7.5 million?"

6. Should a majority of the legal voters voting at such election vote "Yes", then the Mayor and Council may accept the Bid of MWC, the highest responsible bidder and carry out such sale in accordance with the Request for Qualifications and Bids for the Acquisition of the Water and Wastewater Systems of the Borough of Keyport and NJSA 40:62-5.

This Ordinance shall take effect at the time and in the manner provided by law.

The Borough Clerk shall and is hereby directed to publish a notice in the appropriate newspapers of such introduction and the holding of a public hearing on August 5, 2003.

Offered for adoption by Mr. Hyer for introduction; the Ordinance can be rescinded, second by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Hyer, Stalter, Doyle
Nays: None
Abstain: None
Absent: Councilmembers Bergen, Atkins, Green

1a. Motion authorizing the Borough Clerk to publish the Ordinance as introduced in the Courier, issue of July 24, 2003 for a Hearing to be held on August 5, 2003 moved by Mr. Stalter, second by Mr. Doyle with Ayes by all present.

ADJOURNMENT

Motion to Adjourn moved by Mr. Hyer, second by Mr. Stalter with Ayes by all present.

Time of Adjournment: 9:10 P.M.

Respectfully submitted,

Judith L. Poling

Judith L. Poling, RMC/CMC
Borough Clerk

Allyson M. Cinquegrana

per Allyson M. Cinquegrana, RMC
Deputy Borough Clerk