Approved 9-16-03

August 5, 2003
Keyport, New Jersey

Minutes of a Work Meeting of the Mayor and Council, held on the above date in the Keyport First Aid Building, 1927 Second Street, Keyport, N.J. pursuant to the Annual 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 in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231.

Mayor Merla called the meeting to order at 7:05 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Atkins, Merla, Ashmore, Hyer. Absent: Councilmembers Bergen, Stalter. Others present were Mr. Kain, Borough Attorney.

RESOLUTION

1. Resolution #295-03, Closed Meeting - Personnel, Litigation, Labor Relations and Contract Negotiations

WHEREAS, the Mayor and Council of the Borough of Keyport propose to discuss the following subjects:

Personnel
1. Senior Citizen Center
2. Public Works Department

Litigation
1. Possible Litigation/Fishing Pier
2. Magic Touch vs Borough of Keyport

Labor Relations
1. PBA vs Borough of Keyport

Contract Negotiations
1. Water/Wastewater Facilities
2. New Municipal Complex/Kantor Easement

WHEREAS, the Governing Body has determined that within the provisions of the Open Public Meetings Law, the Public should be excluded from the discussion of said subjects;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body that a meeting of the Mayor and Council shall be held forthwith from which the public shall be excluded in the Keyport First Aid Building Meeting Room, for the purpose of discussing the following subjects:

Personnel, Litigation, Labor Relations, Contract Negotiations

BE IT FURTHER RESOLVED that the discussions on Personnel, Litigation, Labor Relations and Contract Negotiations conducted at said closed session shall be disclosed when the matters discussed are resolved, and with regard to Labor Relations when negotiations are completed and a contract executed, and this meeting shall continue in approximately 20 minutes.

Offered for adoption by Mr. Green, seconded by Mrs. Atkins

Roll Call Vote: Ayes: Councilmembers Atkins, Hyer, Doyle, Green
Absent: Councilmembers Bergen, Stalter

Council went into closed session at 7:06 P.M. and this meeting was reconvened at 8:07 P.M.

Mayor Merla called the meeting to order at 8:07 P.M. and read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bergen (arriving at 7:06 PM), Atkins, Hyer, Stalter (arriving at 7:06 PM), Doyle, Green. Others present: Mr. Kain, Borough Attorney and Mr. Freda, Borough Engineer.

HEARING ON ORDINANCES

1. Ordinance #19-03, Amend Chapter VII Traffic, Section 7-12, Schedule XXI, Handicapped Parking Space-Osborn Street

The Clerk reported that the Ordinance was published, as introduced, in the Courier, issue of July 17, 2003, that the Affidavit of Publication is on file in her office, that copies were posted on the bulletin boards and made available to the public.

The Clerk read the Ordinance by Title:

AN ORDINANCE TO ESTABLISH HANDICAPPED PARKING SPACE ON A MUNICIPAL ROAD

The Hearing was opened to the public for comments or questions at 8:08 P.M. There being none, the meeting was closed at 8:08 P.M.

Offered for adoption by Mrs. Atkins, seconded by Mr. Bergen

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter. Doyle, Green

1a. Motion authorizing the Clerk to publish the Ordinance, as finally adopted according to law, in the Courier, issue of August 7, 2003 moved by Mr. Doyle, seconded by Mr. Stalter with Ayes by all present.

2. Ordinance #20-03, Bond Ordinance, Improvements to Atlantic Street

The Clerk reported that the Supplemental Debt Statement was filed in her office prior to Ordinance introduction.

The Clerk reported that the Ordinance was published as introduced in the Courier, issue of July 17, 2003, that the Affidavit of Publication is on file in her office, that copies were posted on the Bulletin Boards and made available to the public.

The Clerk read the Ordinance by Title:

BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO ATLANTIC STREET BY AND IN THE BOROUGH OF KEYPORT, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY; APPROPRIATING $400,000 (INCLUDING A NEW JERSEY DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF $160,000) THEREFOR AND AUTHORIZING THE ISSUANCE OF $240,000

BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

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

SECTION 1. The improvement or purpose described in Section 3 of this bond ordinance is hereby authorized as a general improvement or purpose to be undertaken by the Borough of Keyport, in the County of Monmouth, State of New Jersey (the "Borough"). For the said improvement or purpose stated in Section 3, there is hereby appropriated the sum of $400,000, which sum includes a New Jersey Department of Transportation Grant to be received in the amount of $160,000 (the "Grant") for said improvement or purpose. Pursuant to N.J.S.A. 40A:2-11(c), as amended and supplemented, no down payment is required as the improvement or purpose described in Section 3 hereof is a project being funded by the Grant, which is a State grant.

SECTION 2. For the financing of said improvement or purpose described in Section 3 hereof and to meet the part of said $400,000 appropriation not provided for by application hereunder of said Grant, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of $240,000 pursuant to the Local Bond Law. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Borough in a principal amount not exceeding $240,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

SECTION 3.(a) The improvement hereby authorized and purpose for the financing of which said bonds or notes are to be issued is improvements to Atlantic Street, which improvements may include, but are not limited to, as applicable, reconstruction, resurfacing, excavation of the roadway, as applicable, milling and paving, and the repairing, replacement and/or installation, as applicable, of curbs, curb ramps, sidewalks and driveway aprons, drainage work, sewer main and lateral replacement and/or rehabilitation, water main and service replacement and/or rehabilitation, roadway painting, and also including all engineering and design work, surveying, construction planning, preparation of plans and specifications, permits, bid documents, construction inspection and contract administration, and all work, materials, equipment, labor and appurtenances necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for said improvement or purpose is $240,000.

(C) The estimated cost of said improvement or purpose is $400,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor, being the amount of $160,000, is the Grant for said improvement or purpose.

SECTION 4. Except for the Grant, in the event the United States of America, the State of New Jersey, and/or the County of Monmouth make a contribution or grant in aid to the

Borough, for the improvement and purpose authorized hereby and the same shall be received by the Borough prior to the issuance of the bonds or notes authorized in Section 2 hereof, then the amount of such bonds or notes to be issued shall be reduced by the amount so received from the United States of America, the State of New Jersey, and/or the County of Monmouth. Except for the Grant, in the event, however, that any amount so contributed or granted by the United States of America, the State of New Jersey, and/or the County of Monmouth, shall be received by the Borough after the issuance of the bonds or notes authorized in Section 2 hereof, then such funds shall be applied to the payment of the bonds or notes so issued and shall be used for no other purpose.

This section 4 shall not apply, however, with respect to any contribution or grant in aid received by the Borough as a result of using funds from this bond ordinance as "matching local funds" to receive such contribution or grant in aid.

SECTION 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer of the Borough, provided that no note shall mature later than one (1) year from its date or otherwise authorized by the Local Bond Law. 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 the notes issued pursuant to this bond ordinance, and the signature of the Chief Financial Officer upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time in accordance with 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 purchaser thereof upon receipt of payment of the purchase price and accrued interest thereon 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 bond ordinance is made. Such report must include the principal amount, the description, the interest rate, and the maturity schedule of the notes so sold, the price obtained and the name of the purchaser.

SECTION 6. The Capital Budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency, a resolution in the form promulgated by the Local Finance Board showing full detail of the amended Capital Budget and capital programs as approved by the Director of the Division of Local Government Services, New Jersey Department of Community Affairs will be on file in the office of the Clerk and will be available for public inspection.

SECTION 7. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense and is an improvement which the Borough may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness of said improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the Office of the Clerk of the Borough and a complete executed duplicate thereof has been filed in the Office of the Director of the Division of Local Government Services, New Jersey Department of Community Affairs, and 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 or notes provided for in this bond ordinance by $240,000 and the said bonds or notes authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding $150,000 for items of expense listed in and permitted under section 20 of the Local Bond Law is included in the estimated cost indicated herein for the purpose or improvement hereinbefore described.

SECTION 8. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the bonds or notes authorized by this bond ordinance. The bonds or notes shall be direct, 8unlimited 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 bonds or notes and the interest thereon without limitation as to rate or amount.

SECTION 9. The Borough reasonably expects to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 of this bond ordinance and paid prior to the issuance of any bonds or notes authorized by this bond ordinance with the proceeds of such bonds or notes. No funds from sources other than the bonds or notes authorized herein have been or are reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside by the Borough, or any member of the same "Controlled Group" as the Borough, within the meaning of Treasury Regulation Section 1.150-1(e), pursuant to its budget or financial policies with respect to any expenditures to be reimbursed. This Section 9 is intended to be and hereby is a declaration of the Borough's official intent to reimburse any expenditures toward the costs of the improvement or purpose described in Section 3 hereof to be incurred and paid prior to the issuance of bonds or notes authorized herein in accordance with Treasury Regulation Section 1.150-2, and no further action (or inaction) will be an abusive arbitrage device in accordance with Treasury Regulation Section 1.148-10 to avoid the arbitrage yield restrictions or arbitrage rebate requirements under section 148 of the Internal Revenue Code of 1986, as amended (the "Code"). The proceeds of any bonds or notes authorized herein used to reimburse the borough for any expenditures toward the costs of the improvement or5 purpose described in Section 3 hereof will not be used directly or indirectly (i) to "refund" an issue of governmental obligations within the meaning of Treasury Regulation Section 1.150-1(d),(ii) to create, within one year, following the reimbursement of any expenditures of bond proceeds "replacement proceeds", within the meaning of

Treasury Regulation Section 1.148-1 of the bonds, or any other bond issue, or (iii) to reimburse the Borough for any expenditure or payment that was originally paid with the proceeds of any obligation of the Borough (other than borrowing by the Borough from one of its own funds or the funds of a member of the same "Controlled Group within the meaning of Treasury Regulation Section 1.150-1(e)). The bonds or notes authorized herein to reimburse the Borough for any expenditures toward the costs of the improvement or purpose described in Section 3 hereof will be issued in an amo9unt not to exceed $240,000. The costs to be reimbursed with the proceeds of the bonds or notes authorized herein will be "capital expenditures" in accordance with the meaning of section 150 of the Code and Treasury Regulation Section 1.150-1. This provision will take effect immediately, but will be of no effect with regard to expenditures for costs paid outside the permitted reimbursement period set forth in Treasury Regulation Section 1.150-2(d)(2).

SECTION 10. The Borough covenants to maintain the exclusion from gross income under section 103(a) of the Code of the interest on all bonds and notes issued under this ordinance.

SECTION 11. This Bond Ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The Hearing was opened to the public for comments or questions at 8:10 PM. There being none, the Hearing was closed at 8:10 PM.

Offered by Councilman Stalter, seconded by Councilman Hyer

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

2a. Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, issue of August 7, 2003 moved by Mrs. Atkins, seconded by Mr. Stalter, with Ayes by all present.

3. Ordinance #21-03, Acquisition of the Borough of Keyport Water & Wastewater Systems

The Clerk reported that the Ordinance was published as introduced in the Courier, issue of July 24, 2003, that the Affidavit of Publication is on file in her office, that copies were posted on the Bulletin Boards and made available to the public.

The Clerk read the Ordinance by Title:

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

Mayor Merla made a statement and summary. The Mayor said the Independent article was misleading, the Council has not approved any sale, that this is done by referendum. In summary, the Ordinance enables the voters in November to vote on this question. In the late 1800's the systems were built. Between 1906-1910 the systems were in place. In the 1970's they had talked about getting out of the sewer system and the

Borough became a Bayshore Regional Sewerage customer. The Borough operated its own plant has two well up to 1992. The sewer was billed at 200% of the water. In the mid 1980's, the Department of Environmental Protection said Keyport was in a critical area and that another source had to be found for 7 months of the year. The DEP did not like alternate sources. The contract was for 40 years. The Borough added monies to the budgets for the purchase of water. New Jersey American Water Company has had two rate increases and a third is pending. In 1993, the BRSA noticed the Borough that they were starting Phase IV of their expansion which would cost $50 million dollars; the 20 year contract will be expiring. In 1994 the sewer rate was raised from 140% to 160%. In the mid 1990's the expenses were taken out of the Water budget. There has been 58% in increases from the BRSA. The BRSA charges $4,090 to tie into their system. In 2000, Tom Fallon, Chief Financial Officer cautioned that the rates should be raised. In 2001 a memo was sent from then Councilmembers Merla, Ashmore and present Councilwoman Atkins to Mayor Graham regarding appointing Special Counsel. For the past 18 months the team has been given two reports; one to have the systems managed and one to sell the systems. RFQ/RFP qualifications were prepared and bids were received. The Ordinance gives the voters the chance to decide if the systems should be sold. Middlesex Water Company bid $7.5 million and New Jersey American bid $1.5 million; the minimum bid was $7.5 million. The assets and liabilities should determine if the systems should be sold or retained. The Borough cannot sell the systems without voter approval. There will be two public meetings, one in September and one in October. All data will be available and a cost analysis has been done. There will be rate increase whether the systems are sold or retained. The systems are 100 years old, time it up and decisions need to be made.

The Hearing was opened to the public for comments or questions at 8:22 PM. Paul McKeefry, 107 Maple Place asked how they arrived at the minimum bid. Mayor Merla said the bidders were asked what they thought the systems were worth and they said $4-10 million dollars so the bid was set half way at $7.5 million. Union Beach sold their water system. Mr. McKeefry asked why not give the systems away. Councilman Bergen said it is a option, that the information has to be weeded through and the question asked can they operate the systems more efficiently, do improvements and keep the rates. Mr. McKeefry asked what happens to the $7.5 million dollars. Mayor Merla said the Borough has to retire the water/sewer debt, then the current debt. The Borough would then be within $100,000 of clearing all debt. Councilman Bergen advised that the Board of Public Utilities has to approve the sale and the rates. Sam Minor, First Street said the rates will keep going up and that money should have been spent on the systems and asked what will Middlesex charge to connect to the systems. A resident asked if two more meeting will be enough. Mayor Merla said yes, as they will be just on this issue. The question has to be submitted to the County by August 22, 2003. Betsy Larkin, 198 Washington Street said that Washington Street was recently reconstructed using grant monies has new lines. Mayor Merla said the Borough decides on whether water and sewer lines will be replaced, the grant covers the sidewalks, curbs and paving. Ms. Larkin asked if literature will be sent out before the November ballot question. She said there is nothing on the water/sewer bill telling what the rates are. Ms. Tango, 132 Washington Street asked about the

November ballot question and if the purchaser does not repair the infrastructure but will raise rates versus the Borough repairing the infrastructure and raising rates, eventually the rates could be lowered or stabilized. She said the public should be educated. The current rates are absurd. She asked if there will be a cap. Councilman Bergen said these issues have to be discussed. Jennifer Henning, 102 Main Street said she feels this is a local issue. In her Internet search she has found organizations which are against privatization. She said there are EPA grants for wastewater and the Borough could maintain the service. Presently, if it was turned off, she could call Mayor Merla and have her water turned back on. Roy Jiminez, Ass't. Fire Chief asked who will pay the hydrant fees if the systems are sold. Mayor Merla said the Borough will pay. Jack Jeandron, 80 Main Street asked if the water system is sold, what happens to the cellular tower leases on top of the water tower. Mayor Merla said the Borough will retain the approx. $100,000 in revenue. Mr. Jeandron said the Borough buys water 7 months out of the year. In 1939, then Councilman Tibbets proposed a dam across the meadows at West Front Street. In 1950, the Maple Place bridge was replaced. It was recommended to make a spill and causeway to create a lake, the then Mayor and Council turned it down; this would have been a feasible way to provide a source of water. Mayor Merla said that alternatives were presented to the DEP who said no. Keyport has paid for the Manasquan River Reservoir. The Borough opposed the BRSA expansion and the Borough was right. 100 years ago 4' pipes were connected by rope. There is infiltration (ground water), sump pumps and buildings were built on lakes and creeks. Mr. Jeandron asked if the Borough and Matawan could team up regarding Lake Lefferts. Councilman Bergen said the BRSA rates are going up. William Kerchner,St. Peters Place said if the bidder is required to replace the pipes, the Borough can also do it and stay in the business. Do streets as needed. Mayor Merla said the Ordinance does not authorize the sale. Mitch Myerson, 67 Church Street said the bidder is there to make a profit and will not fix the lines until necessary. Mike Lane, First Street asked in the specifications what did the Borough sell. Gina Carle, Special Legal Counsel said up to the curb. Mr. Lane asked will Middlesex rates be based overall; they will be specific to Keyport's system. Mr. Lane asked if the bills were profiled on what the rates would be is sold to Middlesex or retained by the Borough. Mayor Merla said in 2004, the Borough would raise rates 40% and then every 5 years 20%. Mr. Lane asked about lay offs, what the Borough buys and if taxes will do down. Claude Solomon said monies should be set aside within the rate for infrastructure. Roy Cadoo said the system has not been maintained and he cannot drink the New Jersey American Water. He said the Borough will pay for the hydrants and they water that goes into the system from sump pumps. He said a test should be done on the lines. Mayor Merla said if the Borough stays in the business, meters will be replaced and an analysis done on the system. Mayor Merla said Certificates of Occupancy will not be issued if there is a sump pump that goes into the sewer. Keansburg charges $39.70 for water and $50.50 for upgrade of system. Councilman Bergen said you cannot tell or predict what the Middlesex rate will be. Mr. Kerchner asked about repairs on County roads. Borough Engineer Gerald Freda said costs go up; a greater quality is put back in. Councilman Bergen asked if the sale could go through if Middlesex did not pay $7.5 million. Ms. Carle said it has to be $7.5 million and if the BPU does not approve the said it can be re-bid. Ms. Tango said she has called and had her water tested; that there are chemicals in the water which are not acceptable. Ms. Tango said if the Borough retains the systems and upgrades them and increases the rates 40% for the first year and 20% every 5 years it would be less expensive than 51% and 63%. She said repairs will take time and privatization is negative. Councilman Bergen asked what is the alternative if the BPU denies Middlesex; this needs to be researched. A resident of Walling Terrace asked if the reports are available; yes. A resident asked if the BRSA was raising rates; Mayor Merla said yes and New Jersey American; 40% would cover water and sewer. Councilman Bergen said costs would have to be reduced. Mr. Minor asked what was the cost for the hydrants; Mayor Merla said $125,000 would have to be paid to Middlesex. Mr. Minor said the money spent on the two fire trucks could have gone to the water/sewer infrastructure. William Larkin, Washington Street asked about stand by fees and sprinkler systems. Mike Walling, Ass't, Fire Chief asked who will pay for water for fires. Jean Galloway asked why the Borough was considering selling. Mayor Merla said the question will be on the ballot. Ms. Galloway said the Borough passes on to the residents the New Jersey American and BRSA fees. Mayor Merla said if sold, the water plant and towers will go. If Middlesex buys the water system, they will continue the same, purchasing water for 7 months of the year and the water source will be the same. Mr. Cadoo said the Borough is charged x amount by New Jersey American and the Borough pays for 167 million gallons a year. Joe Wedick, Therese Street asked if a construction project could be phased (do in 5 year phases)doing critical areas first and have a separate charge put on the bill. Mayor Merla said in the first year analysis would have to be done and there is a question of hot spots. Mr. Freda said an infiltration study should be done of the sewer system, if was never done. Mr. Wedick said if Middlesex owns the system, and he wanted to appeal the rates, he would have to hire his own legal counsel. Councilman Bergen said Keyport is part of a "users" group which fights water rate increases. Ms. Larkin suggested asking Aberdeen about their award for their system. Trish Manella, 18 Chandler Street said the systems need repair as they are 100 years old and the Borough hasn't raised rates. She asked if the Borough will put information out for the public. Mayor Merla said the assets and liabilities will be listed if the referendum says not to sell and the residents are willing to pay. Mr. Haulper, Warren Street asked if the voters vote the sale down, will the Borough accepts the voters decision. Mayor Merla said an open space question was put on the ballot and the voters voted yes. He said he made phone calls over the weekend. Ms. Henning said the referendum is binding, that the Mayor and Council may not accept the bid if the voters say don't sell. Councilman Hyer said he voted to introduce the ordinance. Councilman Bergen said he doesn't think Middlesex can run the systems more efficiently than the Borough. A resident said that Mayor Merla said he would not raise rates. A resident said an ordinance was adopted to put the question on the ballot and he is afraid of a low turn out in November and the Mayor and Council should have voted no to put the question on the ballot. Councilman Green said if you vote the question down it forces the Borough to dedicate money to capital improvements. Mayor Merla said in 2002 the Chief Financial Officer said the rates should be raised, now a decision has to be made. The Borough has no control over water rates for 7 months of the year and has no control over sewer rates for 12 months of the year. Three years ago a team was hired and this is the proper procedure as per statute; 40%

in January (Borough) or 56% with Middlesex. Mr. Minor asked why Middlesex was buying the system. Mary Alan, Maple Place said with Middlesex rates will go up 117%, if the Borough retains the systems; 40% in 2004 and 20% every 5 years. Mayor Merla said other meetings will be set up. Councilman Bergen asked when the report will be ready; by Friday. The Hearing was closed at 10:00 PM.

Offered by Mrs. Atkins, seconded by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Atkins*, Hyer, Stalter**, Doyle, Green

*Mrs. Atkins said this will allow residents to give their input, information will be available and that the Borough has spent monies to date.

** Mr. Stalter said he has researched the issue and there is a lack of service with privatization

Nays: Councilman Bergen***

***Mr. Bergen said the Borough has spent monies to get to this point and asked if the question on the ballot will include the rate increase and that the interpretive statement should contain the rate increase.

3a. Motion authorizing the Clerk to publish the Ordinance, as adopted according to law in the Courier, issue of August 7, 2003 moved by Mr. Doyle, seconded by Mr. Green with Ayes by all present except Mr. Bergen who votes Nay.

INTRODUCTION OF ORDINANCES

1. Ordinance #22-03, Amending Chapter XXV, Land Use Regulations

The Clerk read the Ordinance by Title:

AN ORDINANCE AMENDING AND SU7PPLEMENTING AN ORDINANCE ENTITLED THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT ADOPTED BY THE MAYOR AND COUNCIL AND AMENDED FROM TIME TO TIME THEREAFTER ENTITLED "CHAPTER XXV, LAND USE REGULATIONS"

BE IT ORDAINED by the Mayor and Council of the Borough of Keyport that Chapter XXV, Land Use Regulations of the Borough of Keyport adopted by the Mayor and Council and amended from time to time thereafter is hereby amended as follows:

Section 1: Legislative Intent. The Mayor and Council have considered the recommendation of the Planning Board of the Borough of Keyport to increase the minimum lot requirement from 5,000 square feet to 7,500 square feet for all properties in the RA and RA (PRD) zone. The Mayor and Council believe that it is in the best interest of the Borough of Keyport to increase the minimum lot requirements upon which a single family residence or Planned Residential Development may be constructed within the RA or RA (PRD) zone. The Mayor and Council have determined that the increased lot requirement is necessary to preserve the character of residential neighborhoods throughout the Borough of Keyport.

Section 2. Section 25:1-16 of the "Revised General Ordinances of the Borough of Keyport" is hereby amended as follows:

MINIMUM LOT REQUIREMENTS: The minimum lot requirements, consisting of Area (square feet) be and the same is increased to 7,500 square feet for all properties located within the RA and RA (PRD) zone within the Borough of Keyport.

Section 3. All remaining requirements set forth in the Zoning Schedule contained in Borough Ordinance 25:1-16 not expressly amended herein are hereby confirmed.

Councilman Bergen said he needed to review the Ordinance and asked Mr. Kain if a variance would be needed to rebuild if there was a fire; Mr. Kain said no. Mayor Merla said applicants who have reached the 5,000 sqft have to file an appeal. There is an applicant for 4 homes on the Masonic property. 7,500 sqft could be the extreme side. This does not include multi-family.

Offered by Mr. Doyle, seconded by Mr. Stalter

Roll Call Vote: Ayes: Councilmembers Atkins, Hyer, Stalter Doyle, Green
Nays: Councilman Bergen

1a. Motion authorizing the Clerk to publish the Ordinance, as introduced, in the Courier, issue of August 7, 2003 for a Hearing to be held on September 2, 2003 moved by Mr. Doyle, seconded by Mr. Hyer, with Ayes by all present.

COMMUNICATIONS AND PETITIONS

1. Resignation from Planning Board Member Wade Pedersen

Motion to accept with regret moved by Mrs. Atkins, seconded by Mr. Stalter, with Ayes by all present.

Mayor Merla announced the following appointments to the Planning Board:

John Kovacs for a 4 year unexpired term expiring December 31, 2004, replacing Raymond Lee.
Gaylee Benedict for a 4 year unexpired term expiring December 31, 2005 replacing Wade Pedersen
Douglas Lane for a 2 year unexpired term expiring December 31, 2004 replacing John Kovacs
Joseph Vecchio for a 2 year unexpired term expiring December 31, 2003 replacing Gaylee Benedict

2. Application for membership in the Keyport Fire Dept./Engine Company No. 1 from Wilmer G. Chavez (contingent upon State approval).

Motion to approve moved by Mrs. Atkins, seconded by Mr. Hyer, with Ayes by all present.

3. Resignation from Brian A. McGrogan, Special II Police Officer

Motion to accept, moved by Mr. Stalter, seconded by Mr. Doyle, with Ayes by all present.

4. Letter from Fire Chief Harry Aumack III regarding Length of Service Awards Program.

Motion to refer the matter to the Borough Attorney and Fire Committee, moved by Mrs. Atkins, seconded by Mr. Stalter, with Ayes by all present. Council was advised that the Department voted on the matter requesting that the question be placed on the November ballot.

5. Request from Keyport High School Hall of Fame to hold a parade on October 11, 2003.

   Motion to approve, moved by Mr. Bergen, seconded by Mrs. Atkins with Ayes by all present.

6. Request from Daisy Villar for adjustment to Water/Sewer bill (pool filling).

   Motion to refer the matter to the Public Works and Water/Sewer Utility Collector, moved by Mr. Bergen, seconded by Mr. Doyle, with Ayes by all present.

7. Applications for two (2) Taxi Owner's Licenses from Unlimited Taxi (see Detective Bureau report).

   Motion to approve moved by Mr. Bergen, seconded by Mr. Stalter, with Ayes by all present.

8. Application for Taxi Driver's License from Henry Mueller (See Detective Bureau report).

   Motion to approve moved by Mr. Bergen, seconded by Mr. Stalter, with Ayes by all present.

9. Application for Taxi Driver's License from Kathleen Mueller (See Detective Bureau report).

   Motion to approve moved by Mr. Bergen, seconded by Mr. Stalter, with Ayes by all present.

10. Application for Taxi Driver's License from Larry Smith (See Detective Bureau report).

    Motion to approve moved by Mr. Bergen, seconded by Mr. Stalter, with Ayes by all present.

11. Resolution adopted by the Borough of Garwood concerning State's actions concerning the "Property Tax Reimbursement Program".

    Motion to receive and file, moved by Mr. Bergen, seconded by Mr. Doyle, with Ayes by all present.

12. Applications for Raffle Licenses from St. Joseph School PTA:
    A. On Premise Cash Raffles, various dates
    B. On Premise Draw Raffle, October 16, 2003
    C. On Premise Draw Raffle, November 8, 2003

    Motion to approve moved by Mr. Bergen, seconded by Mr. Hyer, with Ayes by all present.

UNFINISHED BUSINESS

1. Sidewalk/Curb Program. Mayor Merla reported that the residents of Main Street and others, i.e. Church and Fulton Streets are interested. Thomas Fallon, Chief Financial Officer will compile data. This will be listed again on a future agenda. The pay back would be over 5 years. Mr. Doyle said the Historic Districts will be maintained. The business district is also interested in the program. Mr. Bergen advised that this would be a special assessment. Mr. Freda

said the County should be contacted when improvements are anticipated on County roads.

2. Conservation Easement/Wetlands. Mayor Merla said he will work on a draft letter showing areas for submittal to Lelani Hershey of Green Acres.

3. Community Development. A meeting will be held at Brookdale College.

4. Therese Street Improvements. Mr. Freda will research replacement of sidewalks and curbs in specific areas. There is no Stop Sign at the intersection of Therese and Provost. The Engineer's crews have been on site.

ADMINISTRATOR'S REPORT

Mrs. Poling reported on the following. Payment of Bills for July 22, 2003: Current Account: $126,816.65, Water and Sewer Account: $21,588.72, General Capital Account: $1,743.93, Recreational Bayfront Improvement Trust: $2,002.29.

ENGINEER'S REPORT

Mr. Freda reported on the following. Bulkhead Project: the Army Corp of Engineers has commented on the elevations. In April it was agreed to move forward. The current elevations are 11.1 as per the Department of Environmental Protection. The Army Corp is concerned with wave actions. The height could be lower below 9 or up to 15. This will not change the design, it knocks off the top. If the DEP approves then the project may proceed. First Street and American Legion Drive will be raised. Mr. Bergen asked if this was proceeding independently of the roadway; yes. Mr. Bergen said they should be done together. Terry Parker advised why 9 ft rather than 11.1. New Municipal Complex: The Monmouth County Planning Board has given conditional approval for the "bump out", requesting a map of the parking spaces and striping. The ballards must have lights which will increase the costs. Mayor Merla said it was estimated at $40,000 and came back at $24,000 (½ was for the relocation of the fire hydrant); if the hydrant is not relocated money is saved. If needed the matter of the fire hydrant will be referred to the Fire Chief. Joseph Wedick, Therese Street asked if the BID should be asked.

ATTORNEY'S REPORT

Mr. Kain reported on the following. Magic Touch vs the Borough of Keyport: there will be a settlement conference. PBA vs the Borough of Keyport: this pertains to health benefits and 27 pays and Mr. Kain will report to Council on both matters.

NEW BUSINESS

1. Amending Ordinance Regarding Sweeping of Business District. Mr. Hyer recommended beside sweeping on Friday, that Tuesday be added to the Ordinance.

2. School/Community Calendar. Request From Edward McNamara of the School Board that the Borough contribute $2,500.00. The Business Improvement District was also asked to contribute. Motion to add a Resolution approving contribution, moved by

Mr. Hyer, seconded by Mr. Doyle, with Ayes by all present.

3. Tax/W&S/Finance Department. Mr. Doyle asked Council to consider making the part time Account Clerk full time with benefits and hiring a full time Deputy Tax Collector. He will make a formal recommendation at a later date.

4. Sewer Fees. Mr. Bergen recommended increasing the sewer fees on new construction.

5. Sump Pump Connections. Mr. Doyle said in Howell with new construction there are dry wells and down spouts have to be put in.

6. Army Corp Project in Union Beach. Mayor Merla requested the Council authorize him to write a letter to Congressman Pallone requesting a 60 day extension for comments as it may effect the Borough of Keyport and ask that a meeting be held in Keyport for public input.

7. Green Acres. Mayor Merla reported that there was a meeting last week with Green Acres and they said an application for land diversion has to be submitted by September 2, 2003. Funding has to be secured. There is the Magic Touch case and condemnation of buildings to be considered. Mr. Bergen asked Mr. Freda where the road will go, what will be done and what will DEP do. Mr. Freda said the plans are almost done and will be submitted for review.

8. Dredging. Mayor Merla reported that letters were sent to several State departments asking for dredging funds and calls were also made. An application, with the help of the Bayshore Development Office, is being prepared to be submitted to the New Jersey DOT Maritime Resources.

9. "No Child Left Behind Act". Mayor Merla reported on a communication from Senator Kyrillos to St. Joseph Advisory Council. The Borough is not involved and the school will respond.

10. Library. Mayor Merla reported that the Library is a municipally owned building which needs to be made ADA acceptable. There is funding through the Department of Community Affairs (2004 budget provides for $2.5 million). Claude Solomon and Mayor Merla are working on an application which is due August 29, 2003.

11. Police/Fire/EMS Grant Program. Mayor Merla reported in order to qualify you must have a Fast Team. For year 2004, there is $7 million in State Aid. Mayor Merla referred the matter to Mrs. Atkins to meet with the Departments, the grant is due the end of August.

PUBLIC COMMENT PORTION

The Meeting was opened to the public at 11:30 P.M. for comments or questions. Terry Parker, 135 First Street said funds come from boating fuel and recommended a letter be sent in appreciation of efforts. Comments on the Union Beach Project are due, there could be a 15' wall for 4 miles. Keyport is in the 2008 funding cycle. Claude Solomon recommended contacting Hazlet Mayor as they are also effected. Roy Cadoo asked what effect this project has on Keyport. He asked what the time frame was for completion of Phase IV

Washington Street. Mayor Merla said a period of time is needed to let the water/sewer lines settle. Mr. Freda said it could be six months, the time frame in the contract. Mayor Merla said bid specs for future projects should include an Ordinance on marking up the street. Mike Lane, First Street said the amended ordinance for 7,500 sqft, if there is a fire the structure can be replaced and the ordinance will ensure diversity. Edward McNamara said he appreciated the Borough's support with the School/Community Calendar and he supports the Ordinance for 7,500 sqft. Joanne Staeger, Main Street asked about the public hearings on the sale of the water/wastewater systems and information on same. Mayor Merla said the professionals will give an overview os either staying in the business and information on selling the systems. Middlesex Water Co. will make a presentation. Ms. Staeger asked about a sign on American Legion Drive which says coming soon "Burlew's Marina". Mr. Kain said the litigation has not been settled yet. Ms. Staeger asked about the sequencing of lights at Broad & Atlantic Street. Police Chief Gajewski said if the lights are disrupted it takes 12 hours to have them reset. Ms. Solomon said she will work on the grant application. Mayor Merla reported that 8 RFP for the Planner have been received. The Public Comment Portion was closed at 11:45 PM.

RESOLUTIONS

2. Resolution #296-03, Payment of Bills

See full copy of Resolution as pages 20-22 Of these minutes.

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

3. Resolution #297-03, Amend April 14,2003 Payment of Bills

WHEREAS, on April 14, 2003, the Mayor and Council of the Borough of Keyport passed a Resolution for the Payment of Bills, and

WHEREAS, on the Payment of Bills in the Water Account, a payment to First Community Insurance Company check #004180 in the amount of $405.00 as made.

WHEREAS, it has been determined that this payment was already paid.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that check #004180 in the amount of $405.00 payable to First Community Insurance Company be voided and the Water Account Section of the Payment of Bills of April 14, 2003 be amended to read **$408,720.28.**

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

4. Resolution #298-03, Release of Maintenance Bond/Three Bridges Project

THREE BRIDGES, BLOCK 94, LOTS 32.02, 32.03 & 33.01
SITE PLAN/VARIANCES

WHEREAS, the above project has re4quested release of the Maintenance Bond posted for the above project; and

WHEREAS, the firm of Schoor DePalma, engineers at the time, have completed a final inspection and have recommended release of the Maintenance Bond as per their letter of July 11, 2003, copy attached.

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

1. The Maintenance Bond posted in the amount of $14,432.22 is hereby released pending payment of all outstanding bills.

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

5. Resolution #299-03, Amend Inter-Local Agreement with Hazlet Township for Recycling Services

WHEREAS, the Borough of Keyport and the Township of Hazlet have entered into an Interlocal Services Agreement wherein the Township of Hazlet agrees to provide cooperative recycling services for the Borough of Keyport; and

WHEREAS, the Borough of Keyport and the Township of Hazlet have entered into an Interlocal Services Agreement for the provision of certain recycling services for storage and transport of certain recyclable materials of the Borough of Keyport for the term beginning January 1, 2000 and ending on December 31, 2004; and

WHEREAS, the Interlocal Services Agreement between the Borough of Keyport and the Township of Hazlet provides in pertinent part for monthly reimbursement by the Borough of Keyport to the Township of Hazlet at a rate of $8.00 per white appliance unit; and

WHEREAS, the Interlocal Services Agreement between the Borough of Keyport and Township of Hazlet needs to be amended to provide that the rate to be charged to the Borough of Keyport by the Township of Hazlet for air conditioners and refrigerators will be amended to $10.00 per appliance, with the balance of white appliances to remain at the rate of $8.00 per white appliance unit.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport, that the Interlocal Services Agreement between the Borough of Keyport and Township of Hazlet, County of Monmouth and State of New Jersey, providing for the Township of Hazlet to provide cooperative recycling services for the Borough of Keyport shall be amended to provide that the recycling services for the Borough of Keyport by the Township of Hazlet will be amended to provide that the rate for air conditioners and refrigerators will be $10.00 per appliance.

BE IT FURTHER RESOLVED that all other terms and conditions contained in the agreement between the Borough of Keyport and the Township of Hazlet, County of Monmouth and State of New Jersey, providing for the Township of Hazlet to provide cooperative recycling services for the Borough of Keyport will remain in full force and effect.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk of the Borough of Keyport are hereby authorized to execute any documents necessary in order to implement this Amendment to the Interlocal Services Agreement between the Borough of Keyport and the Township of Hazlet for cooperative recycling services.

BE IT FURTHER RESOLVED that a copy of the within Resolution shall be forwarded to the Superintendent, Department of Public Works, the Township of Hazlet and that a copy be maintained in the office of the Borough Clerk for public inspection.

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

6. Adjustment to Water/Sewer Account #0178007 (Pool Filling) (Deleted)

7. New Municipal Complex-Change Order No. 11 Relative to Additional Repaving of Parking Area in Rear of 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 for a change order for the municipal complex as it relates to the repaving of the parking area behind the new municipal complex to be performed by the general contractor, A&K Excavating; and

WHEREAS, the Mayor and Council have reviewed the proposed change order which consists of the removal, regrading and replacement of the existing asphalt as set forth in Change Order No. 11 as submitted by the general contractor, A&K Excavating, Holmdel, New Jersey, and approved by the project architect; 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 the change order for the additional work relative to repaving the rear of the municipal complex in the amount of $15,000.00; 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. 11 to the Keyport Municipal Complex.

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 the change order request, designated Change Order No. 11 submitted and recommended by the project architect consisting of removal,

2. regrading and repaving of the rear of the municipal complex.

3. The Mayor and Council hereby approve the change order in the amount of $15,000 as it relates to the removal regrading and repaving of the parking areas to the rear of the municipal complex, for a total cost of $15,000.00.

4. That the within contract sum for the construction of the within municipal complex is hereby increased to $3,409,412.14, inclusive of Change Order No. 11.

5. The within Resolution is specifically contingent upon the Certification of the Municipal Finance Officer as to the available funds within the appropriate bond ordinance adopted by the Mayor and Council and amended thereafter.

6. That a copy of this Resolution, duly certified, be forwarded to the Project Architect, General Contractor, A&K Excavating, Clerk of the Works, Borough Engineer, Consulting Engineer and the Municipal Finance Officer.

7. Copies of the within Resolution shall be retained in the office of the Borough Clerk for public inspection.

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

8. New Municipal Complex-Change Order No. 12 (Deleted)

9. Dedication by Rider-Senior Citizen Center (Deleted)

10. Salary Resolution-Part Time Employees (Deleted)

11. Resolution #301-03, Approving Contribution to the Keyport Board of Education

WHEREAS, the Keyport Board of Education is located in the Borough of Keyport and County of Monmouth and conducts activities that benefit the public good; and

WHEREAS, the Keyport Board of Education has requested that the Borough of Keyport contribute the sum of $2,500.00 towards the cost of the 2003/2004 Keyport School District & Community Calendar.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that the sum of $2,500.00 is hereby approved as a contribution towards the cost of the 2003/2004 Keyport School District & Community Calendar and the Mayor and Chief Financial Officer are authorized and directed to pay said sum.

Offered by Mr. Stalter, seconded by Mr. Doyle

Roll Call Vote: Ayes: Councilmembers Bergen, Atkins, Hyer, Stalter, Doyle, Green

Council went back into the Closed Meeting at 12:10 AM and this meeting was reconvened at 12:36 A.M.

On Roll Call the following were present: Councilmembers Atkins, Hyer, Stalter, Doyle, Green. Absent: Councilman Bergen

ADJOURNMENT

Motion to Adjourn moved by Mr. Green, seconded by Mr. Doyle, with Ayes by all present.

Time of Adjournment: 12:37 A.M. (August 6, 2003)

Respectfully submitted,

Judith L. Poling

Judith L. Poling, RMC/CMC
Borough Clerk