Approved 9/20/05

Keyport, New Jersey
September 2, 2003

Minutes of the Work Meeting of the Mayor and Council, held on the above date in the Keyport Senior Citizen Center, 110 Second Street, Keyport, NJ 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 7:04 P.M. and read the Sunshine Law Notice.

ROLL CALL

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

RESOLUTION

1. Resolution No. 319-03, Closed Meeting - Personnel, Litigation and Contract Negotiations

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

Personnel

1.. Public Works Department
2. Tax Office

Litigation

1. Magic Touch vs. Borough of Keyport
2. Kutschman vs. Borough of Keyport

Contract Negotiations

1. New Municipal Complex/52 West Front Street

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 Senior Citizen Center Meeting Room for the purpose of discussing the following subjects:

Personnel, Litigation and 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. Hyer, second by Mr. Doyle

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

Council went into closed session at 7:05 P.M. and this meeting was reconvened at 7:55 P.M.

Mayor Merla called the meeting to order at 8:00 P.M. and read the Sunshine Law Notice.

ROLL CALL

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

APPEARANCE AND DISCUSSION

1. **Sidney Becnel regarding Benjamin Terry Park.** Mr. Becnel said he resides at 22 Myrtle Avenue (which is on Veterans Park) and owns property at 225 First Street and 23 Myrtle Avenue. He has maintained the property for the last 20 years and there is a paper street north of his property. At the back of the paper street is lot 25 which runs from the bay to the railroad tracks and it has not been maintained. He requested Public Works use the backhoe and remove the overgrowth on lot 25. Mr. Becnel said about 6-7 years the Osprey made nests and it was suggested the Borough install an artificial nest and it was installed. Council should consider doing away with this.

   An Arbavitis tree was planted in 1999 which is an obstruction. Mr. Becnel said he will be building a new residence at 225 First Street and asked if Council would consider him taking out the tree and planting hedges. The David VanPelt memorial sign that was installed 9-10 years ago was vandalized and should be removed or replaced. Mayor Merla said the marker may have been set by the family. The Mayor asked if lot 25 is Borough owned; yes.

   Mr. Hyer said he spoke with Mr. Becnel and a picture was taken last year; some growth was taken down and the mound is still there. The Mayor said George Sappah should be asked to remove the 4X4's and do something different.

   The Mayor asked Mr. Becnel if he has plans for the home; yes. Mr. Becnel was asked if he has a landscape plan; no. The Mayor said he would like to see what plans Mr. Becnel has for his home.

SPECIAL RECOGNITION

Mayor Merla said earlier in the year he said he would like to do a monthly recognition of an individual or a business. Last Saturday there was an episode where the Boat Launching Ramp was robbed and money was stolen. The Police system is used to check license plates. The individual who stole the money took the box and put it under their shirt and went up First Street. Thanks to a good Samaritan, the individual was apprehended within 7 minutes and the money was recovered. The Police did their job well.

The Mayor said the Police Chief will recognize three of his Officers and the good Samaritan. Chief Gajewski said Sergeant Robert Dillon has 40 years as a Police Officer in Keyport and presented him with a Valor award. Patrolman Ferm and Patrolman Ruth were also presented with Valor awards by the Chief. William Gilmore, who was a former employee, was presented with a Good Samaritan Award. Police Chief Gajewski said it took a lot and the Police Department needs the citizens to help them do their job. Mayor Merla said more than $1,000 was stolen which is a third degree crime.

HEARING ON ORDINANCES

1. Ordinance No. 22-03, Amend Chapter XXV, Section 25:1-16/Minimum Lot Requirements

   The Clerk reported that the Ordinance was published as introduced, in the Courier, issue of August 7, 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 AMENDING AND SUPPLEMENTING 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"

The Hearing was opened to the public for comments or questions at 8:20 P.M. John Van Sweden, Walling Terrace, said this is a good Ordinance that will allow the residents to stand to gain more land, more parking and will given balance to the town. Michael Lane, First Street, said the ordinance does not impact any pre-existing lot, but will impact the new subdivisions. This Ordinance will give the Planning Board more power. Mr. Lane said 8 Planning Board Members voted yes for this Ordinance. There being no further comments, the Hearing was closed to the public at 8:21 P.M.

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

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

1a. Motion authorizing the Clerk to publish the Ordinance as finally adopted according to law in the Courier, issue of September 2, 2003 moved by Mr. Hyer, second by Mrs. Atkins with Ayes by all present.

2. Ordinance No. 23-03, Amend Chapter VII (Traffic), Sections 7.3 and 7.6

The Clerk reported that the Ordinance was published as introduced, in the Courier, issue of August 21, 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 AMENDING CHAPTER VII, "TRAFFIC" OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF KEYPORT

The Hearing was opened to the public for comments or questions at 8:23 P.M. There being none, the Hearing was closed to the public at 8:23 P.M.

Offered for adoption by Mr. Hyer, second by Mrs. Atkins

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

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

COMMUNICATIONS AND PETITIONS

1. Resignation from Amanda Russo, Recycling Committee Member

Motion to Accept with Regret moved by Mr. Hyer, second by Mrs. Atkins with Ayes by all present.

2. Resignation from John M. Fahey, Harbor Commission Member.

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

3. Resignation from Paul Kerwin, Public Safety Telecommunications Operator (PT)

Motion to Accept with Regret moved by Mrs. Atkins, second by Mr. Doyle with Ayes by all present.

UNFINISHED BUSINESS

1. **PBA Negotiations**. Mr. Hyer said a letter was received from the PBA regarding Negotiations. He asked if the Chairman called a meeting; no. The letter states this would be the second meeting. Mr. Bergen will be sent a letter regarding the status and report.

2. **Police Vehicles**. The Police vehicles are going home; the canine car use should be reconsidered, as well as the Detective on duty taking a vehicle home; use should be allowed. This matter was referred to the Police Commissioner. Mayor Merla said the Police Commissioner should make the determination.

3. **Deputy Tax Collector.** Mr. Doyle said interviews have been held.

   The last of the interviews for Planner will be held on September 3rd at 5:30 P.M. The State will help make a decision.

4. **Festival of Sails.** Mrs. Atkins said she spoke with Kathy Shaw regarding the $4,000 in bills. The Borough is supposed to be a partner in these events. Mrs. Shaw said the Keyport Business Alliance should have been advised of a budget and they will curtail another program.

   The Mayor requested Mrs. Atkins and Mr. Doyle review the bills and check with CFO Fallon. The Mayor said the Police Department was paid by the organization that hosted the Spanish Festival.

5. **ADA Grant/Library.** The Mayor reported the Library submitted a $60,000 grant for ADA Compliance and construction.

6. **Livable Communities Grant.** Joe McGinty of Birdsall Engineer advised the Borough should apply for this grant to update the equipment at Theresa Street Park. The current equipment does not meet OSHA standards and a Revitalization Plan is needed. Theresa Street is being paved this year. Mr. Hyer said he would have a complete park report.

   Residents will receive letters regarding the sidewalk/curb program.

ADMINISTRATOR'S REPORT

Mrs. Poling did not have a report.

ENGINEER'S REPORT

Mr. Freda asked how much money was in the Ordinance for the 2003 Road Program? The Mayor said Mr. Doyle will work with Tom Fallon on this matter. Mr. Freda said there is $170,000 worth of work for the streets that are listed; not all of the streets can be done. The Mayor said some of the streets need drainage. With regard to the Public Works Facility, Mr. Freda will meet with Mr. Hyer and George Sappah.

ATTORNEY'S REPORT

Mr. Kain said depositions will be taken in the Magic Touch case next week. Mr. Litwin, Mr. Freda and Mrs. Poling will attend the Tidelands Hearing. He is working on the Kutschman matter.

The Police Chief and Captain are concerned about the Handicapped space being further away from the driveway at the new building. The Mayor requested an on site inspection be made.

NEW BUSINESS

1. **Grants.** Mrs. Atkins said a grant in the amount of $66,000 was filed for Police, Fire, First Aid and Emergency Management. The Mayor said a lot of work went into the grant.

2. **Banner.** The Mayor thanked Mrs. Atkins and the Fire Chief for having the Fire Department hang a banner. The Public Works bucket truck is not certified.

3. **Library.** Mayor Merla said there are drainage problems; the Board of Health will do a dye test and the problem will be addressed before the winter. The second drain is draining under the pavement.

4. **9-11.** There will be a memorial on September 11th at 7:00 P.M. at the Mini Park; there will be a candle vigil. All of the departments, schools, Channel 22 and the newspapers were invited.

5. **Electrical Service Disconnect.** GPU has a policy for electrical service disconnects and the Borough has until September 5th to respond. This information was forwarded to the Fire Official and to Councilwoman Atkins.

6. **Apollo Sewer.** Permits were issued for Apollo Sewer on Beers Street. All permits were filed with the DEP and the Construction Code Official. An exceptionally good job was done.

7. **Atlantic Street Property.** John Meyer purchased property on Atlantic Street and he subdivided and he was only allowed off street parking; there is no driveway. In order to sell the home, a driveway is needed. There is also a fire hydrant there that needs to be moved; Mr. Meyer will pay for this. There is also a drain there. Engineer Freda will send a letter and Mr. Meyer will have two weeks to reply.

8. **Dredge Meetings.** The Army Corps of Engineers may possibly hold a meeting at the school on September 29th. John Garofalo of the DEP was told we need dredging. He would send out a field crew to do samplings and borings for dredging of the State and Federal channel. The Bayshore Development Office has been helpful.

9. **Water/Wastewater Meeting.** Mayor Merla said two meetings ago it was sat there there would be Water/Wastewater Meetings (9/25 and 10/9). The BRSA said there was a misquote made; it is 34 vs. 51% increase. The Borough's rate is based upon the BRSA bill. The Mayor said he was wrong, it was 64%. CFO Fallon took the rate from the audits and expenditures. There will be an interpretive statement for the November ballot and the public's attendance at the polls was urged.

10. **Debris.** Mr. Hyer will request at the September 10th Recycling Meeting a bulk clean up in town and new citations will be issued for debris that does not belong in the garbage.

PUBLIC PARTICIPATION

The meeting was opened to the public for comments or questions at 8:47 P.M. Ray Weber, Williamson Street, asked about the parking situation with Green Grove Apartments. There has not been anything on the Planning Board Agenda. Mr. Weber said the Management Company for Green Grove Apartments is verbally abusive. Mr. Weber requested permit parking on the south side of Williamson Street. The Borough is obligated. The Mayor said this matter will be referred to Traffic Safety. Mrs. Febo, Planning Board Secretary should contact Green Grove Apartments to find out the status of their application.

Mitch Meyerson, Church Street, said the Mr. Stalter and Mr. Kain have a conflict of interest. Mayor Merla said former Mayor Graham spoke with the Department of Community Affairs.

Mr. Stalter said he has not heard anything. He asked if any Councilmembers are receiving medical benefits; no.

Mike Lane, First Street, said the West Furniture property is in contract and if the Borough does not enforce Ordinances then it will become rule. There is an added second business that has dumpsters and gravel, additional lighting. Debris is being dumped at night, the air conditioning unit is dangerous, a sign is deteriorating. The property owner was given a 30 day temporary certificate of occupancy for the business. Mr. Lane asked if the temporary certificate is continuing. The Mayor said the Construction Code Official has the right to approve or deny matters. Mr. Lane asked if the temporary CO is limited to 1 business until site improvements were made and now there is a second business; he asked why the second business was not shut down? A letter should be sent to Robert Burlew, CCO and Tony Vecchio and William Cerase should be copied on the letter. At the last Planning Board Meeting, Mr. Dubleski is a Corporation and he did not have an attorney present. The Borough should have the 30 day Certificate of Occupancy expire until the final approval is given by the Planning Board. The residents within 200 feet were not noticed. Mr. Lane said this issue has been going on for three years; the neighbors are not opposed to the operation, but they should live up to the conditions.

Joanne Staeger, Main Street, asked what the KBA bill was for; Mrs. Atkins said Police Overtime. The Mayor said the KBA did not budget for Police Overtime for Keyport, Aberdeen and Union Beach. CFO Fallon has to check the budget. Other events we have paid for. It was asked if the Borough keeps a record of its share? The Mayor said at the end of the year, the KBA submits a report and the Borough reports it as an in-kind service.

A resident asked about 5000 vs. 7500 square foot Ordinance. Mayor Merla said a resident would have to come before the Planning Board and request a variance and the Board could grant the request.

Carlos Maldonado asked about the Third and Division Street project (4 houses); there is a drainage problem there now. Mr. Maldonado asked how they received County approval? He asked if the builder will have to correct the problem and if the builder met with the Borough Engineer? The Mayor said the plans were submitted to the County, but it is not on a County Road. Engineer Freda said his firm reviews the plans. Mayor Merla said the Borough gave the builder preliminary approval, but he has to come back in 45 days with a stormwater management plan. There would still be a problem if there were only 3 homes built there. The Planning Board got the sidewalks, curbs, hydrant and drain corrected. Mr. Maldonado said with regard to the paving of roads, there is a section of Division Street that needs work. The Mayor said the area has drainage concerns. Mr. Maldonado asked if the Borough knew what type of water there is at the corner of Division and Third Streets; ground water.

Mike Lane, First Street, said the First Street townhomes, Masonic Lodge and West Furniture building are all on a lagoon; all of them drain on Stitch's property. There was a question about the lift pump failing during a power outage and Dr. Stitch's property flooding. Mr. Hyer said the lift is for the sewer.

Mr. McNamara asked about the Masonic Property and if the Borough considered the esthetic quality of the area? The homes are out of character in this area. He said the square footage Ordinance was passed tonight and someone is already asking for an exception. The Mayor said the Planning Board has to consider the exceptions and address the matter case by case. Mr. Kain said there will be circumstances where an applicant will apply and it may be justified by the evidence submitted to the Planning Board and approve a variance. Mayor Merla said there is now a change that should have been done in the late 1980's. There is not much more available space. Mr. McNamara said less that 7500 square feet should be an exception, not a rule.

Ms. Brown, Manchester Avenue, asked about signs. Mayor Merla said an Ordinance was adopted and the Borough will have to check with the DOT.

The meeting was closed to the public at 9:30 P.M.

RESOLUTIONS

2. Resolution No. 320-03, Amend July 15, 2003 Payment of Bills

WHEREAS, on July 15, 2003, the Mayor and Council of the Borough of Keyporty passed Resolution No. 276-03 for the Payment of Bills; and

WHEREAS, in the Current Account Section, a bill was paid to Amboy Generator in the amount of $329.40, Check No. 016097; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport to void Check No. 016097 to Amboy Generator in the amount of $329.40 and amend the balance in the Current Account Section of the July 15, 2003 Payment of Bills to read: $145,337.37.

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

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

3. Resolution No. 321-03, Amend July 22, 2003 Payment of Bills

WHEREAS, on July 22, 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 Current Account, a payment was made to Joey Sudyka, Check No. 15984 in the amount of $350.00; and

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

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that Check No. 15984 in the amount of $350.00 payable to Joey Sudyka be voided and the Current Account Section of the Payment of Bills of July 22, 2003 be amended to read: $126,466.65.

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

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

4. Resolution No. 322-03, Amend August 5, 2003 Payment of Bills

WHEREAS, on August 5, 2003, the Mayor and Council of the Borough of Keyport passed a Resolution for the Payment of Bills; and

WHEREAS, in the Current Account bills were added on in the amount of $3,915.80 and in the Water Account bills were taken off in the amount of $777.35.

WHEREAS, it has been determined that these bills had to be paid or not paid.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport that the Current Account and the Water Account of the August 5, 2003 payment of bills be amended to read:

Current Account - $703,302.22
Water Account - $37,251.55

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

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

5. Resolution No. 323-03, Amend August 19, 2003 Payment of Bills

WHEREAS, on August 19, 2003, the Mayor and Council of the Borough of Keyport passed a Resolution for the Payment of Bills; and

WHEREAS, in the Escrow Account Section, a bill made out to James Mills in the amount of $756.69 was listed.

WHEREAS, it has been determined that the amount to Mr. Mills should be $1,176.69.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Keyport to amend the Escrow Account Section of the August 19, 2003 Payment of Bills to read: $26,196.79.

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

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

6. Resolution No. 324-03, Special Item of Revenue - US DOJ Bulletproof Vest Grant

WHEREAS, NJSA 40A:4-87 provides that the Director of the Division of Local Government Service may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount; and

WHEREAS, the Borough will receive $15,992.26 in funding from the US Department of Justice Bulletproof Vest Partnership Grant Program and wishes to amend its 2003 budget to include this amount as a revenue and offsetting appropriation.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Keyport, County of Monmouth hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2003 in the sum of $15,992.26 which is now available as a revenue from:

Miscellaneous Revenues - Section F: Special Items of
General Revenues Anticipated with Prior Written Consent of
Director of Local Government Services - Public and Private
Revenues Offset with Appropriations:
USDOJ - Bulletproof Vest Grant $15,992.26

BE IT FURTHER RESOLVED that a like sum of $15,992.26 be and the same is hereby appropriated under the captions of:

(A) Operations - Excluded from "CAPS" - Public and Private Programs
Offset by Revenues:
USDOJ - Bulletproof Vest Grant $15,992.26

BE IT FURTHER RESOLVED that the Borough Clerk forward two copies of the "Chapter 159 Certification and Approval Form" to the Director of the Division of Local Government Services.

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

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

7. Resolution No. 325-03, Amend Public Works Facility Lease/Swift Family Partnership

WHEREAS, the Borough of Keyport has previously entered into an Agreement with Swift Family Partnership, LP for the lease of certain property and premises known as 120 Francis Street, Keyport, NJ; and

WHEREAS, Paragraph 29 of said Lease provides for an increase in rent due to an increase in municipal taxes; and

WHEREAS, Swift Family Partnership, LP has notified the Borough that they are exercising this option cited in Paragraph 29 of said lease resulting in a monthly rent increase of $18.86, as set forth on the attached Schedule A.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that effective September 1, 2003, the monthly rent of $4,750.93 shall be increased by $18.86 for a new monthly rent of $4,769.79.

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

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

8. Resolution No. 326-03, Amend 35 Broad Street, Unit #4 Lease, Swift Family Partnership

WHEREAS, the Borough of Keyport has previously entered into an Agreement with ETS Property, Inc. for the lease of certain property and premises known as 35 Broad Street, Unit #4, Keyport, N.J; and

WHEREAS, said Lease provides for an increase in rent due to an increase in municipal taxes; and

WHEREAS, ETS Property, Inc. has notified the Borough that they are exercising this option cited in said lease resulting in a monthly rent increase of $10.00, as set forth on the attached Schedule A.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that effective September 1, 2003 the monthly rent of $971.66 shall be increased by $10.00 for a new monthly rent of $981.66.

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

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

Abstain: None
Absent: Councilman Bergen

9. Resolution No. 327-03, Cancellation of Recycling Center Change Fund

WHEREAS, on June 3, 2002 a Change fund for the sale of CFC permits was established fro the Recycling Center in the amount of $50.00 per Resolution No. 184-02; and

WHEREAS, it has been determined that the Change Fund is no longer required.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council that the Recycling Center Change Fund is hereby cancelled.

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

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

10. Resolution No. 328-03, Nextel Cellular Tower Lease, Five (5) Year Renewal Option

WHEREAS, the Borough of Keyport is the owner of certain real property including a water tank constructed thereon, located at the intersection of Cass Street and Highway 35, Block 33, Lot 19 on the Tax Map of the Borough of Keyport; and

WHEREAS, the Mayor and Council have previously entered into a lease agreement with Nextel Communications, Inc. which provided for the installation of certain antenna array, maintenance of transmission lines and mounting apparatus for the purpose of operating a mobile communications facility including the lease of a portion of the real property located at Block 33, Lot 9 on the Tax Map of the Borough of Keyport consisting of approximately 450 square feet at the foot of the water tower for various utility lines relative to the mobile communications activity; and

WHEREAS, the lease agreement provides that Nextel Communications, Inc., may extend this lease for three additional five year terms upon written notice to the Borough at a rental established in accordance with the written lease agreement to be effective for a five year term commencing January 14, 2004 through January 13, 2009; and

WHEREAS, Nextel Communications, Inc. has request the first five (5) year extensions in accordance with the lease agreement; and

WHEREAS, the Mayor and Council have reviewed the within matter and determined that it is in the best interest of the Borough of Keyport to authorize the within renewal at a yearly rate of Thirty One Thousand, Eight Hundred Sixty ($31,860.00) payable in equal monthly installments of Two Thousand, Six Hundred and Forty ($2,640.00) commencing on January 14, 2004 and continuing for each year of the within extension period; and

WHEREAS, the Mayor and Council desire to authorize the extension of the lease agreement and to authorize the Mayor and Borough Clerk to execute the appropriate documents to effectuate that purpose.

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

1. The Mayor and Council hereby approve the initial five (5) year extension requested by the Tenant, Nextel Communications, Inc. for the period commencing January 14, 2004 through January 13, 2009 at the stated yearly rental of Thirty One Thousand, Eight Hundred and Forty ($31,840.00) Dollars, payable in equal monthly installments, for the property

located at the intersection of Cass Street and Highway 35, Block 33, Lot 19 on the Tax Map of the Borough of Keyport for the purposes contained in the written agreement.

2. The Mayor and Council further authorize the Mayor and Borough Clerk to execute the appropriate documents required to facilitate the within five (5) year extension.

3. The Tenant shall be required to maintain monthly payments to the Borough of Keyport and to maintain all required insurance and security deposits as required under the lease agreement.

4. Any terms of the within agreement not expressly modified herein are hereby confirmed.

5. Copies of the within Resolution shall be forwarded to the Nextel Communications, Inc., Municipal Finance Officer and the Borough Attorney and 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. Doyle

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

11. Resolution No. 329-03, Payment of Bill

See full copy of Resolution as pages 14-16 of these minutes.

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

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

12. Resolution No. 330-03, Change Order No. 12, Bump Out

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 verbal request from the project architect for an amendment to Change Order No. 12 for the municipal complex as it relates to the construction of a "bump out" of the street and sidewalk in front of the new municipal complex to be performed by the General Contractor, A&K Excavating; and

WHEREAS, the Mayor and Council have reviewed the proposed verbal amended change order which consists of the removal and replacement of the concrete apron, additional curb, sidewalks and pavers and the installation of six (6) lighted bollards, with necessary electrical connections and further the removal and capping of the existing fire hydrant as set forth in the verbal amended Change Order No. 12 as submitted by the general contractor, A&K Excavating, Holmdel, New Jersey and approved by the project architect; and

WHEREAS, based upon the review by the Mayor and Council and the recommendation of the project architect, the Mayor and Council are inclined to authorize the verbal amended change order for the additional work relative to the reconfiguration of the public street to include the "bump out" in the revised total amount of $19,580.00 for the sidewalk, curbs, pavers, six (6) lighted bollards with all necessary electrical connections, as required by the Monmouth County Planning Board, and the removal and capping of the existing fire hydrant; and

WHEREAS, the Mayor and Council desire to memorialize the within resolution approving the verbal amended change order, subject to receipt of an executed change order confirming the within terms, and to authorize the project architect to proceed with the within amended change to the municipal complex as set forth in the Amended Change Order No. 12; and

WHEREAS, based upon the additional work to be performed and the recommendation of the project architect, the mayor and Council are further resolved to extend the date for substantial completion for an additional thirty (30) days to September 13, 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 the verbal amended change order request, designated Change Order No. 12 submitted and recommended by the project architect consisting of removal and replacement of the concrete apron, additional sidewalk, curb, pavers, six (6) bollards with electrical installation as required by the Monmouth County Planning Board, together with the removal and capping of the existing fire hydrant.

2. The Mayor and Council hereby approve the request of the general contractor as approved by the project architect to extend the date for substantial completion to September 13, 2003.

3. That the within contract sum for the construction of the within municipal complex is hereby increased to $3,404,687.64, inclusive of amended Change Order No. 12.

4. The within Resolution is specifically contingent upon the Certification of the Municipal Finance Officer as to the availability of finds within the appropriate bond ordinance adopted by the Mayor and Council and amended thereafter and further contingent upon receipt of a fully executed amended change order, duly executed by the general contractor and project architect, which encompass the work set forth herein.

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

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

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

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

13. Resolution No. 331-03, Appoint Harbor Commission Member - John Olsen

Mayor Merla announced with the advise and consent of the Council, the appointment of **John Olsen** as a member of the Harbor Commission to fill a 5 year unexpired term which will expire on December 31, 2004.

BE IT RESOLVED by the Council of the Borough of Keyport that the foregoing appointment of **John Olsen** as a member of the Harbor Commission to fill a 5 year unexpired term which will expire on December 31, 2004 be and the same is hereby confirmed.

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

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

ADJOURNMENT

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

Time of Adjournment: 9:30 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