

April 14, 2009 - 6:45PM  
Keyport, New Jersey

Minutes of the Special Meeting of the Mayor and Council, held on the above date in the Council Chambers, Borough Hall, 70 West Front Street, Keyport, New Jersey pursuant to being called by Mayor and Council. Notice was sent to the Asbury Park Press, Courier, Independent, and Two River Times and posted on the Bulletin Board in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231 on Thursday, April 9, 2009.

Mayor Bergen called the meeting to order at 6:46 P.M. and Borough Clerk Valerie Tornick Heilweil read the Sunshine Law Notice.

**ROLL CALL**

On Roll Call the following were present: Councilmembers Bolte, Hill, Sheridan, Walling, Kovacs and Mayor Bergen. Also present were Eric Winston, Borough Attorney, and Administrator Lorene Wright. Absent: Councilwoman Sefcik.

At 6:47PM motion was made by Councilman Walling and carried by Councilman Sheridan with ayes by all present to go into closed session. At 6:59PM motion was made by Councilman Sheridan and carried by Councilman Hill with ayes by all present to reconvene to open session.

**ROLL CALL**

On Roll Call the following were present: Councilmembers Bolte, Hill, Sheridan, Walling, Kovacs and Mayor Bergen. Also present were Eric Winston, Borough Attorney, and Administrator Lorene Wright. Absent: Councilwoman Sefcik.

**PLEDGE OF ALLEGIANCE/MOMENT OF SILENCE**

*This Special meeting was called in order to hold a hearing on the application of the Organization for the Unity of the Puerto Ricans of Keyport, NJ Inc., also known as the Keyport Spanish American Club, for a new club liquor license to be located at 43 East Front Street, Keyport.*

Carlos Maldonado, President, Rafael Milan, Treasurer and Virginia Maldonado, Secretary, approached the dais to testify and were sworn in.

Mr. Maldonado stated his case as to why he feels the Spanish American Club will benefit from the ability to sell alcoholic beverages. He stated that other clubs' membership fees are cost-prohibitive and may have Veteran's and religious affiliations which may preclude their members from joining. If the members wanted to purchase drinks together for a celebration, they would have to patronize a commercial establishment. In addition, he feels that the club would have a better chance of meeting their expenses if they were allowed to raise money through the sale of alcohol.

Councilwoman Bolte asked about how the club can stop member from smoking in front of the building. Mr. Maldonado replied that he did not want members to smoke out back out of concern for their neighbors. Virginia Maldonado said that people smoke out front of other buildings.

Councilwoman Bolte asked whether parking has been a problem. Mr. Maldonado stated that they have been there since January and have not had a problem with parking. Members are generally working during the day and most members live within walking distance.

Councilwoman Bolte asked whether there have been any complaints from the neighbors; No

Councilman Kovacs questioned the hours of operation. Mr. Maldonado would like to be open until 2:00AM for parties but noted that they are usually closed by 8:00PM most weekdays. They are usually there weekdays from 12:00Noon to 9:00PM, except for Thursdays, Fridays and Saturdays when they are usually there until 10:00PM. He put the hours down in his application from 12:00Noon until 2:00AM.

Councilman Hill asked whether the Spanish American Club has an option to buy the building. Mr. Maldonado explained that he has the first right of refusal.

Mayor Bergen explained that he and the council have a question as to why the club needs to serve liquor for money. Currently, they can serve liquor and stay open beyond 2:00AM so long as they are not selling alcohol.

Rafael Milan explained that the club's only income is from dues and it is becoming harder to raise money. They now only sell soda, water and chips at the club. Mr. Maldonado explained that members need to be recommended and voted in by another member.

Mayor Bergen asked whether they had considered raising dues. Mrs. Maldonado replied not in this economy.

Councilman Sheridan asked whether only members can purchase alcohol; Yes. Mr. Sheridan understood that members can bring up to nine guests. Mr. Maldonado said yes but they don't advertise that. He explained that club has a capacity of 49 people and that one must be 21 years old or accompanied by an adult to enter. Mayor Bergen stated that there can be no one under 21 in the area where liquor is served.

Councilman Walling said that other establishments are able to isolate their bar. He pointed out that the club has no means of blocking that off. Mr. Maldonado explained that no, they do not now have a way of closing off the bar but that they do not rent out the premises.

Councilman Walling asked whether Mr. Maldonado had any problem with closing the club at 1AM. Mr. Maldonado replied that he would like the same rights as the other clubs. He said there will be a bar committee consisting of Virginia Maldonado, George Rentas and Al DeGracia.

Virginia Maldonado mentioned that mostly beer is served and that there will be weekly bar committee meetings.

At 7:20 Councilman Sheridan made a motion to have a five minute break, carried by Councilman Hill with ayes by those present.

At 7:29 the session was reconvened. In the Alcoholic Beverage Control Handbook for Municipal Issuing Authorities issued by the Division of Alcoholic Beverage Control in Trenton it states "This

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*license may only be issued to a non-profit organization that has a minimum of sixty (60) voting members and has been in active operation and is in possession of its clubhouse for three (3) continuous years. Exceptions to this eligibility requirement may be made for a chapter or member club of a national or State organization. A request for a waiver by the applicant must be forwarded to the Division of Alcoholic Beverage Control and a Special Ruling must precede the issuance of a license."* There was a question as to whether or not the club would have to go the State ABC for a request for a waiver and special ruling. The attorney may need to have to look at the actual regs. An opinion can be obtained from the ABC.

Attorney Winston asked how long they had been at their current address. Mr. Maldonado responded that they have occupied that building since January and were at their previous address for eight years.

#### PUBLIC PORTION

Motion was made at 7:31 by Councilman Sheridan and carried by Councilman Walling to open this meeting to the public for comments and/or questions.

Terry Mussan - Asked how a retail store became a private club without a zoning application or a site plan. He was told that the zoning officer had singed off. Mr. Mussan also questioned the requirement of being in possession of the clubhouse for three continuous years. He felt that the need for members to have a club license rather than go to another commercial establishment is what all of the rest of us have to do.

Al DeGracia - Stated that he lives in town, three doors down from the club and is the Chairman of the Bar Committee. He is very concerned with the community. He says that most times the club is locked up by 9:30PM. He feels there is a need for the club to have this license in order to help pay their expenses. He stated that his club hosts the largest Spanish American festival in all of Monmouth County, they work with the Recreation commission on the Easter Egg Hunt, the 5K Run and Breakfast with Santa. He assured all that he will be watching as a neighbor who lives there.

Mayor Bergen pointed out that with the sale of alcohol comes more responsibility and more issues.

Angel Matos - Asked whether this club previously had a club license; No. he stated that he doesn't feel the sale of beer should be an issue. He wanted Council to consider the effectiveness of the club and the value that its members bring. He also pointed out that the license is renewed yearly.

Eva Strada, 59 West Front Street - Stated that she helps out with the club and feels the officers do a good job.

Terry Mussan - Stated that while there haven't been any complaints from the neighbors, it is still winter. Parking fills up by 4:30 and he is bothered by those hanging out in front and not happy with the appearance of that.

Mayor Bergen pointed out that having a license is an expensive proposition and that the club must grow in order to become economically viable.

Mr. Maldonado pointed out that the residents that live in the building have a right to hang out in front of the building. Those residents are not club members. Those hanging out are not always members of the club.

Mike Lane, 51 First Street - found it interesting that this is posed as a fundraising application. He said the Yacht Club's bar operation barely makes money. They can't afford to keep the Yacht Club bar open past 10:00PM weekdays and 12:00 Midnight on weekends. He heard that the Spanish American Club only serves beer. He asked whether this will be a condition of the license. He said that at the Yacht Club the bar area is pad-locked when closed and member must sign in. He didn't understand how Mr. Maldonado's club can function with the sale of alcohol. Who will manage and bartend? Says that in other clubs he has been in, no money is made from the bar operation. He felt there must be a bartender in order to have security. What will be their staffing?

Mayor Bergen asked whether the club had worked out a schedule for staffing. Virginia Maldonado stated that they are working on that now. Members have a card to enter and would have to sign in. Another volunteer would check the ID's. She further stated that members are not allowed behind the bar. The bartender and the hours he/she is scheduled for will be posted at the club.

Mike Lane - stated his concern about the volume of traffic for this location and the parking since there is no parking at that location.

Virginia Maldonado reiterated that most members do live in town and walk to the club.

Mr. Lane asked that there be an alternate location for smokers rather than hanging out front. He also stated that there are "housekeeping issues" with some of the items in the application. Item 10.7 needs the Certificate of Incorporation number filled in. Items 8.7 and 8.8 need to be filled in and Mr. Maldonado did not fill in his date of birth on page 10A. Mr. Lane asked how many units have CO's in this building. Mayor Bergen answered that he thinks that it is three. Mr. Lane says the building is rated for two units per the clerk in the Construction office. He questioned whether it was ever approved for three units.

Kishore, 22 First Street - Mentioned that he lives directly behind the club. He feels these are good folks in this organization and that the residents who have concerns are good folks as well. He spoke about the layout of the public area. He would like the capacity number clarified. He asked whether there would be events with door charges; No.

Mr. Maldonado stated that if there were a party and he was to rent the club, the bar would be locked up.

Kishore - Asked whether there is an age limit for members. Mr. Maldonado stated that one must be 21 years old to enter but that his children do go there. The membership includes a family rate.

Kishore asked if they could change their by-laws to have a Keyport resident on their executive board. He feels leadership and steward are at hand.

Virginia Maldonado mentioned that she lived in Keyport until three years ago. Her father was one of the original founders of the club in the 1960's so she feels a vested interest in both Keyport and the club.

Kishore asked when the Council planned to vote on this. Mayor Bergen explained that the attorney has to look at the three year clubhouse possession rule.

Mr. Gonzalez, 52 Church Street - He explained that the fire department is behind the club and allows them to park there if they had an event.

Angel Matos - Stated that the club is not proposing to sell liquor as their sole fundraiser.

Al DeGrassia - Feels it is a testament to those heading the club that making smokers smoke outside is a strict rule that is adhered to.

Motion was made at 8:17PM to close the public portion by Councilman Sheridan and carried by Councilman Walling with ayes by those present.

Mayor Bergen talked about their answers to questions 8.10 - 8.12 regarding the three year possession of the clubhouse. He says we need to take a look at that.

Virginia Maldonado was upset that no resolution is being made tonight. It was suggested that Council go into a short closed-session to discuss how to proceed.

At 8:20PM Councilman Sheridan moved to go into closed session, carried by Councilwoman Bolte with ayes by all present.

At 8:40PM Councilman Sheridan moved to reconvene the meeting, carried by Councilman Hill with ayes by all present.

Motion was made by Councilman Sheridan and carried by Councilman Walling to approve the application with the following conditions:

1. Hours of operation will be Monday through Sunday from 12Noon to 1:00AM.
2. Must have the ability to lock the bar.
3. Must inform the Borough as to who is in possession of the keys to the club.
4. Must submit security plans to the police committee for approval.
5. Must have their architect give a maximum capacity number and submit it to

Tony Vecchio for approval.

6. Must have the issue of the Special Ruling determined by their attorney.

ROLL CALL:

AYES: Bolte, Hill, Sheridan, Walling, Kovacs

NAYS: None

ABSTAIN: None

ABSENT: Sefcik

At 8:43PM motion to adjourn was made by Councilman Sheridan and carried by Councilman Hill with ayes by all present.