

January 6, 2009
Keyport, New Jersey

Minutes of a Special Meeting of the Mayor and Council, held on the above date in the Council Chambers, Municipal Complex, 70 West Front Street, Keyport, N.J. pursuant to being called by the Mayor and Borough Council, notice on file with the Borough Clerk, forwarded to the Asbury Park Press, Courier, Independent, the Newark Star Ledger and Two River Times, and posted on the Bulletin Board in accordance with the Open Public Meetings Act, P.L. 1975, Ch. 231

Council President Mr. Sheridan called the meeting to order at 6:43 P.M. and Borough Clerk read the Sunshine Law Notice.

ROLL CALL

On Roll Call the following were present: Councilmembers Bolte, Sefcik, Hill, Sheridan, Walling, Kovacs. Others present: Mr. Wisniewski, Borough Attorney, Mr. Barlow, Special Counsel and Borough Administrator Ms. Wright. Absent: Mayor Bergen (arrived during closed session)

RESOLUTION

1. Resolution #49 - 09 Closed Meeting

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, Mayor and Council of the Borough of Keyport are of the opinion that such circumstances presently exist; and

WHEREAS, the Governing Body wishes to discuss:

1. Personnel

NOW, THEREFORE, BE IT RESOLVED by the Governing Body that a meeting of the Mayor and Council shall be held forthwith from which the public shall be excluded in the Council Chambers, Borough Hall, for the purpose of discussing the above-mentioned items.

BE IT FURTHER RESOLVED that discussions on Personnel be conducted at said Closed Session shall be disclosed when the matters discussed are resolved and this meeting shall continue in approximately 20 minutes.

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

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Hill, Sheridan,
Walling, Kovacs

Nays:

Abstain:

Absent:

Council went into Closed Session at 6:43 P.M. and this meeting was reconvened at 7:18 P.M.

Mayor Bergen called the meeting to order at 7:18 P.M. and the Borough Clerk read the Sunshine Law Notice. The Pledge of Allegiance was said and there was a moment of silence.

On Roll Call the following were present: Councilmembers Bolte, Sefcik, Hill, Sheridan, Walling, Kovacs. Others present: Mayor Bergen, Mr. Wisniewski, Borough Attorney, Mr. Barlow, Special Counsel and Borough Administrator Ms. Wright.

HEARING

Disciplinary Hearing on the matter of the Uptown Bar and Grill

Special Counsel, Tom Barlow was there on Notice of Hearing of Uptown Keyport LLC, for a violation which occurred on July 27, 2008. Mr. Barlow explained the procedure. Charges have been deemed admitted. This is strictly for sentencing.

Mr. Charles Merla admitted responsibility for the charges. He stated he did not have knowledge of the event. Mr. Walling asked who makes sure the premises are locked up. Mr. Merla stated the manager and sometimes he checks. Mr. Walling asked if the manager was on duty that night; yes. Any action against manager? Mr. Merla stated the manager received a reprimand but still works there. They were there as a cleaning crew. Mr Walling asked if Mr. Merla's brother was part of the crew. Mr. Merla responded no he just came for a few beers. Mr. Merla was asked who his managers are and he responded that he did not know.

PUBLIC HEARING PORTION

The Meeting is opened to the public for comments or questions at 7:28 P.M.

Mike Lane, 51 First Street, stated he thinks the Uptown has come a long way. Doors are now closed by 9PM. Mr. Lane stated is concerned with Jo-Jo Merla's operation in the bars in town. Feels it is clear that Jo-Jo has a management role.

Tom Barlow stated ancillary issues have no bearing on notice of violations.

Mr. Lane stated that one issue was that Jo-Jo was there drinking having a "Jo-Jo' Merla Party". Mayor stated that it has to be proven that it is so regular and such a habit. Doesn't feel prior bad-act evidence should be considered.

Mr. Lane mentioned the Leroy Robinson complaint. FBI identified Jo-Jo as the owner of the establishments. Jo-Jo's presence at the bar has been reported to Chief Mitchell. He feels this is the one issue that has not been cleaned up.

Mr. Dayback spoke on behalf of Charlie Merla as one of the managers of the Bulkhead. Two people involved that night were fired for non-conformance. Mr. Dayback asked for consideration.

There being no one further from the audience that wished to be heard the meeting was closed to the public at 7:35 P.M. Motion to go into closed session at 7:35 moved by Mr. Walling second by Mr. Sheridan with Ayes by all present.

Mayor Bergen reconvened this meeting at 8:01PM. He stated that the sentence for this violation (Uptown) has been resolved.

**RESOLUTION NO.: 53-09
RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF
KEYPORT REGARDING THE CHARGES AGAINST UPTOWN BAR
AND GRILL, LLC., HOLDER OF LIQUOR LICENSE NO. 1322-
33-010-005**

WHEREAS, the Uptown Bar and Grill, was served with a Notice of Hearing and Charges of Violation on September 22, 2008 for violating various sections of the New Jersey Statutes, and New Jersey

Administrative Code for creating a nuisance pursuant to *N.J.A.C. 13:2-23.6*, Consumption of alcohol during prohibited hours pursuant to *N.J.A.C. 13:2-8.10*; and

WHEREAS, a hearing was conducted by the Borough Council in their capacity as the local Alcoholic Beverage Control Board of Control (ABC) which was conducted pursuant to the Uniform Administrative Procedures Rules (*N.J.A.C. 1:1, et. seq.*) on January 6, 2009, wherein the Defendant did not contest the charges and entered a plea of *non-vult*; and

WHEREAS, a settlement conference was held between the Special Prosecutor and Mr. Merla, and Mr. Merla agreed to the imposition of a five (5) day penalty, the waiver of any right to appeal, and signage in the window indicating why the Uptown Bar and Grill is closed down for those five (5) days; and

WHEREAS, The Borough Council, considering all factors including, the nature of the violation, the changes in the business operations since the violations occurred, the recommended penalties for the offenses charged and the history of penalties incurred by the Uptown Bar and Grill, LLC, consented to the aforementioned settlement with the Defendant, Uptown Bar and Grill, LLC.

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

1. The Uptown Bar and Grill, LLC, (Liquor License No. 1322-33-010-005) at 32 Broad Street, Keyport, New Jersey will have it's licnse suspended for five (5) calender days begining Monday February, 23, 2009 through and including February 29, 2009 after entering a plea of *non-vult* to the charges of Prohibition against disturbance; nuisance (*N.J.A.C. 13:2-23.6*) and Consumption of alcohol during prohibited hours (*N.J.A.C. 13:2-8.10*).
2. During the five (5) day suspension, the The Uptown Bar and Grill, LLC will be required to post a sign, which shall be approved by the Borough, which states that : "THE UPTOWN BAR AND GRILL HAS BEEN CLOSED BY THE BOROUGH OF KEYPORT FROM FEBRUARY 23, 2009 TO FEBRUARY 29, 2009 FOR ALLOWING THE CONSUMPTION OF ALCOHOL DURING PROHIBITED HOURS AND CREATING A NUISANCE."
3. The Uptown Bar and Grill has waviied any right to appeal this matter in any forum.
4. A copy of the within Resolution shall be forwarded to the Borough Administrator, the Borough Attorney and a copy shall be maintained in the office of the Borough Clerk for public inspection.

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

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Hill, Sheridan,
Walling, Kovacs

Nays:

Abstain:

Absent:

RESOLUTIONS

2. Resolution No. 50-09 Extending End Date of Grace Period for Interest Accrual for Nonpayment of First Quarter 2009 Water-Sewer Bill
3. Resolution No. 51-09 Authorizing Award of Contract for 2008 or Newer Ford Escape Hybrid Vehicle or Equivalent

4. Resolution No. 52-09 Payment of Bills

Resolutions No. 2&4 moved by Ms. Bolte, second by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Hill, Sheridan,
Walling, Kovacs

Nays:
Abstain:
Absent:

Resolution No.3 moved by Mr. Sheridan, second by Ms. Sefcik

Roll Call Vote: Ayes: Councilmembers Bolte, Sefcik, Hill, Sheridan,
Kovacs

Nays: Councilmember Walling
Abstain:
Absent:

PUBLIC COMMENT PORTION

The Meeting was opened to the public for comments or questions at 8:03PM

There being no one from the audience that wished to be heard, the meeting was closed to the public at 8:03PM.

Motion to ajourn was made and carried at 8:08PM with ayes by all present.