

# ***Borough of Brielle***

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**JUNE 26, 2017**

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August 14 2017

**June 26th, 2017**

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MINUTES JUNE 26th, 2017 WORK SESSION START: 7:30 PM

PRESENT: MAYOR NICOL, COUNCILMEN GARRUZZO, GIANFORTE, GORHAM, SHAAK, VISCEGLIA, ATTORNEY MONTENEGRO & ADMINISTRATOR NOLAN.

ABSENT: COUNCILMAN NOLAN

Mayor Nicol announced that any member of the public wishing to audio or video record a Council Meeting must give notice to the Borough Clerk prior to the meeting being recorded.

Mayor Nicol convened the work session in compliance with the Open Public Meetings Act and recognized the Administrator, who had no report.

Board of Recreation Chairman John Devereux was recognized and he presented a check, in the amount of \$10,000, the proceeds from the annual North vs. South competition to Amanda & Julian Meehan. Julian suffers from a congenital heart problem and the gift would help to meet medical expenses.

There being no questions from Council or from the public, there was no further discussion and the work session was adjourned at 7:32 pm on a motion by Councilman Gianforte seconded by Councilman Garruzzo.

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MINUTES JUNE 26th, 2017 START: 7:33 P.M.

PRESENT: MAYOR NICOL, COUNCILMEN GARRUZZO, GIANFORTE, GORHAM, SHAAK, VISCEGLIA, ATTORNEY MONTENEGRO & ADMINISTRATOR NOLAN.

ABSENT: COUNCILMAN NOLAN

Following a moment of silent prayer, a salute to the flag and roll call, the Minutes of the June 12th regular meeting were approved on a motion by Councilman Shaak seconded by Councilman Gianforte; all aye; no nays. Passed

Councilman Shaak seconded by Councilman Gianforte, introduced Resolution 17-60 for Passage of the Consent Agenda.

Resolution:

- A. (see insertion)
- B. (see insertion)
- C. (see insertion)
- D. (see insertion)
- E. (see insertion)
- F. (see insertion)
- G. To authorize the renewal of the Employee Assistance Program with Mark White, Ph.D., P.A. for 2017/2018.
- H. (see insertion)

Vote: Councilmen Garruzzo, Gianforte, Gorham, Shaak & Visceglia; all aye, No nays. Passed (Note: Councilman Garruzzo abstained on A, C, D, E & F).

Councilman Visceglia seconded by Councilman Shaak, introduced Resolution 17-61 For Payment of Bills. Be It Resolved, that the following bills be paid and that the Mayor or President of Council be authorized to draw orders on the Chief Finance Officer for payment of the bills of June 26th, 2017, as reviewed by the Finance Committee and as listed on the Resolution and the Computer Bill List amended thereto. Vote: Councilman Garruzzo, Gianforte, Gorham, Shaak & Visceglia; all aye No nays. Passed

Mayor Nicol then called for committee reports and recognized Councilman Gianforte who had no report.

Councilman Garruzzo reminded the public to keep August 8th open for the annual "Night Out Against Crime" an event jointly sponsored by the Police and Board of recreation. The event provided a fun-filled evening where residents could get to know their local police force.

Councilman Shaak informed the public that the Borough had received \$11,546.95 in Clean Communities funding; he also advised that the Borough would be trimming trees and repairing potholes in the Higgins Avenue area and residents might experience some minor traffic delays. Councilman Gorham & Visceglia had no reports.

The Mayor then announced that the time had arrived for a hearing on the renewal of Liquor License #1308-34-003-006 Hoffman's Restaurant, LLC T/A Waypoint 622.

The hearing was opened on a motion by Councilman Shaak seconded by Councilman Gianforte.

Prior to the hearing beginning Councilman Garruzzo & Visceglia recused themselves due to potential conflicts.

The Borough Attorney explained that a request had been received by Attorney Timothy Middleton, Esquire to impose restrictions on the license. The Governing Body therefore had an obligation to permit Mr. Middleton to address the Council and to permit the Waypoint 622 to respond to the request.

Mr. Jackson, representing Waypoint 622 was recognized and he launched a vigorous defense of his client's position.

Attorney Montenegro offered that the Borough would follow the format of a land use procedure and he asked anyone who wished to testify to raise their right hands to be sworn. The proceeding would be recorded electronically by the Borough and Mr. Jackson had brought in a court reporter.

Mr. Jackson then summarized the arguments made in his written submissions to the Governing Body. He noted that Mr. Middleton had misrepresented certain facts regarding Waypoint and he wished to dispose of the "myth".

His client had received purchased the Union landing and that establishment had received approval from the Brielle Land Use Board(s) for an outside bar and a deck. While the Planning Board had apparently, based on minutes, placed restrictions on the property in 1978, no restrictions were placed on the seasonal liquor license granted to the Union landing in 1986. The Borough had renewed the license every year since that time without restrictions.

In 1986, the Union landing license was conditioned by A. B. C. regulations that require a uniform closing time for all establishments that purvey liquor. This is done by ordinance and any individual restrictions that are placed on a license require advance approval by the A.B.C.

Notice of an appeal to the Planning Board was made in 1992 by the then Union landing for a wooden deck to be placed over black-top. While the A.B.C. destroys records after ten years, Mr. Jackson had obtained a schematic that was submitted by the Union landing along with the renewal forms in 2007. That schematic was signed by the Municipal Clerk, Thomas Nolan. This demonstrates that the deck area was approved.

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The current owner, Mr. Grafas did replace the deck as it was deteriorated and he received all the necessary permits from the Borough. Mr. Jackson then ran through the exhibits that had been provided to the Council and filed with the Clerk.

An allegation was made that Mr. Grafas failed to perform "due diligence" when he acquired the property from the Schmidts and therefore was unaware of the 1978 restriction. On the contrary Mr. Grafas had a letter signed by Code Enforcement Officer James Langenberger to the effect that there were no zoning violations.

Subsequently Zoning Officer Elissa Commins advised Mr. Grafas that the patio and deck could be replaced within the existing footprint. Mr. Jackson reviewed her correspondence in detail.

The Regional Construction department issued plumbing and electrical permits for the exterior bar. The issue of elevation was addressed on the architectural plans which stated the steps would be constructed to grade (Later Mr. Jackson would note that the deck's elevation was in keeping with building requirements mandated after Sandy.

Mr. Jackson then reviewed the noise complaints and cited the fact that while complaints were made no summonses were ever issued and the Monmouth County Health Department's decibel readings on four separate occasions indicated that the decibel level was within the accepted range. Mr. Jackson offered that the noise complaints were "self-serving" and the statement that his client was "defiant" was a myth.

Mr. Jackson also cited July 24th, 2015 letter from Mr. Nolan, the Administrator, to Engineer Hilla stating that Councilman Gianforte and the Community Development Committee wanted to be provided with all information on this matter. Mr. Jackson proffered that Mr. Hilla may have had input into a Notice of Violation later sent by Zoning Officer Commins to his client.

Mr. Jackson then reviewed the history of the Planning Board meetings in an effort to disprove the allegation that his client was deliberately "dragging his feet". Mr. Jackson contended that his client had not expanded the deck as alleged by Ms. Commins, but made some "nominal" changes. Nevertheless, this led to summonses being issued and the matter was addressed in municipal court in September 2015. The matter was then remanded to the Planning Board and a hearing date of October 13th, 2015 was given. Since that time there have been delays, but Mr. Jackson attributed them to forces outside of his client's control.

Mr. Jackson also noted that his client had attempted "out-reach" with the local resident and held a meeting at what was then Eloise's Café. An attempt was made to obtain feedback and incorporate suggestions into the application before the Board. This occasioned a review letter from Mr. Hilla that was received on January 12th when the Planning Board meeting was scheduled for January 14th, 2016. Attorney Rubino, a former Brielle Planning Board Attorney, then representing Thomas Stuhmann, Mr. Middleton's client, demanded a re-notice due to minor changes. The Board adjourned the meeting but within Waypoint's acquiescence.

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The Borough then produced a map from 1979 that indicated that Waypoint owned a portion of Union Lane and the Borough only had a right-of-way. A Title Search indicated this assumption to be correct and the result was a further delay.

The Planning Board itself sometimes had difficulty in obtaining a quorum and since it was a combined board the workload was extensive and there was a 45 minute time limit for presenters. All these factors worked against Mr. Grafas and he was not to blame for delays.

Turning to the Master Plan Mr. Jackson stated that his client had improved the area and his efforts were in keeping with the intent of the Master Plan that sought to revitalize the economy of the area which was and is a C-2 Marine Commercial Zone and "noise" from a variety of recreational activities is the order of the day.

Mr. Jackson noted noise from restaurants, boats, trains etc. Noise came from across the river, from the marinas, from increased summer traffic etc. The Waypoint was consistent with the master Plan.

Mr. Jackson also cited the construction of as yet unapproved, sound barriers that have reduced noise to the level that it is barely audible beyond the property line. He added that the "hi-tech" speakers the Mr. Middleton objected to are part of the new sound system. Bands have to connect to the system and the sound is modulated internally by Waypoint staff.

At this juncture, Mr. Jackson introduced Attorney Mike Schaller, a retired former Chief of Staff in the New Jersey State Troopers. He specialized in noise and had performed an analysis of the complaints. There were a total of 52 noise complaints. None for fighting, unruly behavior, public drinking or other unsavory bar related activity. No citations had been issued in response to any complaint.

In 2015, 39 complaints were made, no summonses were issued. The complaints were made on 32 occasions. Of these, 63% were made on 11 days. Of the 52 complaints, 46 were anonymous. In 2016 there were 6 complaints on 3 dates, 4 of them were on September 14th, 2016 when a five piece band was playing. In 2017 there were 5 complaints. No summonses were issued and 70% of the complaints were deemed to be "unfounded" by the Police.

Mr. Jackson then presented a series of witnesses who spoke on behalf of Waypoint 622.

Joseph DeCrose, 104 Ashley Avenue, President of the Brielle Landing Condominium Association, offered that he had no issues with noise. He had been a frequent patron of the Union landing going back to 2001, and he found both the Union Landing and the Waypoint to be enjoyable. He noted that Brielle landing had 53 Units and he had received no noise complaints from any of the residents. He felt it would be a mistake to take away the music and reminded Council that the Union landing always had

bands.

Melissa Arnott, 621 Homestead Road, stated that she had owned her home for three and a half years, but had been a resident for ten. She recalled that she frequently could hear the bands at the Union Landing, but she could not hear any noise from Waypoint. She added that when the Union Landing was in operation she experienced parking issues, trash on her lawn, now the crowd was more mature and responsible there were no longer such issues.

Mr. Grafas had improved the docks, provided good food and service, he employed local people as well as bands. Ms. Arnott felt that the time and money being expended on this noise issue would be better spent on resolving the issue of the dangerous crosswalk on Green Avenue.

Mary Beth Glaccum, 7 Sequoia Court, has been a resident since 2009. People want to go to the Waypoint, it is an asset to the town, the bands are great and she doesn't have a problem with noise.

Attorney Timothy Middleton asked how far her home was from Waypoint 622; she replied a half a mile.

Jim Flynn, 53A Brandywyne East, a thirty year resident, said that the Union landing and now Waypoint make Brielle special. He said he could hear the noise from Wall Stadium never Waypoint; he felt it would be a mistake to curtail the music.

Mr. Middleton asked if he were a patron of Waypoint; he replied "yes".

Rick Reese, 107 Lake Avenue, cited the previous dangerous conditions at the waterfront that Mr. Grafas had remediated. He saw Mr. Grafas as an asset to the community calling him a man of good character and he believed that the personal attacks on him were "mean spirited".

Mr. Middleton asked where his home was located on Lake Avenue and was told "the middle of the block". Mr. Middleton then asked if Mr. Reese owned a business named Custom Boat Care and if he had a business relationship with Mr. Grafas.

Mr. Reese said he did among others. Mr. Reese added that prior to Mr. Grafas the Manasquan River was "dead" his efforts had revived the marina business. Mr. Reese added that prior to Mr. Grafas, the docks had so many holes that he had to bring a sheet of plywood to assist him in transgressing the docks.

Philip Bailey, 101 River Mist Way, said he resided in Brielle five months of the year and came for the ambience, the restaurants, the beach, and he felt that a restaurant needed a liquor license to succeed. He had no issue with the bands or noise and wondered what the problem is as he did not hear the music.

Mr. Middleton asked where his unit was located and was told "along the tracks".

Lisa Erdman, 4 Water Edge, said she had been a resident since 2014 and praised the community spirit of Brielle, she also praised Mr. Grafas for his sponsorship of animal adoptions.

Gary Hendricks, 615 Leslie Avenue, stated that he was familiar with Waypoint although he had never been there, and he was never disturbed by the music.

Mike Sniffen, 45 Beach front, Manasquan and President of the Saint Vincent DePaul Society of Saint Denis Church, cited Mr. Grafas's support of the organization and his providing Thanksgiving Meals to the needy; he felt it spoke volumes on his character.

Barry Packin, 241 Shore Drive, Highlands advised that he could not hear the music at his location but he was there as a member of the Band "Me & Bobby Dee". He cited the Waypoint's concerns over volume. He had last played there on June 17th and used a small amplifier that, in conjunction with the noise wall, provided sound unit direction that was unobtrusive; he added that patrons were able to talk on cell phone and engage in normal conversation.

Mr. Packin opposed any restrictions on music at Waypoint and in response to an inquiry from Mr. Middleton he acknowledged that he was not a sound expert, but based on his long experience he felt that Waypoint was taken prudent steps to address the sound issues.

John Marshall, 929 Riverview Drive, advised that his family had resided in Brielle for seventy years and he had patronized the Union landing and now Waypoint 622. He noted that the difference between the two in terms of aesthetics was dramatic. The music had also changed as the clientele were no longer kids and young adults, but people in the 40 to 60 age bracket who enjoy the music without unruly behavior. He felt that

placing restrictions on Waypoint was "selective zoning" and he opposed any restrictions.

Mr. Middleton noted that Mr. Marshall's home was not within "ear shot" of the Waypoint and asked if he felt that neighbors should be entitled to the quiet enjoyment of their property and not be exposed to amplified music.

Mr. Marshall said that, based on his experience, the music at the union landing had been much louder.

Daniel Unger, 107 Ashley Avenue, offered that the Union landing was louder, and unlike the Waypoint there was no security. The Waypoint provided a safe and friendly environment for its patrons.

Mr. Middleton asked what building Mr. Unger resided in and he replied Building #1.

John Mainero, 704 Evergreen Avenue felt that Mr. Grafas had done "a great job"; he had no complaints.

Michele Dedea, 117 Ashley Avenue, said her unit faced Waypoint and she did not hear the music unless she walked over by the Sand Bar.

Attorney Jackson asked if she enjoyed the "ambience" she replied in the affirmative. She said she loved the atmosphere year around and one had to accept that it became busier in the summer.

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Ms. Dedea felt the Waypoint was a family place and she would hate to see it close at 10:00pm as suggested by Mr. Middleton's brief.

Mr. Middleton asked if she lived in the same building as Mr. DeCrose. She said "yes".

Terry Fearon, 717 Ashley Avenue, a Vietnam Veteran, had been an area resident since 1968.

He believed that Mr. Grafas had improved the area and, having lived 20 feet away from the Union landing at one point, he advised that there was no sound barrier, the docks were poorly maintained, and the area deteriorated. Waypoint had changed it for the better.

He also thanked Mr. Grafas for hosting the dedication of the Route #35 Bridge which now honored the veterans.

In closing he said that "Larry did a hell of a job", he'd made capital improvements and the license should not be restricted.

Mr. Middleton was recognized and he called Margaret Herman, 208 Homestead Road, who testified that she had lived at her location for 49 years and had had no issues with noise when the Union landing operated, now she had to straighten the pictures on her walls, and she could hear the music despite running the air conditioner and closing the windows. She had called the police on June 19th and the officer said he could hear the music.

On May 27th her grandchildren said they were playing Name that Tune as the music was so loud and audible. Ms. Herman said the noise was bad in 2015, not better in 2016, and slightly better in 2017, but added that the summer was just beginning.

Mr. Jackson had no questions.

Mel Bennett, 408 Leslie Avenue, said that Thomas Stuhmann was a credible man of high character and benevolent.

Mr. Jackson took exception to her characterizing the objector, but Mr. Middleton noted that he had opened the door with the numerous panegyrics to Mr. Grafas.. Mr. Montenegro asked Ms. Bennett to focus on noise.

She stated that she was selling her home, the noise was intrusive she could "feel it in her chest" and her home was further away than Mr. Stuhmann.

Mr. Jackson asked if her home was closer to the River House than Waypoint. She acknowledged that it was. Mr. Jackson noted that "they have bands". He asked if she had ever complained about the Union Landing or the River House and she advised "no".

Charlotte Madison, 206 Homestead Road, advised that this was her tenth summer and there was a significant difference between the Waypoint and Union landing. The Union Landing employees had respect for the neighbors; Waypoint employees do not respect the neighborhood.

Ms. Madison cited cars going the wrong way on her street, increased traffic and noise. She had complained to the police on May 27th at 9:00pm when she was unable to have a conversation with friends in her home with the windows closed. She added that Union Landing continued to operate despite violations such as a staircase in the fire lane.

Ms. Madison acknowledged that she had never complained about the Union landing, but Waypoint had created noise and parking problems that impacted her quality of life; she also cited an illegal advertising sign on the building. She felt that they had to be made to comply with municipal ordinances.

Attorney Jackson noted her police report and asked if it would surprise her to know that the responding officer did not hear any music? She said "yes".

Mr. Middleton asked if the officer came to her door. She replied "no"; he never spoke to me.

James Aloï, 108 Ocean Avenue, stated the noise had gotten louder since the Union landing became Waypoint. He acknowledged that he had never complained about the Union landing or the River House, but now he could not enjoy sitting on his porch. The noise would go on for two hours without a break and he could no longer enjoy his home.

He noted that he complained on June 9th, but the responding officer did not hear the noise, but suggested that the band might have taken a break or were between sets. Mr. Aloï suggested that Council restrict amplified music.

Mr. Aloï cited his experience as a "bouncer" at the Bar Casablanca and noted that he operated the door, he would contain the sound by only opening the door when the music level went down; sound can be controlled. However, his concern was that the steps Waypoint had taken were temporary and unless restrictions were imposed the noise levels would increase.

Mr. Jackson asked if Mr. Aloï was on an "e-mail" list originated by Mr. Stuhmann. He said his wife was. When asked about noise from the River House he said he never heard it because they had a sound system.

Mr. Jackson then advised that Waypoint had installed a sound system, but Mr. Aloï noted that he didn't know if they installed the right system.

This led to a discussion of Mr. Aloï's attendance at the Planning Board meeting when the Waypoint Noise Expert testified and reference was made to a letter from Chief of Police Palmer. The upshot was that a functioning system had been installed.

In response to Mr. Middleton, Mr. Aloï also acknowledged that he had made a noise complaint, an officer responded, no noise was heard, but the assumption was that the band was on break. Therefore no summonses were issued.

Janine Leonhardt, 407 Leslie Avenue, a twenty-two year resident, acknowledged the new sound system, but felt that if no restrictions were placed on the license, enforcement will wane. Her quality of life had been adversely impacted by traffic, parking, noise, screaming drunks, all intruding into a residential zone.

In reply to Mr. Middleton she said things had improved of late, but were still much worse than before the Waypoint 622.

Mr. Jackson asked if she knew where the people who parked their cars were going. She replied "no".

At this juncture Mr. Jackson showed a video of a drone flight from Waypoint 622 to the Leslie/Ocean Avenue area.

Mr. Middleton then presented his case. He sought special conditions to be imposed on the liquor license that reflected the limitations placed on the location in 1978 by the then Planning Board, to wit hours of operation and amplified music.

The ensuing discussion centered on Mr. Jackson's position that the Minutes were not a Resolution, and Mr. Middleton's belief that the Planning Board had discussed the matter in depth and the restrictions were valid and remained in effect. He felt that Mr. Grafas had failed to perform due diligence when he purchased the

business and should have been aware of the restrictions.

Mr. Jackson countered with a letter from Code Enforcement Officer James Langenberger that stated there were no outstanding violations or zoning issues. Mr. Middleton countered that Mr. Langenberger had no authority to make this determination.

Mr. Middleton also disputed the Waypoint's analysis of the noise complaints and he believed they were valid as to noise. He offered that the Governing Body was entitled to regulate noise and that operating an establishment that purveyed alcoholic beverage was a temporary privilege as per a 1954 New Jersey Supreme Court decision. He also cited the N.J.A.C. regulations that prohibit a nuisance, create unnecessary noise etc.

Thomas Stuhmann, 106 Ocean Avenue, testified that he had rented at his present location in 2000 and had owned it since 2001. Pre-Waypoint he had made no noise complaints, but in November 2014 the Union Landing farewell party had been loud. In 2015 there was a huge difference in the amount of noise, in particular the bass.

He had made 13 complaints in 2015, 9 were acknowledged by the police and Waypoint was told to reduce the noise, 4 were unfounded.

On September 4th, 2016 a band, the Counterfeiters, were extremely loud and violated recent Borough Ordinance, but the complaint was dismissed due to constitutional issues.

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In 2017 the music was louder and could be heard on Mr. Stuhmann's front lawn. Noise was becoming the norm and he had no assurance that peace and quiet would be restored.

Mr. Jackson questioned Mr. Stuhmann concerning a complaint about breaking glass and a Railroad Train Horn?

Mr. Stuhmann acknowledged both, the horn was the result of a new engineer who was blowing the horn excessively @ 5:00am and the bottles were taken from a dumpster and broken by unknown teenagers.

Mr. Jackson asked if a video was taken by an associate of Mr. Stuhmann's and then turned over to the police to demonstrate a violation. The answer was "yes".

Mr. Jackson then cited decibel readings taken by the Monmouth County Health Department as evidence of compliance by Waypoint. Mr. Stuhmann did not agree as the readings did not coincide with the times of the complaints.

Mr. Jackson asked if Mr. Stuhmann attended the meeting at Eloise's Café and he advised that he had and had given input. Mr. Jackson noted that this led to Waypoint retaining a sound expert.

In response to Mr. Middleton, Mr. Stuhmann reiterated that the 65 decibel limits had not been violated, but the police do not have decibel meters and the county readings were not taken at the time of the complaint.

Mr. Middleton then cited a reading of 57 decibels at the home of a Patrolman Clayton who was not present and offered that Mr. Grafas's own noise expert said that level was unacceptable. Mr. Jackson countered that the statement was being taken out of context.

Mr. Jackson summarized his position that there had been no violations of the noise ordinance, Waypoint had erected appropriate sound barriers and installed a regulated sound system with the assistance of experts in the field, the 1978 Minutes were not a Resolution, the rules changed when the premises were awarded a liquor license, no conditions had ever been imposed, the property was an asset in a commercial district, during the summer there was noise twenty-four hours a day, Waypoint was not being intrusive and existing ordinances already in place eliminated the need for further restrictions. Finally, Mr. Grafas had not subverted the Planning Board process and any delays were beyond his control.

The public portion of the hearing was closed at 11:35pm on a motion by Councilman Shaak seconded by Councilman Gianforte.

Attorney Montenegro explained that the Council had the ability to renew the license, or to impose conditions if it believed them to be reasonable and in the interest of public health and safety.

Councilman Shaak asked if conditions could be imposed on a license at any time during the year.  
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Attorney Montenegro replied only at renewal.

Councilman Shaak noted that there was a pending application before the Land Use Board and much of the testimony heard this evening centered on land use issues.

Councilman Gianforte interjected that he was not in favor of punitive conditions that might prejudice the Land Use Board in their deliberations.

Mr. Montenegro advised that existing Planning Board conditions could remain in effect, and any additional conditions be incorporated once a determination is made.

Councilman Gorham offered that it was not the Borough's place to over-ride conditions already imposed by the Planning Board.

Further discussion elicited the fact that the Borough Ordinance restricted live entertainment after 10:00pm, only controlled background music was permitted.

Councilman Gianforte noted that he frequently walked and rode his bike in this area and while he hears noise it is not coming from Waypoint, but rather from the Patio Bar. He was however, in sympathy with the neighbors and recognized that music can be intrusive at night.

Council continued to deliberate and a concern was voiced as to the fact that heretofore no conditions had been imposed. Attorney Montenegro explained that a license can be modified at the time of renewal. There is no precedent so that the absence of conditions in the past does not impede the imposition of conditions to address a current concern.

Mayor Nicol felt that the license should be renewed with an 11:00am to 2:00am restriction on hours of operation. He was not in favor of a 4:00pm to 10:00pm restriction.

Councilman Gianforte moved to introduce Resolution 17-62 to impose this restriction (11:00am to 2:00am), but Councilman Gorham felt that Council should maintain the existing Planning Board restrictions.

Councilman Shaak believed that the failure to adhere to the 1978 restrictions for 39 years should be a mitigating factor and the Waypoint should seek relief from the Planning Board.

The Council went back and forth on the issue until Councilman Gianforte again introduced the resolution with the 11:00am to 2:00am restriction. The motion was seconded by Councilman Shaak. Vote: Councilmen Gianforte & Shaak; aye. Councilman Gorham: nay.

Attorney Montenegro believed that a 2 to 1 vote was insufficient to take action and passage required a minimum of three affirmative votes.

The discussion was resumed with Councilman Gorham reiterating that the existing Planning Board Page 59 restrictions could not be altered by the Council, but only by the Planning Board.

Councilman Gianforte moved to rescind the prior resolution and vote to permit clarification. Councilman Gianforte, seconded by Councilman Shaak then introduced Resolution 17-62 (see insertion). Vote: Councilmen Gianforte, Gorham & Shaak; all aye. No nays. None abstained. Resolution passed.

The meeting was adjourned at 12:20 pm on a motion by Councilman Gianforte seconded by Councilman Shaak.

Approved: July 10th, 2017 \_\_\_\_\_  
Thomas F. Nolan  
Municipal Clerk



Resolution 17-60-A  
Date: June 26th, 2017  
Borough of Brielle Resolution

Whereas, an application for the renewal of Plenary Retail Consumption License #1308-33-012-013, has been submitted by Brielle Union Partners, LLC. , and

Whereas, the applicant has submitted renewal application on-line as required and the form is complete in all respects, the renewal fees for the Borough of Brielle and the New Jersey Division of Alcoholic Beverage Control have been paid, and

Whereas, the applicant is qualified to be licensed according to all standards established by Title 33 of New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions, and

Whereas, no objection to the renewal of this license has been made, and

Whereas, the applicant understands that this renewal is being made subject to the provisions of N.J.S.A.33:1-20 and is being treated as a "conflict" renewal, and the applicant has filed the required form with the Division of Alcoholic Beverage Control.

Now Therefore Be It Resolved, that the Governing Body of the Borough of Brielle does hereby approve, effective this date, the renewal of License #1308-33-012-013 for the license year July 1st, 2017 through June 30th, 2018, by the Director of the State of New Jersey Division of Alcoholic Beverage Control.

#### CERTIFICATION

The foregoing is a true copy of a resolution adopted at a meeting of the Brielle Mayor & Council held on Monday, June 26th, 2017.

Witness my hand and seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution 17-60-B  
Date: June 26th, 2017

WHEREAS, there is an Escrow Account where monopole work has been completed, maintenance set up and a refund is due the applicant, and

WHEREAS, there is also an Escrow Account set up for a Minor Subdivision which has been finalized, and

WHEREAS, the following accounts are due a refund:

Escrow account #7027, Omnipoint/T-Mobile Comm., for Block 110, Lot 2, Monopole at 1023 Highway 70;

Escrow account #7111, William & Patricia Doolittle, for Block 9, Lot 7.01 & Block 8, Lot 6.13, 404 Lenape Trail Minor Subdivision;

NOW, THEREFORE, BE IT RESOLVED that the amount of \$7,341.23 be refunded to T-Mobile, Accounts Payable for the unused escrow money and the amount of \$420.00 be refunded to William & Patricia Doolittle for the unused escrow money, total to be refunded: \$7,761.23

#### CERTIFICATION

The foregoing is a true copy of a resolution adopted at a meeting of the Brielle Mayor & Council held on Monday, June 26th, 2017.

Witness my hand and seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-60-C  
Date: June 26th, 2017

#### BOROUGH OF BRIELLE RESOLUTION

Whereas, application has been made for the renewal of liquor license #1308-33-011-012, and

Whereas, the application is complete, the \$2,225.00 fee due to the Borough of Brielle and the \$200.00 fee due to The State of New Jersey, Division of Alcoholic Beverage Control, have been received and all other municipal requirements have been met, and

Whereas, no objections to the renewal of this license have been received

Now therefore be it resolved that the application of Town House, LLC, for premises located at 110 Union Avenue (Route #71), Brielle, New Jersey, is hereby approved and the municipal clerk is hereby authorized to issue said license for the license period July 1st, 2017 through June 30th, 2018.

## Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-60-D  
Date: June 26th, 2017

### BOROUGH OF BRIELLE RESOLUTION

Whereas, application has been made for the renewal of liquor license #1308-33-005-004, and

Whereas, the application is complete, the \$2,225.00 fee due the Borough of Brielle and the \$200.00 fee due to the State of New Jersey, Division Of Alcoholic Beverage Control have been received, and all municipal requirements have been met, and

Whereas, The Governing Body has been made aware of noise concerns at this location and the holders of the license have agreed to the imposition of conditions to address these concerns.

Now therefore be it resolved, that the following conditions are hereby imposed on license #1308-33-005-004, Ship Wreck, LLC T/A Ship Wreck Grill:

1. All doors & windows shall be kept closed whenever any live music is played
2. Regarding the use of the deck area, all conditions imposed by the Brielle Planning Board regarding the limitation of service on the deck, as stated in their resolution(8/9/95) and further memorialized in the municipal resolution 96-46-E which authorized a place-to-place transfer to permit utilization of the deck, shall be incorporated into this resolution as addendum #1
3. In the event there is any modification of the conditions imposed by the Planning Board the Municipal resolution shall mirror these conditions but it shall be the applicant's responsibility to advise the Governing Body of any such change to ensure that the exact language is incorporated into addendum # 1.

Now therefore be it resolved, that application of Ship Wreck, LLC T/A Ship Wreck Grill for premises located at 720 Ashley Avenue Brielle, N.J., is hereby approved and the Municipal Clerk is authorized to issue the license for the license year July 1st, 2017 through June 30th, 2018.

## Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-60-E  
Date: June 26th, 2017

### BOROUGH OF BRIELLE RESOLUTION

Whereas, application has been made for the renewal of liquor license #1308-33-010-008, and

Whereas, the application is complete, the \$2,225.00 fee due the Borough of Brielle and the \$200.00 fee due to the State of New Jersey, Division Of Alcoholic Beverage Control have been received, and all municipal requirements have been met, and

Whereas, no objections to the renewal of this license have been received.

Now therefore be it resolved, that the application of RPVR, Inc. T/A Due Amici for premises located at 420 Higgins Avenue, Brielle, N.J., is hereby approved and the Municipal Clerk is authorized to issue the license for the license year July 1st, 2017 through June 30th, 2018.

#### Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-60-F

Date: June 26th, 2017

#### BOROUGH OF BRIELLE RESOLUTION

Whereas, application has been made for the renewal of liquor license #1308-33-002-010, and  
Whereas, the application is complete, the \$2,225.00 fee due the Borough of Brielle and the \$200.00 fee due to the State of New Jersey, Division Of Alcoholic Beverage Control have been received, and all municipal requirements have been met, and

Whereas, no objections to the renewal of this license have been received.

Now therefore be it resolved, that the application of TCMJ, LLC T/A Sand Bar for premises located at 201 Union Lane, Brielle, N.J., is hereby approved and the Municipal Clerk is authorized to issue the license for the license year July 1st, 2017 through June 30th, 2018, subject to the following conditions hereby imposed by the Governing Body of the Borough of Brielle:

- 1.) The conditions imposed by the Brielle Planning Board Resolution, dated May 6th, 1995 and incorporated into the text of this resolution as Addendum #1 (attached) shall continue to apply to this liquor license and shall be strictly enforced. The license holder shall abandon the area known as the west deck for service and/or consumption of food and alcoholic beverage and any other business purpose. The applicant shall not place any tables, chairs or similar devices on the west deck.
- 2.) No alcoholic beverage is to leave the licensed premises in an open container. The management of the Sand Bar is required to monitor all points of ingress or egress to ensure that this condition is met.
- 3.) All doors and windows of the Sand Bar shall be kept closed after 7:00 p.m. (Prevailing Time) whenever live, canned or amplified music is played.

#### Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-60-H  
Date: June 26th, 2017

#### RESOLUTION OF THE BOROUGH OF BRIELLE

BE IT RESOLVED, that the Borough Administrator, Thomas F. Nolan, is hereby authorized, by the Governing Body of the Borough of Brielle, to execute a Change Order #1 for Improvements to Brielle Park, in the amount of \$18,220.00

Vote: Councilmembers Garruzzo, Gianforte, Gorham, Shaak & Visceglia; all aye. No nays. Passed.

None abstained.

#### Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk

Resolution No.:17-62  
Date: June 26th, 2017

#### BOROUGH OF BRIELLE RESOLUTION

Whereas, Hoffman's Restaurant, LLC., with premises located at 622 Green Avenue, has made application for the renewal of Seasonal Liquor License #1308-34-003-006, for the license Period May 1st, 2017 through November 14th, 2017 inclusive, and

Whereas, the application being complete, \$1,650.00 fee paid to the Borough Of Brielle, \$200.00 fee due to

The State Of New Jersey Division Of Alcoholic Beverage Control having been paid, and

Whereas, there have been objections lodged to the renewal of this license, and restrictions on the use of this site were imposed by the Brielle Planning Board in 1978, and

Whereas, a public hearing was held on June 26th, 2017, by Mayor & Council, and

Whereas, no evidence has been produced that said restrictions were amended or removed.

Now therefore be it resolved, that the Municipal Clerk is hereby authorized to issue said license, subject to the following conditions. Renewal is approved subject to any existing conditions of the Land Use Board and subject to modifications or new conditions of the Land Use Board.

Be It Further Resolved, that the hours established for the sale of alcoholic beverage for this resolution shall be 11:00am to 2:00am.

#### Certification

The foregoing is a true copy of a Resolution passed by the Mayor and Council of the Borough of Brielle at a meeting held at Borough Hall, 601 Union Lane, Brielle, New Jersey, on Monday, June 26th, 2017.

Witness my Hand and Seal of the Borough of Brielle this 27th day of June 2017.

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Thomas F. Nolan  
Municipal Clerk