

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Mayor Deluca read the requirements of the Open Public Meetings Act.

The Salute to the Flag was led by Mayor Deluca.

ROLL CALL

Roll Call at 8:00 P.M. showed the following Council Members present: Kaye Ceceri, Larry Clementi, Mark David, Linda Karlovitch, Robert Schielke. Gerry Laudati was absent.

MINUTES

It was moved by Councilwoman Ceceri, seconded by Councilwoman Karlovitch and carried that the minutes of the Regular Council Meeting, Work Session of May 8, 2019 be approved as submitted. (Copies furnished each Council Member prior to the meeting). All in favor.

COMMUNICATIONS AND PETITIONS

- NJSLOM Notices (emailed to all)
- NJ DOT – 2020 State Aid Grant Programs
- UC – Preconstruction Meeting – Repaving of Boulevard
- VFW – Memorial Day Services 5/27/19 @ 11am
- St. Theresa’s 8<sup>th</sup> Grade Graduation Award Request
- Resident Letter regarding property grading and runoff
- PM Pools Service – Grand Opening

It was moved by Councilman Clementi, seconded by Councilwoman Karlovitch and carried that the above communications be received and filed and any money amounts indicated be spread over the minutes. All in favor.

MAYORS REPORT

Mayor Deluca said Union County Board of Elections is rolling out their new voting machines, Kenilworth will be using these machines for the June Primary. There are some demonstrations left on these machines at the Union County Courthouse in Elizabeth on Tuesdays from 11AM to 3PM and at the Colleen Frazier building in Westfield on Saturday from 9AM to 1PM. Memorial Day services are on Monday, May 27<sup>th</sup> at 11AM at the VFW at 33 South 21<sup>st</sup> Street. He wished a happy 90th birthday to Erma Shallcross George and he read the following Proclamation.

**WHEREAS,** Irma Shallcross George will be honored by friends and relatives on the occasion of her 90th birthday on May 22, 2019; and

**WHEREAS,** the Shallcross Family left Pennsylvania in 1898 and acquired the old Sayre Estate on Springfield Road in what was then known as New Orange; and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

**WHEREAS,** the Shallcross Family was involved in Kenilworth's movement to become an independent community in 1907; Irma's grandfather, Sanderson "Sandy" Ruth, was very outspoken in this effort and was, [elected as](#) the Borough's first tax collector; and

**WHEREAS,** the experience gained by working in the transportation business for Rahway Valley Railroad led them to establishing Shallcross Express Company; and

**WHEREAS,** the Shallcross family was known for its philanthropy in the community from being a major financial benefactor in the erecting in 1914-15 of the old Methodist Church, donating land to help complete Black Brook Park in the 1920s, donating frequently to local clubs and organizations, sponsoring the Shallcross Express Little League team for many years, and making donations of food at Christmas time to needy local families; and

**NOW, THERFORE,** by virtue of the authority vested in me as Mayor of the Borough of Kenilworth, on behalf of the Kenilworth Borough Council and all citizens hereof, I do hereby proclaim May 22, 2019, as:

### “Irma Shallcross George Day”

in Kenilworth, New Jersey, urging all citizens to join me in honoring Irma Shallcross George on her 90<sup>th</sup> Birthday and in extending best wishes for her continued success in her future endeavors.

**IN WITNESS WHEREOF,** I have hereunto set my hand this 22<sup>nd</sup> day of May, in the year of our Lord two thousand nineteen.

#### REPORT OF COMMITTEES

##### FINANCE DEPARTMENT

Councilwoman Karlovitch reported tonight the Borough will be introducing an Ordinance to authorize the financing of various public improvements, the improvements are part of the 2019 Capital Budget plan previously adopted with our budget. The second reading and public hearing will be June 12, 2019 at 8PM. Delinquent tax notices have been mailed, if you receive a notice and have a questions please feel free to call the Tax and Finance office at 908-276-5800.

##### DEPARTMENT OF PUBLIC WORKS

Councilman David reported that on Saturday, June 1<sup>st</sup> the DPW yard will be open from 8AM to 12 noon and will accept electronic wastes, motor oil and single stream recycling. Since May 27<sup>th</sup> is Memorial Day there will be no collecting of curb side recycling that day. All residents should put it out on Thursday, May 30, 2019. The Street Fair was Sunday, the DPW set up all the barricades, tables, chairs, trash receptacles and cleaned the street afterward and did a great job.

##### PUBLIC SAFETY

Councilman \_\_\_\_\_ said \_\_\_\_\_ he was in receipt of the April 2019 Court Report and the Police Report for May. On May 16<sup>th</sup> Chief

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Zimmerman attended the annual Kenilworth Fire Departments Memorial Service held at the Fire Department Headquarters. On May 21<sup>st</sup>, David Brearley High School juniors and seniors took part in an anti-drinking and driving program which was sponsored by the Kenilworth Municipal Alliance and the Pennsylvania DUI Association. This simulator had the ability to not only induce intoxication to the users driving into the cars that are driving around. It forces you to not only worry about how you are driving on the road but also about other motorists. Kenilworth School Resource officer Brian Pickton facilitated the program. From June 10<sup>th</sup> to June 14<sup>th</sup> a refresher training is scheduled for EVOC which means Emergency Vehicle Operator Course at the Police Academy in Scotch Plains. Officers will receive refresher training on special skills required to operate a vehicle under very demanding conditions. The Kenilworth Police Department is asking residents to remain vigilant in deterring thefts from unlocked cars parked within the Borough during late evening thru early morning hours by making sure the vehicles are locked and secured while parked in your driveways and on the streets. Please report any suspicious activity to the department.

DEPARTMENT OF PLANNING, ZONING & ORDINANCES

Councilman Schielke reported the Planning Board met on May 9<sup>th</sup> and received 2 requests from Mayor and Council and their response will be received prior to our next meeting. Tonight there are 2 zoning ordinances for final reading, first setting depth requirements from basement construction in regards to the water table which will hopefully stop some of the sump pumps from running continually and the second one requiring a construction fence around any sort of construction that requires excavation so no one can get hurt.

DEPARTMENT OF RECREATION AND FIRE

Councilwoman Ceceri reported Camp Registration for the summer is open thru Community Pass. She said she attended the Fire Departments May 16<sup>th</sup> Memorial Service and it was very humbling and meaningful.

DEPARTMENT OF HEALTH, EDUCATION & HUMAN SERVICES

Councilman Ladauti reported the Health Department is preparing for the Health Department which is the 3<sup>rd</sup> Saturday in September, they are looking for more avenues to serve the public. They want to speak with Overlook to have a mammogram truck and different screening trucks. They will have virus and Flu shots on that Saturday and whatever else they deem necessary. The Health Department works with our Parks Department to get all the vans and vehicles and food trucks to make sure they are safe and have their licenses.

Councilwoman Karlovitch reported that Restaurant Week will be June 3<sup>rd</sup> thru June 7<sup>th</sup> and there will be live music and family activities along the Boulevard during the entire week. She encouraged all residents to come out for Restaurant Week.

CONSENT AGENDA

Resolutions No. 1 thru 8 are listed on Consent Agenda and will be enacted by one motion in the form listed below. All items will be recorded individually in full in the minutes.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Councilwoman Ceceri moved that all items under the Consent Agenda be approved, seconded by Councilman Schielke. All in favor.

RESOLUTION NO. 1

**BE IT HEREBY RESOLVED**, that all bills be paid when properly audited and funds are available.

RESOLUTION NO. 2

**WHEREAS**, in accordance with Chapter 72 PL 1994, the Borough of Kenilworth has the authority to prepare and issue estimated tax bills, and;

**WHEREAS**, in order for the Borough of Kenilworth to meet financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expenses on borrowing, it would be in our best interest to do so, and;

**WHEREAS**, the Tax Collector and Chief Financial Officer have reviewed and computed an estimated levy in accordance with N.J.S.A. 54:4-66.3.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Kenilworth on this 22<sup>nd</sup> day of May 2019, as follows:.

1. The Borough of Kenilworth Tax Collector is hereby authorized and directed to prepare and issue estimated tax bills for the Borough of Kenilworth for the third quarter 2019 taxes in accordance with the provisions of N.J.S.A. 54:4-66.2 et seq in the event that a tax rate is not certified timely.
2. The entire estimated tax levy for 2019 is hereby set at \$41,311,606.93.

RESOLUTION NO. 3

**WHEREAS**, the Borough of Kenilworth held a tax sale on July 28, 2016 for delinquent 2015 taxes, and a tax lien was purchased by FWDSL & Associates LP but then assigned to Arianna Financial Corp., LLC., for the property located at 30 Dorset Drive, Kenilworth, NJ, and

**WHEREAS**, Fortune Title Agency, Inc., has satisfied said lien, together with interest and costs by payment of amount due at the Office of the Collector of Taxes, and

**WHEREAS**, the Lienholder paid to the Collector of Taxes a premium in the amount of \$30,500.00 and since the statutory period of five years has not passed, these funds must also be returned.

Now therefore be it resolved, that the Treasurer be and is hereby authorized to draw a warrant to the named Lienholder as follows, **to be refunded upon receipt of the original Certificate of Sale #16-00002** by the Collector of Taxes:

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Arianna Financial Corp, LLC  
1148 Springfield Avenue  
Mountainside, NJ 07092

REDEMPTION AMOUNT - \$41,841.14

PREMIUM TRUST ACCOUNT - \$30,500.00  
Treasurer's Note: 1099 = \$8,764.07

RESOLUTION NO. 4

**WHEREAS:** Tax overpayments were made for the 2nd quarter of 2019 for the following properties located in Kenilworth, NJ, and;

**WHEREAS,** this resulted in the overpayment of taxes for the 2nd quarter of 2019, and;

**NOW, THEREFORE BE IT RESOLVED** that the Treasurer, after proper notation on the tax account records by the Collector of Taxes, be and is hereby authorized to issue a warrant as follows.

Corelogic Tax Services – Duplicate Payment  
Attn: Centralized Refunds, P. O. Box 9202, Coppell, TX 75019  
BL 94/Lot 4                      32 Commonwealth Road                      \$ 3,549.21

Wells Fargo – Duplicate Payment  
Attn: Financial Support, One Home Campus, MAC F2302-035, Des Moines, IA 50328-0001  
BL 168/Lot 17                      334 Ashwood Avenue                      \$ 2,239.73

RESOLUTION NO. 5

**BE IT RESOLVED,** by the Mayor and Council of the Borough of Kenilworth of Union County, New Jersey upon recommendation of the Borough Engineer that Final Payment for the Contract listed below be and is hereby approved.

**BE IT RESOLVED** that the payment authorized herein, is conditioned upon compliance with the requirements of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et. seq.; and

TITLE OF JOB: HVAC Improvements  
CONTRACTOR: WHL Enterprises t/a Bill Leary A/C & Heating  
6 Green St.  
Metuchen, NJ 08840  
ENGINEER: Harbor Consultants, Inc.  
320 North Avenue, East  
Cranford, NJ 07016

FINAL PAYMENT  
TOTAL ORIGINAL CONTRACT PRICE                      \$164,000.00  
Credit to Owner (balance of allowance)                      \$523.86  
Total Completed and stored to date:                      \$163,476.14

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Less previous payments	\$160,476.14
<b>AMOUNT DUE</b>	<b>\$3,000.00</b>

All bills on file in the Finance Office. This Resolution to take effect upon certification by the Borough Treasurer that sufficient funds are available.

CERTIFICATION OF FUNDS  
APPROPRIATION:

\_\_\_\_\_  
JOE DEIORIO, TREASURER

RESOLUTION NO. 6

**BE IT HEREBY RESOLVED,** that the following be employed as Recreation Summer Staff as of June 24, 2019 to August 16, 2019, except as indicated below who are employed ending August 30, 2019, pending successful completion of a criminal background check for adults and internal juvenile records check and submission of required payroll documents.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

<b>KENILWORTH RECREATION 2019 SUMER CAMP PAYROLL</b>						
<b>Projected Dates: June 24, 2019 thru August 16th 2019</b>						
<b>3-4 Cunselors for 2 Week Extended August 19th thru August 30th 2019</b>						
<b>DAY CAMP - HARDING ELEMENTARY - 9AM-3PM</b>						
	<u>Name</u>	<u>Title</u>		<u>Pay Rate</u>		<u>Projected # Wks</u> <u>Wrkg</u>
1	Pat Boyle	Camp Director	Rec Director-Salry	\$ 590.00	/week	10
2	Caitlyn Martin	Co-Camp Director	Teacher-Salary	\$ 590.00	/week	8
<i>Positions above are approved for a maximum of 7 hours per day/35 hours per week</i>						
3	Laura Kratzer	Counselor	Paraprofessional	\$ 12.50	/hour	8
4	Dani Mauro	Counselor	College Student	\$ 11.50	/hour	8
5	Salma Elmahal	Counselor	College Student	\$ 11.50	/hour	8
6	Jen Santos	Counselor	Student	\$ 11.00	/hour	8
7	Alyssa Filippone	Counselor	Student	\$ 11.00	/hour	8
8	Rebecca Pizutto*	Counselor	College Student	\$ 10.50	/hour	10
9	Ana Giacalone	Counselor	College Student	\$ 10.50	/hour	8
10	Allegra Wyrick	Counselor	College Student	\$ 10.00	/hour	8
11	Courtney Pckton	Counselor	College Student	\$ 10.00	/hour	8
12	Kiara Adorno	Counselor	College Student	\$ 10.00	/hour	8
13	Justin Martinez	Counselor	College Student	\$ 10.00	/hour	8
14	Sara Cortesao	Counselor	College Student	\$ 10.00	/hour	8
15	Lauren Jeffrey*	Counselor	College Student	\$ 10.00	/hour	10
16	Paul Weiss*	Counselor	Student	\$ 10.00	/hour	10
17	Samantha Perrette	Counselor	Student	\$ 10.50	/hour	8
<b>AFTER CARE - KENILWORTH REC CENTER - 3PM-6:30PM</b>						
18	Lia Marabella	After Care Counselor	Student	\$ 10.00	/hour	8
<i>Shaded Areas are New Hires</i>						
<i>*These counselors will also work After Care at their normal rate of pay</i>						
<i>Please Note: Camp does get extended for 2 weeks at the rec center for our after care children</i>						
<i>Counselors working the extended camp will be Pat Boyle, Rebecca Pizutto, Lauren Jeffrey, &amp; Paul Weiss</i>						
<i>Extended camp to end on August 30th.</i>						

**BE IT FUTHER RESOLVED**, that the above appointments are not eligible holiday, sick, or vacation pay.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

RESOLUTION NO. 7

**BE IT RESOLVED**, that the following individual be appointed on the Kenilworth Fire Department;

<u>Name</u>	<u>Appointment</u>
Arminio Loffa	Firefighter/EMT

RESOLUTION NO. 8

**A RESOLUTION AUTHORIZING THE TEMPORARY SUSPENSION OF ENFORCEMENT OF PARTS OF CHAPTER 120 "LAND USE", PART 3 "ZONING" ARTICLE 31 "SIGNS" OF THE BOROUGH CODE**

**WHEREAS**, Chapter 120 "Land Use", Part 3 "Zoning" Article 31 "Signs" of the Borough Code regulates compliance and requirements of signs within the Borough; and

**WHEREAS**, the Borough of Kenilworth governing body are desirous of promoting local restaurants through their sponsorship of the annual Restaurant Week event to be held June 3 through June 7 of 2019; and

**WHEREAS**, signage is an integral part of promoting the participating restaurants and businesses; and

**BE IT RESOLVED**, by the Mayor and Council of the Borough of Kenilworth that the restrictions of 120-31 et. seq. be suspended from June 3 – 7, 2019 for the businesses' participating in the 2019 Borough sponsored Restaurant Week; and

**NOW, THEREFORE, BE IT RESOLVED** by Borough Council of the Borough of Kenilworth, County of Union State of New Jersey as follows:

1. There is hereby imposed a temporary suspension of the enforcement of Chapter 120 "Land Use", Part 3 "Zoning" Article 31 "Signs" of the Borough Code
2. The temporary suspension is applicable only to the participants of the 2019 Restaurant Week; June 3 – 7, 2019
3. At no time can the temporary signage obstruct driving vision, traffic signals, create an unsafe condition for vehicular traffic, obstruct ingress/egress, or be structurally unsafe

**BE IT FURTHER RESOLVED** that this appointment is contingent upon successful completion of medical release, criminal and background checks.

Proposed Ordinance No. 2019-03 was read for a second reading as follows: Copy can be found in 4/1019 minutes.

Mayor Deluca said the purpose of this ordinance is to amend Chapter 120 of the Land Use Ordinance. The Council seeks to establish elevation levels for flood prevention above the seasonable high water table for new buildings. Also to establish fencing and other safe precautions at construction sites.



REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Motion made by Ladauti seconded by Ceceri to open the hearing on Ordinance 2019-03. All in favor.

No one wished to speak.

Motion made by Ladauti seconded by Karlovitch to close the hearing on Ordinance 2019-03. All in favor.

**RESOLUTION NO. 9**

Introduced by Schielke, adoption moved by same  
Seconded by David. Upon roll call all in favor.

**BE IT HEREBY RESOLVED** that the ordinance #2019-03 entitled:

**AN ORDINANCE OF THE BOROUGH OF KENILWORTH AMENDING THE EXISTING CHAPTER 120 LAND USE PART 3 "ZONING", ARTICLE 22 "GENERAL REGULATIONS, EXCEPTIONS AND MODIFICATIONS", ADDING ITEM 16 "BUILDING REQUIREMENTS" AND ITEM 17 "SECURING THE CONSTRUCTION/RENOVATION SITE" WITHIN THE BOROUGH OF KENILWORTH, COUNTY OF UNION, STATE OF NEW JERSEY**

Was introduced and approved on first reading, at the regular meeting of the Borough Council on April 24, 2019 approved for final passage at the regular meeting of the Borough Council of May 22, 2019 after all persons interested were given an opportunity to be heard concerning said ordinance.

**BE IT FURTHER RESOLVED** that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its final adoption.

Proposed Ordinance No. 2019-05 was read for a first reading as follows: (Copy attached)

**ORDINANCE NO. 2019-05**

**AN ORDINANCE AMENDING ORDINANCE NO. 2017-02 PROVIDING FOR COMPENSATION FOR BOROUGH EMPLOYEES OF THE BOROUGH OF KENILWORTH**

Mayor Deluca said the purpose of this ordinance is to designate job titles and authorize the compensation range to pay Borough personnel.

**RESOLUTION NO. 10**

Introduced by Karlovitch, adoption moved by same.  
Seconded by Clementi. Upon roll call, all in favor.

**BE IT HEREBY RESOLVED** that the ordinance #2019-05 entitled:

**ORDINANCE NO. 2019-05**  
**AN ORDINANCE AMENDING ORDINANCE NO. 2017-02 PROVIDING FOR COMPENSATION FOR BOROUGH EMPLOYEES OF THE BOROUGH OF KENILWORTH**

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Heretofore introduced, does now pass on first reading, and that said ordinance be further considered for final passage at a meeting to be held on the June 12, 2019 at 8:00PM or as soon as thereafter as the matter can be reached, at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

Proposed Ordinance No. 2019-06 was read for a first reading as follows: (Copy attached)

**ORDINANCE NO. 2019-06**

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW COMMUNICATION AND SIGNAL SYSTEMS EQUIPMENT, NEW INFORMATION TECHNOLOGY EQUIPMENT AND A NEW FIRE TRUCK (PARTIAL FUNDING) AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF KENILWORTH, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,525,000 TO PAY THE COST THEREOF, TO APPROPRIATE A STATE GRANT, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

Mayor Deluca said the purpose of this ordinance is to provide financing for the Capital Budget Plan.

RESOLUTION NO. 11

Introduced by Karlovitch, adoption moved by same.  
Seconded by Clementi. Upon roll call, all in favor.

**BE IT HEREBY RESOLVED** that the ordinance #2019-06 entitled:

**BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY, NEW COMMUNICATION AND SIGNAL SYSTEMS EQUIPMENT, NEW INFORMATION TECHNOLOGY EQUIPMENT AND A NEW FIRE ENGINE (PARTIAL FUNDING) AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF KENILWORTH, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$1,525,000 TO PAY THE COST THEREOF, TO APPROPRIATE A STATE GRANT, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.**

Heretofore introduced, does now pass on first reading, and that said ordinance be further considered for final passage at a meeting to be held on the June 12, 2019 at 8:00PM or as soon as thereafter as the matter can be reached, at the regular meeting place of the Borough Council, and that at such time and place all persons interested be given an opportunity to be heard concerning said ordinance, and that the Borough Clerk is hereby authorized and directed to publish said ordinance according to law with a notice

of its introduction and passage on first reading and of the time and place when and where said ordinance will be further considered for final passage.

Mayor Deluca asked members of the American Legion and the VFW to come forward and he read the following proclamation.

PROCLAMATION

# *Proclamation*

## **75<sup>th</sup> Anniversary of D-Day – June 6, 2019**

Seventy-five years ago on June 6, 1944, the largest armada of land, sea, and air forces ever assembled embarked on a great crusade across the English Channel to free the European continent of a tyranny that had taken hold and threatened to strangle the very freedoms we cherish most. Over 5,000 ships and 10,000 aircraft carried more than 130,000 soldiers, sailors, and airmen from the United States, Great Britain, Canada, Poland, France, Norway, the Netherlands, Czechoslovakia, New Zealand, Australia, Luxembourg, and Belgium to the shores of Normandy. More than 9,000 Americans never returned.

On D-Day, American, British, and Canadian forces advanced through thickets of barbed wire and scaled heavily protected cliffs. The acts of the Allies on Utah Beach and the other beaches that morning in June were far more than heroic. They were the defining moment of a whole generation; they changed the course of world history. Thousands gave their last full measure of devotion, and by the end of the day, peace and freedom that the Nazi occupation had denied to millions of people was restored.

An ideology fueled by hatred was dealt a significant blow on D-Day. A foothold was secured in France, opening a path to Berlin, and liberating a continent from the grip of tyranny. It made possible the achievements that followed the end of World War II -- the Marshall Plan, the NATO Alliance, and the shared prosperity and security that flowed from each.

Those who landed on the beaches of Normandy, not only on D-Day but also throughout the rest of the war, were responsible for the liberation of many of the concentration camps as well as cities, towns, and villages throughout Europe that had suffered for so many years. Thus, 1944 was a year of triumphs as well as sorrows. The Allies made great advances in bringing liberty to millions, while families and friends on the home front, faced with the knowledge that many of their loved ones would not return, continued to build the "Arsenal of Democracy." It is to those millions of American men and women, veterans and civilians, those who came home from the war and those who made the ultimate sacrifice that we say "A grateful Nation remembers."

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Today, seventy-five years later, as we carry on the struggle for liberty and universal human rights, let us draw strength from a moment when free nations beat back the forces of oppression and gave new hope to the world.

NOW, THEREFORE, I, Anthony DeLuca, on behalf of the Governing Body of the Borough of Kenilworth, by virtue of the authority vested in me I do hereby proclaim ***June 6, 2019, as D-Day National Remembrance Day***. I call upon all citizens to pay tribute to the valiant service members who paid the high price to ensure the freedoms of the many. The patriots who, through their courage and sacrifice, changed the course of an entire century, to observe this day with programs, ceremonies, and activities that honor those who fought and died so men and women they had never met might know what it is to be free.

IN WITNESS WHEREOF, I have hereunto set my hand this 22<sup>nd</sup> day of May, in the year of our Lord two thousand nineteen.

Mayor Deluca asked everyone to remember those who have fallen in battle.

MEETING OPENED TO THE PUBLIC

Motion was made by Councilman Clementi, seconded by Councilwoman Karlovitch to open the meeting to the public. All in favor.

Mary Michitsch 725 Monmouth Avenue – Mrs. Michitsch thanked everyone for the Thanksgiving and Christmas gifts. 1,000 gifts went out to service men, Sr. Jacinta, kids in town, battered women you name it we gave it to them. We do it through St. Theresa's Social concerns of Kenilworth. She thanked the mailmen who just delivered 25 boxes of food for the pantry. She said we have a wonderful town and we have a lot to be thankful for especially the Mayor and Council. She the roads coming off the parkway are very bad and she asked if the Borough can push the County.

Anthony Cuppari, 103 South 25<sup>th</sup> Street – Mr. Cuppari said also with the potholes Springfield Avenue when you pull off Rt. 22 is really really bad. The Mayor said that is Union.....he said maybe we should pave it and send them the bill.

Motion was made by Councilman Ladauti, seconded by Councilwoman Ceceri to close the meeting to the public. All in favor.

Mayor Deluca said the Borough Council as the local ABC Board will convene the hearing for the Alcoholic Beverage Control licenses with special conditions on their licenses. Special conditions may be imposed on a license by the Municipal issuing authority as deemed necessary regarding Title 33.

Mayor Deluca turned the meeting over to Borough Attorney, Frank Capece.

Mr. Capece said they are taping the meeting and law enforcement has requested copies of this tape and the Clerk will make sure that happens. Mr. Capece said all retail licenses must be renewed annually effective July 1<sup>st</sup>. The Borough of Kenilworth is able to set the time for this event which is this evening.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Upon filing the application, including the renewal fee, if no objection to the renewal is raised, the Governing Body, sitting as the ABC Board may approve the renewal. Tonight in 2 specific cases the Governing Body will A, present any concerns they will have with the individual renewal and B permit the response of the licensee and C permit residents to provide any relevant information regarding the renewal process. Mr. Capece asked the Clerk, regarding the conditions on Blackthorn, has she been able to confirm that Blackthorn has agreed to the conditions of the license. The Clerk said she spoke with the General Manager Mark Harnett and they are not going to contest the special conditions. Mr. Capece said that leaves the Gavelstone. He said he had the opportunity to speak to the Council and also the owner of Gavelstone on Friday evening. It was his intention and remains his intention, there are no surprises, this is not trial, what this is this evening is, you as the Governing Body, sitting as the ABC Board will consider and listen the material that is provided. He said on that basis you will make determinations as to what you want to do regarding the license renewal. As it related to Gavelstone, he asked the Council for Gavelstone to please come forward and identify himself.

Mr. Bernardo Henry, here on behalf of the Gavelstone. Mr. Capece said he gave Mr. Henry a list of the questions and Mr. Henry should know what they are because he telegraphed them to him. Mr. Capece said he had a conversation with the owner of Gavelstone on Friday night, he does not normally do conversations Friday nights at 5:30 but he knew it was important and we have tried to provide everything we can. The residents will also get their opportunity this evening. Mr. Capece asked Mr. Henry if his client has renewed, and you still have time, by filing the licensing fee? Mr. Henry said yes the fee was paid this morning. Mr. Capece asked if the Gavelstone utilizes a police scanner in the tavern? And he said maybe the owner should come up and respond. Mr. Henry asked when you say police scanner..... that is a specific term meaning whether or not you are listening in to hear police transmissions'.....he said he was out there twice and they don't need to use a scanner because the police pass by every 20 to 30 minutes...that is their normal patrol. Mr. Capece said he doubts that but he takes your representation that you do not.....not that there is anything illegal about doing it.....that was just a personal peak by him.....he was curious. Mr. Henry said there are a number of law enforcements that visit that tavern. He said on any given night you can have between 10 & 20% of the people there who are in law enforcement, sheriff officers, people from the police department and correction officers. He said they may have walkie talkies and that he cannot vouch for.

Mr. Capece said regarding the conditions...#1....are you familiar with the conditions in the license that currently exist? Mr. Henry said yes. Mr. Capece asked Mr. Henry, on behalf of his client, are you representing this evening that those conditions have been conformed to? Mr. Henry said they are being conformed to but as he discussed, we are seeking to improve them. One of the issues as he went over the CAD reports I that they need to sound proof the place. They went out and got an estimate and it will be approximately \$9,800 just to change and have a different door because some of the complaints were it's more the entrance toward Fairfield Avenue so we are going to try and get that corrected and sound proofed so that way when you are coming out you go through one door....the outer door is closed.....that way by the time you open the outer door.....no one outside can hear. In addition to that what we are trying to do, because he believes one of the issues was a complaint about making sure the garbage is picked up.....what he said to her is the best way to prove that you are doing it, what we are going to do is install additional cameras. The additional camera's will be placed to the other side of Fairfield Avenue and that way you can see that they are patrolling and picking up the garbage. In addition what she has done is now she has a log for the patrols so when they go outside with the decibel reader where they are documenting the levels and trying to make sure that it's not disturbing the neighborhood. He said as he understands it the problem is the street right next to the tavern and one of

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

the issues he spoke with Ms. Quintano about was that she is not in control of parking. She put up a sign but you can't prohibit people from parking there. Mr. Henry asked her if there was anywhere else in the town where we can have a parking lot and use a valet service. Unfortunately there is a convenience store down the street and you would have to get permission. Mr. Henry said she spoke to the Council last year about trying to get a permit and one of the issues was that you would have to amend ordinances and that may not work. He said the final thing that he suggested, and she does not agree with, is maybe we can pay for a police detail. Mr. Capece said you jumped ahead but his specific question is regarding the resolution that was adopted last October, specifically #1.....is it your representation on behalf of your client that all music has ceased by 12:30AM.....he suggested Mr. Henry confer with his client because he doesn't think Mr. Henry is there every night. He asked Mr. Henry if he was saying on the record that all music has ceased by 12:30AM? Mr. Henry said it is his understanding from reviewing the CADs that it has. Mr. Capece said it's a simple yes or no. Mr. Henry said he is representing what he saw in the CADs that were presented. Mr. Capece said to Mr. Henry that he is not the licensee and he is asking him is it his representation tonight as a licensee that all music has been ceasing at 12:30AM? Mr. Henry said based on what he has been told yes.

Mr. Capece said regarding security, is it your representation that security personnel are being employed from 10PM to 2200 military time to closing everyday of operation to insure that there shall not be any unreasonable interference with the quiet and peaceful enjoyment of the neighborhood. Mr. Henry said he doesn't mean to quibble.....but you said from 10PM to 2200.....Mr. Capece said till closing. Mr. Henry said yes they have 2 security guards. Mr. Capece said is it their job to make sure that there is no unreasonable interference with quiet and peaceful enjoyment of the neighborhood? Mr. Henry said they are trying their best to get the people safely out of the bar and away. He said that is why we are suggesting.....Mr. Capece said that may be all well and good but his specific question is are they living up to the conditions that they agreed to in October, 2018, specifically 10PM to closing every night, no unreasonable interference? Mr. Henry said based on what you are saying.....Mr. Capece said it not what he is saying it's what they agreed to.....Mr. Henry said based on what you are saying no system is perfect so do we have people sift through.....yes.....but they are giving their best efforts to make sure everyone leaves in order.....he said he is not going to come up to the Council and lie and say it's been 100% perfect. Mr. Capece said the Governing Body made these conditions and, much to the disappointment of the residents.....and he certainly does not want you to lie and he does not speak for this Governing Body except to say that he will give you a hint.....he said they are very interested in knowing that the conditions that you agreed to last October are being conformed to. He said if you are telling me no.....what he needs to know is are you conforming to the requirements of that condition.....is your client? Mr. Henry said you are asking if there is 100% compliance.....Mr. Capece said he never used 100%.....and Mr. Henry said well then they are compliant.

Mr. Capece asked if they are agreeing to the policing of the neighborhood properties each morning after operation, the licensee will conduct an inspection of the neighborhood for garbage, debris and removal of same.....have they been doing that? Mr. Henry they have been doing that and that is why he made the suggestion when he started that they are going to put additional cameras in and that way you will have video evidence of what is being done. Mr. Capece said there are going to be conditions but what he is specifically trying to do for the benefit of the Governing Body is to find out, when we met last October, 2019 and there were a lot of residents who came out.....are they conforming to those conditions? Mr. Capece said he thinks what Mr. Henry is saying is that pretty much so.....if he is putting words in his mouth, please correct him? Mr. Henry said yes and in addition they contacted the township because there was an issue with garbage cans ..... the cost would be \$1,000 because there are no

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

garbage cans on that side of the street and she was willing, even though she doesn't have to, to put garbage cans. Mr. Capece said he doesn't know who she is.....and Mr. Henry said Ms. Quintano.....and Mr. Capece asked if she was the licensee and Mr. Henry said yes. Mr. Henry said she will put garbage cans because the township doesn't have any there.

Mr. Capece said these are technical issues that the Governing Body will be considering as to if they are going to renew the license and what conditions they are going to set. He asked Mr. Henry a very difficult question. He said as you know, and we provided it to you, the Union County Prosecutors Office has provided us with a probable cause regarding an Ibn Collins. He said he is not sure the status of the case but he is troubled. He read into the record what the prosecutor provided the Borough. Specifically what the prosecutor said in pertinent part was "during the time Ibn Collins was at Gavelstone he consumed several alcoholic beverages. Statements were taken from employees at Gavelstone in which they stated that Ibn was under the influence of alcohol. He asked Mr. Henry if he wanted to respond to the fact that this man left that place in an alcoholic condition? Mr. Henry said he practices criminal law and you are asking me whether or not he was drunk and he doesn't think that from viewing that probable cause determination that they even said he was drunk. They said what the witnesses have said was that he had a number of drinks.....he does not know his level.....did he have a couple of drinks.....yes he did. He said he reviewed it and he is unsure of whether he was driving because part of the testimony or what the witnesses told have told UC prosecutors office is that he left with a female and he does not have the benefit of that female statement.....he doesn't know who was driving.....all he knows is the man was charged, he left the bar.....the UC prosecutors office has spoken with everyone in the bar and they have turned over all the video tapes and they are cooperating 100%, they will do whatever UC Prosecutors office needs them to do to testify about that situation. As to whether or not he was drunk, he cannot tell you that and he doesn't believe the prosecutor can tell you that either.....what they will say is that they suspect he may have been drunk. He cannot say he left there drunk. Mr. Capece said to Mr. Henry if you have the documents he provided you.....what they did was they charged this guy with serious crimes and he pointed out as the newspapers showed, an individual was killed. Mr. Henry said he understands but part of the probable cause documents is they would have provided audio, video and other statements, he has not been able to review that.....what he has reviewed is one page of several different documents, yes someone has died, yes it is tragic situation but ultimately that has to be played out in the court system. He said what we have now is that everyone leaves the Gavelstone the right way.....that no one gets into an accident. He said as part of being proactive in anticipation of this hearing, we are suggesting having patrons use an Uber service to protect people who leave the tavern and that way you limit your liability and you limit accidents. He said he understands you are not satisfied with it but the only thing we could do is be proactive going forward. Mr. Capece asked Mr. Henry if he would concede, based upon this probable cause determination this Governing Body sitting as a licensing board could suspend the license until such time as this criminal matter is resolved, he is not suggesting they will do that but you need to understand that this Governing Body takes very seriously the statement of the prosecutor that this individual was served an excessive amount of alcohol. He is asking specifically is, absent of a satisfactory answers to this Governing Body, this Governing Body could take severe action against your licensee if they choose to. Mr. Henry said he understands and what you are asking me to do is turn into a defense attorney and one of the issues with the case that the prosecutor's office is having is that unfortunately the lady that was killed left a bar drunk, she was served an excessive amount of liquor and she ran out into the street. He said two wrongs do not make a right. He said what we are going to do is protect the patrons of the bar going forward, we are going to provide a service. Mr. Capece said prospective is something we are going to get to and he read a statement of March 20, 2019 from the UC Prosecutors "the investigation said that

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Collins had been drinking heavily while celebrating his birthday at a Kenilworth Bar before driving to Linden and it was later estimated that he was driving slightly more than 40 miles per hour in a 25 mile zone when the incident occurred. He said there is nothing he has here that he can provide to the Governing Body from the prosecutor's office that indicates a woman was driving or whoever was driving, what they are saying is that a patron at your client's tavern was driving from the bar and what he is asking you, respectfully, that this Governing Body is considering this very seriously, how would you respond to that question that the prosecutor saying he was driving the car, the prosecutor is saying he killed that girl. Mr. Henry said this is a document that says 8 of 10 pages and you are reading page 8 of 10 you are not reading any of the statements that they made, you are reading what was put in here. The statements would have been provided to the defense attorney during the probable cause hearing, you are not reading the statements where it said he left with a number of people, you're not reading the statements where it said at this point they are not able to determine who was driving because the car was tinted, you are not reading those. Mr. Capece said to Mr. Henry why doesn't he put on the record, for this governing body, any statements you want to make that would tend to mitigate the assertions that were made by the prosecutor. He said give me your side of the story for the Governing Body, he has reports from the prosecutor that said he got drunk, he was speeding and he killed someone, if you have evidence or something you want to put on the record that says no that is not true, please do so for the Governing Body. Mr. Henry said he is not his defense attorney, he has access to ecourse but because he is not an attorney on the case he cannot go in and get the documentation so what you are asking me to do is go and get the statements from the prosecutor's office and come before you and present it.....he said he cannot do that, you know this is a case that is under active investigation to the point where they told the employees of the tavern not to discuss it with people. Mr. Capece said you made that assertion and he checked with John Esmerada in the Union County Prosecutors Office who specifically refutes that statement. He knows Mr. Esmerado, they have had cases together and he said there was no gag order, nothing was put on your client. He said if your client wants, and this is certainly their right, this is an administrative hearing, the standard of proof is significantly less than a criminal trial, he does not know what will happen at the criminal trial, but he is respectfully asking is for Mr. Henry to tell the Governing Body when he reads from the prosecutor's office what they are telling me.....give me something that they should consider as far as mitigating circumstance. Mr. Henry said he believes they spoke with a Detective, not the prosecutor and he was the one that instructed them, not the prosecutor. Mr. Capece said he believes that.

Ms. Maryann Matthews was sworn in by the Borough Clerk.

Ms. Matthews said she spoke with a prosecutor about this incident. She said she spoke with Detective Lamar Hartsfield and John Cho from the Prosecutors Office. Mr. Henry asked Ms. Matthews if she spoke with the attorney that Mr. Capece spoke about.....and Ms. Matthews replied no and that he was not the prosecutor on the case. Mr. Henry asked Ms. Matthews who was the prosecutor on the case and she said Johnny Cho. She said they asked us several questions individually and he specifically said to us do not discuss this among anyone else because this is an active investigation. Mr. Capece said he certainly believes you and is not questioning your veracity. He asked Mr. Henry, one last time, because we are going around in circles, for this Governing Body sitting as a licensing agency, is there anything that you want to give them in regards to the allegations from the Prosecutor that you consider to be mitigating circumstances? Mr. Henry said even though the Prosecutors Office and the detective said you do not have to discuss it he asked Ms. Matthews if she was there that night and was it her birthday that night and she replied yes. He asked if she was there with a number of people and did she see the gentleman in question that night and she replied yes. He asked Ms. Matthews if the gentleman left the



REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

bar alone or with other people and Ms. Matthews said he left with about 4 people. Mr. Henry asked if Ms. Matthews knew if he drove or if someone else drove and she said to her knowledge someone else drove that vehicle that night. Mr. Henry asked what time did he leave the bar? And Ms. Matthews said at 1:45AM. He asked if Ms. Matthews saw him after he left the door of the bar or did she walk out of the bar and look at how he got into a vehicle down the street and she replied no. Mr. Henry asked her if she was able to tell the Governing Body what exactly happened after he left the bar and she replied no. He asked if she told the Prosecutors Office this and she said yes. He asked if she was willing to testify in court if the prosecutor's office needs you to testify and she replied yes. Mr. Capece said he has no questions for Ms. Matthews if he is satisfied that she has provided the Governing Body with all mitigating information regarding that unfortunate situation and Ms. Matthews replied yes.

Mr. Capece said his last question is, and he respectfully asked Mr. Henry to reconsider because we will be hearing from residents.....is it your understanding from your client that they are conforming to the requirements of the conditions that have been previously set regarding their tavern? Mr. Henry said he is going to repeat his statement, he said he can hear the laughter in the back, and what he has said to you, he is not trying to come across as a liar or be disingenuous, no system is 100% correct and for him to say they have been 100% compliance would be a lie and he is not going to lie to the Governing Body because when we look at the CADs, yes there is issues with parking, there are a number of parking tickets, that is why we want to take care of the parking issues. Mr. Capece asked about the CAD situation that Mr. Henry just raised and said he provided Mr. Henry with a list of CADS, the good news is that it appears that the number of CADS are down significantly but then again this is only May, we have not hit the full year. You have had a chance to look at the CAD reports and the Governing Body has looked at the CAD reports but it is too late to go through every CAD. He asked Mr. Henry if he had any information that he would want to provide to the Governing Body regarding CAD's which deal primarily with noise, garbage and loud music.....he asked is there any mitigating circumstances that you or your licensee want to provide to this Governing Body regarding those complaints? Mr. Henry said there are 2 or 3 about garbage and then the issue was, if you read the CAD, they reported that it was other people that left the garbage because they don't sell that type of liquor. Mr. Capece said garbage didn't really come up, what he remembers most of all was loud music and he needs Mr. Henry to respond to the loud music because one of things this Governing Body could consider as a condition is the elimination of all live music, he does not know if they are going to do that.....the other thing is the disposal of bottles on peoples lawns, loud engines and he is sure we are going to hear from them, what he is asking, and Mr. Henry may want to confer with his client, he knows what is coming and he is trying to give you the benefit of everything he can. He asked would you please tell this Governing Body what about the CAD reports, if anything, would you want to provide to this Governing Body as to those reports? Mr. Henry said as you know it is almost impossible for any business to have their customers 100% compliant with the neighborhood, he does not believe there is any business in this town or this County that is 100%. He said he sees that you are trying to hold them to a higher level and what he said at the beginning of his statement.... if we are given the opportunity to get additional police details, that way the police would be there, they would pay for that special detail so now there is no issue. Mr. Capece said we have not gotten to perspective yet, what he is asking and he thinks you are aware of the law of the ABC which requires, and there is a bevy of case law coming out of Newark and Camden and other municipalities that the tavern is responsible for the conduct of their patrons as they exit the facility and what he is asking you again .....would you please explain to him when the assertions are made that your patrons leave drunk, loud, noisy, throwing bottles and loud music, is there any mitigating circumstances that this governing body should consider. Mr. Henry said he believes some of the CADS you provided have them calling the police and saying we have an issue that our security can't deal with.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Mr. Capece said we will now get to the part where we will allow the residents of Kenilworth who have something pertinent to say regarding the potential licensing of this facility to come forward and Mr. Henry has the right to cross examination if you so desire, usually it's not but that will be your call. Mr. Henry said in anticipation of some of the residents, he watched the meeting of September 26<sup>th</sup> and he has reviewed the minutes from September 10<sup>th</sup> and August 22<sup>nd</sup> so he understands what they are going to say and that is why when he came up here..... he was trying to be proactive because he understands they are going to talk about the same issues. They have concerns about quality of life and kids and that is why he is trying to be proactive because they can't block the entire block off but what they can do, with the assistance of the police, they could pay for a special detail that would eliminate that issue. Mr. Capece said he knows you are trying to be proactive, he calls it anticipatory but his question is as far as being proactive since you have opened that door.....do you want to check with your client as to if a penalty is issued regarding the closure of the facility but more importantly would you client be inclined to accept a condition that they would have no live music or DJ because that is certainly something that this Governing Body may consider to resolve the problems they think are going to come up. Don't answer that yet, you should hear what the residents have to say....this Governing Body may not want to do that. Mr. Henry said if they spend over \$10,000 or more to get the building sound proofed so that there is no noise coming out of the building, you would still want no DJ?

Councilman David said this is getting out of hand, we want the residents to talk now, they understand their position. You said you wanted to be proactive, you should have been proactive last year when this started.....now you are coming with the sound proofing only because of this hearing. He said last year that was the way to do it, changing the door and putting a divider out there which is something they never did, we understand that. He wants the residents to come up but he wants no laughing, clapping or anything. They should state their business and go back and sit down, no interruptions and he does not want both sides going back and forth, we dealt with this the last time you guys came. He said state your name, state your business, say what the issues are we will decide what has to be done.

Mr. Capece asked residents to come up and give their name and address.

Mr. Dobel, 287 South Michigan Avenue was sworn in.

Mr. Dobel said he lives down the street from the bar and his issue is that patrons come out of the bar and they are loud. He has seen people urinate in front of his house and he finds beer cans in front of his house because people drink in their cars before they go into the bar. He said he has little kids and between 12 and 2AM people come out of the bar and they are loud and when you ask them to be quite the curse at you. He said these people do not live in town so they do not care about the neighborhood. He said it's a bad place for a bar and the license should be suspended because it's a nuisance to our neighborhood. Mr. Henry said there is police detail out there and if they stop the noise ...that is not enough, you just want to get rid of the bar? Mr. Dobel said yes, he works for the Sheriff's office and one police officer is not going to help. If someone is urinating in front of his house down and down the street something is going on then one police officer who is in front of the bar is not going to help. Mr. Henry said so you don't believe that your own police department is good enough that if they have a detail out there to stop this? Mr. Dobel said not unless they have 5 cops until 2 or 3 in the morning. He said it's not just his street, it streets around the bar, if a cop is at one end he is not going to see what is going on at the other end. He said he does not want the bar there.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Julia Rushkinov, 292 South Michigan Avenue was sworn in.

Ms. Rushkinov said the main concern is the noise and she has called the police at least 5 times because the music has been playing after 1:30 AM. She has a 6 year old who goes to school and she goes to college and she works full time and she can't sleep. She calls less than before but still calls at least 1 a week. People argue and curse in the middle of the street and by the time the cops come they are gone. There is a lot of garbage, bottles, food and condoms on Fairfield Avenue. Mr. Henry asked Ms. Rushkinov if she remembers writing a letter saying she is the neighbor across the street and she said a big thank you for working with her for the past month in keeping the music down.....Ms. Rushkinov said yes and right after that comment everything went down hill again and she had to call the police 3 times that week. She said the music went down for about a month and then it went up again.

Anna Buttoni, 693 Fairfield Avenue was sworn in.

Ms. Buttoni said she lives right next store and when she left her house tonight there was loud music. She is currently battling an illness which she has been battling for the past year and rest is very essential to her wellbeing. She said she spends 4 nights out of the week at her sister's house because the noise is unbearable. She said people walk across her lawn fighting and yelling and when she asked them to kindly be quiet she is cursed off. She said last week there were 2 people in a car having sex, the next morning there were condoms in front of her door. She said it is unbearable and disgusting.

Camella DeSantos, 675 Fairfield Avenue was sworn in.

Ms. DeSantos said after the meeting on September 26<sup>th</sup> and because she works from home, she observed for 1 week someone everyday around 3 or 4 in the afternoon picking up garbage for 1 week. The sign hasn't been up since September, she put it up the last 2 weeks because of this meeting. She said yesterday there was a huge fight in front of her house by the time the cops came they were gone. There was fight and someone yelling "take your hands off me" in front of her house around 10:15 at night. On Monday she could not let her daughter ride her bike because there were cars going up and down the street, the one block is one-way and they make u-turns in her driveway and she suggested putting a sign that says do not enter because clearly people either do not see it or they can't read. She said people were talking loud at 10PM in front of her house and she flicked the lights and the answer she got was shut the \_\_\_ up. She said she does not hear the noise from the corner the problem is the garbage and her husband has videos. She said they can't say we don't sell that liquor.....it's still the patrons from the bar.....where is their surveillance, they said they were going to put a security guard to monitor, they were going to pay a security guard to walk their patrons to their car to make sure they are not making noise. Where is the off duty police officer that they were going to pick from their liking.....she does not see that. She said she heard the screaming from the back of her house. She said the bar may close at 11 but the patrons hang around and where are the people to stop their patrons and tell them to leave. They are not doing what they said they would do on September 26<sup>th</sup>. They have no one picking up the garbage, her husband picks up the garbage on Saturday and Sunday mornings. She said she does not see anyone from the bar coming over.....and she said don't tell me that they come.....it's not at 3:00 in the afternoon.....her lawn is not going to be dirty all day long until your bar opens and decides to pick it up, you should be picking that up first thing in the morning, she should not have to walk out of her house with her children with beer bottles and condoms in front of her driveway. She said it's not just one or two condoms.....it's several. She said maybe the town should put lights because where its dark is where people go to do things wrong.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Mr. Henry asked if it was her testimony that there is no security guard outside? Ms. DeSantos said she does not see a security guard walking the patrons like you guys said you would in September. Mr. Henry said so if the police said in the CAD that they spoke with a security officer.....they would be lying? She said if they spoke with security maybe at the door but not in the front, she can't speak for what the cops spoke to your CAD for your security department but she can tell you that she does not see your security officer, she can only speak for herself. Mr. Henry asked if on Friday night she saw the 2 guys outside in black? She said in front of her house.....no she did not. He asked if she saw them doing their rounds about 8:30 or 9:00? She said no because at 8:30-9 no one is making noise we are talking about the noise after 10 or 11 at night.....are they there after 10 or 11 at night? She said her testimony is, I Camella DeSantos, 675 Fairfield Avenue have never seen a security guard for the Gavelstone.

Richard Price, 290 South Michigan Ave. was sworn in.

Mr. Price said he doesn't remember the last date that we were here but he said you represented us and there was only 4 of us who said no deal, no deal, no deal. Other people wanted to give them a break and let them do this and that. Unless he wasn't hearing right, he could have sworn they said they were going to hire a police officer for a minimum of \$70 an hour at certain times, he has never seen a police officer, all he sees is the 2, he is assuming they are bouncers they were black shirts, they are 2 very nice guys. He told them they do a good job containing people in front of the bar but in front of his house they will not go home, they sit there with the music blasting. He said in the old days after the bar closed it would be.....you ain't gotta go home but you gotta get out of here! And he doesn't see that anymore. He said he never saw a police officer. Mr. Henry asked him if he ever asked the 2 men walking around if they were police officers....Mr. Price said no but he did talk to them yesterday. Mr. Henry asked if he asked them what department they worked for? Mr. Price said no the gentleman said he just started working there 2 weeks ago.

Karen Kolback, 682 Fairfield Avenue was sworn in.

Ms. Kolback said music is the worst of her worries, she is worried about the loud noise late at night with drinking in their cars, you can't tell me they are not drinking in their cars because she has pictures of alcohol bottles that she is picking up off of lawns. They say they have people cleaning it up? Sunday morning she saw a Corona bottle on the side of the road and tonight it is still there so nobody is picking up all this garbage. As far as parking, they have this little sign that they just started putting out again, they say they have security guys coming out and telling them they can't park there.....Ms. Kolback showed pictures of motorcycles parked there. She said nobody does anything, she has seen cops drive by and nothing has been done. She had more pictures of more liquor bottles. She said with all the bottles they are obviously drinking in their cars. She said she doesn't have time to take pictures of all the garbage and liquor bottles, it's disgusting and they should not have to pick it up as residents, we pick up our own garbage. Mr. Henry asked what time was the picture taken of the motorcycles and Ms. Kolback said 2 nights ago. Mr. Henry asked Ms. Kolback if she wanted them to physically remove the vehicles and she said she wants them to remove their vehicles because they are not supposed to be parked, if she parked there she would get a ticket. Mr. Henry said if they have a police detail that was able to do this would that satisfy you? Ms. Kolback said no. Mr. Henry said your concern is the parking and he is trying to come up with a solution and what he is getting is even if they had 5 police officers patrolling, you just don't want a bar, so it's not a security issue.... Ms. Kolback said it is a security issue because what of what is going on in the street.....10:15 at night people are screaming and their

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

windows are up in their car and I can still hear them inside her house. Mr. Henry asked if she wanted the bar to be responsible for what people do in their private cars.

Pete Dill, 682 Fairfield Avenue was sworn in.

Mr. Dill said he does not want anyone to lose their business he grew up in Summit in a contracting family. His issue is parking, his daughter works in a restaurant and comes home late and there is no parking. He pays high rent but when he comes home and can't park it's an issue. He said his issue is parking, everything else they all said is also true. Mr. Henry asked if we got an ordinance passed for parking would that help and Mr. Dill said yes. Mr. Capece said they are not passing ordinances, this Governing Body does ordinances. Mr. Dill asked if there was any way that the bar could have parking somewhere else and not on the street and Mr. Capece said he doesn't know.

Madison Vanik, 642 Fairfield Avenue was sworn in.

Ms. Vanik said she lives on the second half of the block passed the intersection of Faitoute Avenue. She said she is here representing her dad David Vanik who she is sure everyone knows because he has been in this issue for a very long time. Two issues that are relevant and were not addressed since the previous council meeting are....are the patrons being walked to their vehicles and then cleaning up the alcohol bottles & condoms? She said many of us have seen patrons in their vehicles drinking, doing drugs, having sex every single weekend. She said if there was someone actually bringing them to their vehicles and telling them it's time to leave....then they would be on their way and there would be no issue but there is no one doing that. There is also no one cleaning up the garbage, there are the same alcohol bottles there all the time.....all the way down to the end of the street. They are not just parking on the first block, they are parking all the way to the end of the street. They also drive up and down the street very fast, down the wrong way on the one way, they are racing back and forth because they don't realize the second half is a dead end. She said there are illegally parked cars blocking the residents from parking in front of their own house or they are parking in front of driveways. There are people yelling in the middle of the night. She said two or three nights ago she heard people yelling at midnight, just screaming at each other, obviously they were not fully within themselves and they were going to a car to drive away .... they are leaving the bar drunk in their own cars and then things like that happen where someone can get killed. Mr. Henry asked Ms. Vanik if her father was a party to a complaint where it was alleged that he threw a bottle at somebody from the bar? Ms. Vanik said yes. Mr. Capece said that is not relevant, he tries to give flexibility, he said he has a council that is angry with him for letting this go on but that is not relevant, the issue is not what her father may or may not have done. He said to Mr. Henry that he knows the issue and he asked that he limit his comments to the testimony.

Mr. Henry asked if we were to get a parking ordinance passed to where there was no parking on your street would that help? Ms. Vanik said only if there were about 10 police officers who were also patrolling the street making sure no one parked there and making sure no one was doing illegal behavior. Mr. Capece said he does not see any support from the Governing Body, and he does not want to deceive you, for any ordinance changes, the issue before the Governing Body tonight is whether or not the license of this applicant should be renewed and whether there should be conditions and whether there should be suspensions. He has not polled the Governing Body but he can tell, he does not see any indication whatsoever and since he would be the guy directing the ordinance, he does not see any indication by the Governing Body to permit any ordinances regarding parking or anything else. The issues are noise and the issues you have heard so well. Mr. Henry said he is sorry for being

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

annoying but the only reason he asked.....Mr. Capece said you are not annoying me, you are wasting time.....he said he looked at the meetings where he saw some ordinances with no left turn in certain areas, he does not know what is considered when those ordinances were passed, he has seen different parking ordinances, all he is trying to do is for us collectively come to a solution, you say I'm wasting time but he is trying to find a solution where everyone is satisfied. Mr. Capece said here is the solution, very shortly when these witnesses are done this Governing Body is going to consider if they want to make any conditions on your license, if they want the license renewed or if they don't, he would strongly suggest that you focus your comments on what we can do to help these residents with security, noise and those issues.

Anna Ferrera, 332 South Michigan Avenue was sworn in.

Ms. Ferrera said if they have security there like they are stating, yesterday night at about 10:15 there was a lady outside screaming.....help me...get off me..... she thought she was getting raped, she called the police and 3 cop cars came right away and they stopped the car. If security was outside the building wouldn't they have heard the same thing she heard inside her house? She lives right next to the stream on Lexington, they come out of the bar, there are liquor bottles they are Hennessy bottles, she knows you don't sell it there but they come from their cars, they drink outside their cars and they throw the bottles in the stream. Mr. Capece said if these patrons allegedly are drinking before they go into the bar why are they going into the bar? Ms. Ferrera said they are doing it after they are kicked out of the bar, they come outside and drink on the side because it's dark over there and they are drinking more before they leave. Mr. Capece asked if she thinks that the problem is the live music that is coming out of the bar.....do you think that is the problem? Ms. Ferrera she said she hears the noise now in the nice weather in the winter she did not hear it. Mr. Capece asked if it is her opinion that the attraction to this facility and the noise that emulates is because of the live music? Ms. Ferrera said yes that is what is attracting everybody to the bar. Mr. Capece said the live music he is speaking about is the DJ.

Anthony Cuppari, 103 South 25<sup>th</sup> Avenue was sworn in.

Mr. Cuppari said he filed a complaint for the noise. He said he manages the property at 290-292 South Michigan Avenue which is across the street from the bar. He has been very patient in the past few years since they have been open, the noise has been higher than the legal required levels. He said he has listened to the complaints of his tenants, he did his research and paid attention to the renewal hearings, the ABC hearing in September. He put out video cameras, provided evidences to back up what he sees. He said he sees this place as being in violation of NJ13-2-23.6 which is in regards to basic nuisances. The law reads it prohibits lewd and immoral activity brawls and nuisances on or about the licensee's premises. A licensee's responsibility.....Mr. Capece said the Governing Body knows that regulation, they could probably recite it to you. Mr. Cuppari said his two issues are, he let everyone else talk.....he does not live there but he has to go down there and deal with this is noise and loitering afterwards. He had a discussion with Jessica and she felt like once they are off her lot, these people, they are not her problem. They go a block or two blocks, if they have no parking and someone is parked 3 blocks down the street because there is no organized parking that person causes trouble down there because they are drinking, they are at least a little drunk. They cause problems and the neighbor has to call the police and of course by the time the police get there the people took off. He said its 12:30 at night and they have been awoken and they have been disturbed and it ruins their quality of life. He said he needs those things.....the noise and the whole thing about closing and parking settled before this town can renew this license. He is very concerned, he thinks they are out of compliance with the state regulations

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

and he is really concerned that if the Borough does renew this and they are not in compliance, the Borough itself could be at risk if something happens. Mr. Capece said the regulations you have cited and again this Governing Body is aware of that, you are dealing with nuisance, he does not want to go from apples to oranges and by that he means parking is a separate issue and he does not know.....Mr. Cuppari said that is fine but if they park in front of someone's house and they come back drunk in front of the house, he said guess what you are going to get a complaint. Mr. Capece said the nuisance was something this Governing Body dealt with in October and he anticipates they may deal with it again, the issue that seems to be coming across tonight is noise emulating from the tavern. He cautioned him that nuisance regulations do not spill over to parking. Mr. Cuppari said he is just a planning guy so he knows these things.

Melissa Cada, 393 Fairfield Ave. was sworn in.

Mr. Capece asked what pictures is she passing to the Governing Body to review and Ms. Cada said they are pictures that prove that people park on the yellow line. Yes it is true that she put the sign up but as you can see there are motorcycles between the signs, if there is security there they should be correcting people. He mentioned that it is not their job to tell them but when they were here in September they were promised that the security was going to fix all the problems and we never saw any results. She said they want the bar closed because we have been through a lot and we don't want to hear all the excuses anymore. Unfortunately we don't believe what she has promised to us, we don't want to hear about parking because we don't believe it.....we are tired, we have been going through this for 2 years. Her big concern as a mother, 13 kids on her block, what is going to happen next?...one of their kids are going to get hurt, these people are speeding down the street, is this what we are waiting for?...someone to get hurt, someone already lost their life. Ms. Cada said that Mr. Henry mentioned before that 4 nights out of the week that it is closed.....Mr. Capece asked Ms. Cada if it is her experience that the tavern is closed 4 nights per week and she said no that is why she was curious because he expressed that before and she wants to know what nights are they closed? Mr. Capece asked if it is her experience that the tavern is open every night and she said yes she lives next door to the bar. Mr. Capece asked Ms. Cada if it's her experience that the noise that is emulating from the tavern is coming from the loud music? Mr. Henry said you asked if he said whether or not the tavern closes 4 nights a week at 11PM.....and she said OK. She said we don't know who the security are because there are a lot of people hanging outside, how do we know who is security, they don't have signs on their backs, we don't see these people coming down the street to tell them to leave, that was promised to us in September, they were supposed to make sure they were going to leave. She said as a former bartender they mentioned they are not responsible for the people after they leave the establishment, but they are. She said as a bartender if someone is drinking too much it is their responsibility to stop serving that person because they are too intoxicated. Mr. Henry said what you are looking for security to do is basically cordon off the road and stop people from going up your street? Ms. Cada said she is not looking for anything because that was promised to us in September and unfortunately we don't believe it anymore. We saw results the first two weeks in September and after that everything was back to normal. Mr. Henry asked Ms. Cada if she ever saw security out front and she said she does not know if the people outside hanging out are security, she does not know who they are because they do not have shirts that say security, there are always people hanging outside but she cannot tell you that they are security. Mr. Henry asked Ms. Cada ...in an effort to make sure they were compliant did you go to see if they were actually security people? Ms. Cada said that is not her job to go outside and check them.....what she is saying to you is that she saw people hanging outside and she does not know if that is security and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

it makes her wonder if it is security why don't they tell the people hanging outside to go inside instead of those people being loud outside.

Mario Rossie, 685 Fairfield Avenue was sworn in.

Mr. Rossie said he lives 2 doors down from the Gavelstone. He said this is the 3<sup>rd</sup> council meeting that we are attending for Gavelstone. Ms. Quintana has made many promises, none of which were kept. We have suffered enough, they were supposed to put parking signs, resident parking only...no. They were supposed to have a trash patrol....no. They were supposed to have end of night escorts....no. The quality of life issues are for seniors, children and ladies. There is food stuff left on the lawns, broken liquor bottles, condoms and left over drug paraphernalia. Seniors are afraid around their own homes, children can't play outside their homes or their driveways, they can't even ride a bike. He said your son used to ride his bike next door before Gavelstone came and he hasn't been there since. Neighbors are parking in each other's driveways and across their driveways out of fear. There are parking problems and residents have been receiving tickets and not the transgressors from Gavelstone. There is public urination on the lawns in full view of residents windows, pot smoking and drug dealing right on the street day and night and he has observed it. We have 15 children on Fairfield Avenue. Gavelstone has been open 2 seasons to do things right, a year and half to solve problems. An entire section of Kenilworth is at stake here. Seniors live in fear, women are open targets, children are restricted to their own homes. If the Mayor and Council won't listen the commission must be the ultimate voice of reason. If the police are overwhelmed with calls, all the more reason to shut down Gavelstone. Money should not prevail over our quality of life issues for seniors, children and ladies. Don't abandon Kenilworth residents, the gang bangers, drug thugs and drunk teens. We are hardworking tax paying residents who deserve the same quality of life other residents of Kenilworth enjoy. Deny the liquor license and all problems will be solved. Mr. Henry asked Mr. Rossie if some of the things being attributed to Gavelstone were actually people from Fairfield Avenue getting tickets and if they were the ones illegally parked? Mr. Rossie said yes but why weren't those 5 motor cycles given tickets. Mr. Henry said so people from your neighborhood were given tickets?...they have to park in front of their driveways because they are afraid to walk around the streets. Mr. Henry said most of the CADS relate to 9, 10 & 11 at night are you saying you have kids riding outside at that time of night? Mr. Rossie said they were given tickets for parking in the daytime. Mr. Henry said to Mr. Rossie that he is saying the kids are at risk...Mr. Rossie said one way drivers going the wrong way, speeding to get out to the street, turning into our driveways and that's the next meeting when a child gets killed.

Valaia Pierro, 10 North 24<sup>th</sup> Street was sworn in.

Ms. Pierro said she lived in town for 18 years and she has worked at the location 13 years and she is the General Manager. Mr. Henry asked her to state the steps that she helped put in place and what she has seen happen since they were last here. Ms. Pierro said she has cleaned up the area, she knows the security guards that are there in place every night. She is generally there during the day, she has been there at night and she has not heard excessive noise. To her knowledge the security goes out and walk around and make sure people are getting to their cars as quickly as possible. She said she picks up garbage in the morning depending on what time she gets there, usually 8AM. She said she picks up mostly in front of the bar and up Michigan Avenue where the bus stop is and most of the garbage is at the bus stop because a lot of people use that bus stop, she has seen people at the bus stop leave garbage. She said she generally cleans up Fairfield Avenue as much as she can when she can.



REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Mr. Henry said Maryann Matthews was previously sworn in.

Ms. Matthews said she works for the Union County Sheriff's Office during the day. She said Gavelstone hired two police officers from UC Corrections, Eric Williams and Lee. The officer's job description per the town's requirements were to make sure they patrol the area, monitor the noise outside and to monitor the let out. Officers are not allowed to work inside the bar because we serve alcohol so their primary function is to be outside to monitor parking after 10 as the requirements stated from 10PM to 2AM when we are open. It is their responsibility to go outside to monitor parking, trash, clients going to and from their cars and to make sure no one is loitering outside during the hours of 10 to 2. She said she is there Monday night, Wednesday night, Friday, Saturday and Sunday, she is there on the busiest nights. Her personal observation is that the officers work on Monday nights, Wednesday nights, Friday and Saturdays and Friday and Saturdays are the only nights we are open past 11PM. Monday night it is their responsibility to monitor the sound because we have music and they get there between 8:30 and 9:00 and they monitor the noise outside and they monitor the parking because it is extremely busy. She is there when they clock in and they take the decimal reader and go outside and they walk the area, that is their responsibility, they stay outside because they are not allowed to be inside. They also have their own security that is inside that monitors the people that come outside so we have a total of 3 on premises every night after 10PM. Mr. Henry asked how would people know that the two off duty police officers outside are police officers? Ms. Matthews said they have their badges which are worn underneath their jacket and also Kenilworth PD comes every night to ask to see them, they know them personally. Mr. Henry asked how does she know Kenilworth Police come every night and she said because they come inside and say hello so we know they are there. She said they have their body cameras on so it can be proven. Mr. Capece asked Ms. Matthews if what she is saying is true then why are all these residents so angry and why are they coming out? Ms. Matthews said she doesn't think he wants him to answer that question. Mr. Capece said he thinks the Governing Body does. She said the biggest issue here, and we have it on tape and if you would like us to play it we can, the biggest from your residents is the culture of the people at the bar. We have it on tape from one of your members who is on the zoning board that stated that they have a problem with the culture and those people that are at the bar.....she said those people are Night to Night and that is hosted by the Orange Fire Department every Wednesday night they host. She said if you would like to hear the video we can definitely play it..... they said we don't have a problem unless it's the culture of the people that come to your bar. Mr. Capece said he does not think culture has a damn thing to do with it what he would like her to do is answer his question.....Ms. Matthews said she did answer the questions, you did not like the answer.....Mr. Capece said he did not think it was a valid one. Mr. Capece asked what does culture have to do with condoms, garbage, noise, people peeing on lawns? Ms. Matthews said we have no physical proof that this happened, we have asked people to show us pictures of condoms, alcohol and things like that.....Mr. Capece said he is asking Ms. Matthews to specifically answer the question.....do you really think that culture has anything to do with condoms, garbage, people peeing on their lawns and noise? Ms. Matthews said yes 100%. Mr. Henry asked Ms. Matthews if she allowed patrons of the bar to take liquor outside the bar and she said no. He asked if she sold beer cans in the bar and she said no. Mr. Henry said that they are saying they have pictures of alcohol bottles and is that the type of thing that you sell in your establishment? Ms. Matthews said we do not sell any of those items in their bar. He asked her if she knows where they go to before they come to your establishment? Ms. Matthews said no she does not know where they go before they come to Gavelstone.

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD  
ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

Jessica Quintana, 2028 Dogwood Drive, Scotch Plains, NJ was sworn in.

Ms. Quintana said she spends about \$1,000 per week on security. She said she originally had 2 and last time they required us to hire an officer which we did. Normally on the weekends we have 3 guards who start about 9PM. We have 2 inside, one stands by the side door and one stands by the front door and one stands outside. She said by fire code you can't block the front door so we have someone stand there trying to guide them to the side door so the front door doesn't open and the noise does not travel out. On the side door, the guard that is there is checking ID's, the guy that is outside is walking around looking, now when everybody is saying they wanted us to escort them to the car.....that was never.....Mr. Henry asked Ms. Quintano what they did to make sure the noise level is not a nuisance? Ms. Quintano said they stand outside and check down the streets and if there are cars parked in the yellow they tell them to move by making an announcement inside the bar.....like we announce there is a white Honda license plate XYZ can you please move your car and we keep saying it until they move it. Mr. Henry asked Ms. Quintano if they have had to call the police for assistance with the people? She said they have video cameras....she can see them from her phone, she is home some times and she looks on the camera and when she sees someone parked in the yellow she calls the bar herself and say there is a car parked in the yellow, please move it because she doesn't want any issues. Mr. Henry said the Council is very concerned about Fairfield Avenue and they want mitigating factors because they said you came here in September and came to an agreement in October.....how can you assure them that their trust in you and your establishment has not been violated because that is what they are looking for, they want to know what have you done. Mr. Capece said what the Governing Body is looking for is, you heard his question to the young lady over there, if all these efforts you are taking are valid ...why is there such anger in the residents, and more importantly what would be the result if, and he has no idea that they will, if this Governing Body was to end the DJ .....do you believe that would mitigate a big chunk of the problem? Councilman David asked Ms. Quintano if you did away with DJ music in your bar what would happen? Ms. Quintano said it would kill her business. Mr. Henry asked her if there were any other bars in this town that have no music and she replied no. Councilwoman Karlovitch said this bar specifically was never allowed to have music and there was a concession made for it. Mr. Capece asked Ms. Quintano if other bars have DJ's? Ms. Quintano said yes and Mr. Capece asked who? Mr. Henry said he heard an interesting point, if you were to go back to the original thing and if they gave up the concession and they allowed you to operate and keep your license because they are saying they do not want the DJ, he doesn't know if they are saying a juke box or if they want something else if they are willing to do that will you comply? Ms. Quintano said she got rid of the bass bottom after she had a meeting with Mr. Cuppari. Mr. Capece said to Ms. Quintano.....you heard your councils question, he asked it better than he did.....his question is, in addition to the conditions that exist and maybe there will be others, if this Governing Body were to determine that you should have no DJ.....do you believe that would resolve a chunk of the problem with the residents? Ms. Quintano said no because she does not think that is the only issue that they are having. Mr. Capece asked what other issues? Mr. Henry said what he is reading from body language is that everyone wants to avoid that issue. Mr. Henry said he is trying to get everyone to come to a neutral agreement. Ms. Quintano said every CAD report that she has and when the cops come and they say.....they are not all valid so everything that they are saying is not valid. Mr. Capece said that is accurate but he said lets come back to home plate again.....there are conditions, maybe you are living up to them maybe not.....shame on us if you are not but the question he is asking now is that if this Governing Body was to make a requirement of no DJ, is it your opinion that you would still have an adversarial relationship with the residents? If that is so then he guesses what you are saying is that this Governing Body has to come up with tougher requirements which is

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

what he would like to avoid....so he asks what happens if this Governing Body eliminates the DJ. Ms. Quintano said that is not something she is willing to give up. Mr. Capece said he doesn't know if that is her choice. Mr. Henry said we discussed possibly using head sets and he asked Ms. Quintano to describe head sets. Ms. Quintano said there is something called the silent headphones where people wear headsets and the only people that hear the music are the people wearing the headsets so if the DJ is playing the music and there are 50 headsets on then the sound never travels out because it is only plays in the headset. Mr. Henry said, if necessary, in addition to sound proofing would you be willing to use headsets, so that way you still have a DJ but only the people with the headsets will hear the music...would you be willing to do that? Ms. Quintano said that is a possibility, that is called a silent party. If they said that was the only condition that they would allow you to keep a DJ would you be willing to comply, because he thinks they are saying that is where they are heading and we want to make sure you can play music for the people there and at the same time you don't have the neighbors complaining, that is all they are asking. Mr. Capece said he thinks they will be asking a little more than that. Councilman Schielke said he agrees with the Counselor that this case is still open and we should not debate it but reading from the statement.....statements were taken from employees at Gavelstone in which they stated that Ibn was under the influence of alcohol so he was overserved.....and he asked Ms. Quintano what she has done to stop that from happening? Ms. Quintano said we monitor the alcohol, everyone has their tip certification which is bartender certification. She makes sure if she hires anyone new that everyone has that certification and if it expires they all have been recertified. Councilwoman Karlovitch asked if they are still serving bottles and Ms. Quintano replied no we stopped doing that.

Mr. Capece turned the meeting over to the Mayor.

Motion was made by Councilman David, seconded by Karlovitch to go into Executive Session.

Mayor Deluca said he does not know how long it will take or if any final resolution is going to come today. He said to everyone involved if they want to hang around go ahead.

Motion was made by Ceceri, seconded by Ladauti to go back into regular session. All in favor.

Borough Clerk said it is the recommendation by the ABC Board that there be a 30 day suspension commencing on June 15<sup>th</sup> and a six month probationary period commencing July 15<sup>th</sup>. No live music or DJ at any time and the amending of current special condition #2 regarding the security employment that will begin at 8PM and they must be properly attired so that they are clearly identifiable. All conditions currently on the license will remain in effect.

RESOLUTION NO. 12

Introduced by David, adoption moved by same  
Seconded by Karlovitch. Upon roll call all in favor.

**Whereas**, an annual license renewal hearing was held May 22, 2019 including review of the "Special Conditions" in the matter of license #2008-33-005-008, "Gavelstone Bar and Grill, Inc.", premises located at 303 S. Michigan Avenue, Kenilworth, NJ 07033; and

**Whereas**, the Borough considered all testimony, evidence and potential mitigating circumstances; and

REGULAR MEETING OF THE MAYOR AND COUNCIL OF THE BOROUGH OF KENILWORTH HELD ON WEDNESDAY EVENING, MAY 22, 2019. MAYOR ANTHONY DELUCA PRESIDED.

**Whereas**, the Borough of Kenilworth Local Alcoholic Beverage Control Agency has levied the following penalty on the Licensee "Gavelstone Bar and Grill, Inc." :

1. Thirty (30) Day Suspension commencing June 15, 2019;
2. Six (6) month Probationary Period for review of conformance with "Special Conditions" commencing July 15, 2019;
3. No Live Music or DJ at any time;

**The Licensee's existing Special Conditions are amended as follows:**

1. **Cease ALL music** at 12:30AM (00:30 military time)
2. **Provide Security** Security personnel will be employed from 8:00PM (20:00 military time) to closing **every day** of operation to insure that there shall not be any unreasonable interference with the quiet and peaceful enjoyment of the neighboring properties. Security Personnel must be properly attired so they are clearly identifiable as "Security"
3. **Policing of Neighboring Properties** Each morning after operation the licensee will conduct an inspection of the neighborhood for garbage, debris, detritus and remove same

**Now Therefore Be It Resolved**, by the Borough of Kenilworth Issuing Authority:

1. This penalty is effective June 15, 2019 and failure to comply with any of the aforementioned Special Conditions will result in the immediate consideration of the Suspension Penalties
2. A copy of this resolution shall be provided to the licensee, Kenilworth Police Chief, Borough Attorney and the NJ Division of Alcoholic Beverage Control.

Motion was made by Schielke, seconded by Clementi to close the ABC Hearing.

Councilwoman Karlovitch said that back in September, 2018.....this is to Jessica.....you said this is not easy for you, this is not easy for me, I am trying to run a business and trying to be a good neighbor, I'm willing to do whatever you need me to do so that you are happy and I can keep running my business. Councilwoman Karlovitch said our residents are not happy so she is not happy and all the conditions that we put in so that this would not happen again and she does not believe that they were met. These were things that you agreed to and we still have.....we are still going to go through this every 6 months for a year....we need there to be real changes for your success and the residents success.

ADJOURNMENT

There being no further business to come before the Council, it was moved by Councilman Schielke, seconded by Councilman David and carried, that the meeting be adjourned to the call of the chair.

10:35 P.M.

Respectfully submitted

Kathleen Moschitta  
Deputy Borough Clerk