

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 13-282

**RESOLUTION ACCEPTING PLEA OF NON VULT BY
CHUBBY'S WATERSIDE CAFÉ INC. t/a FIXX TO
CERTAIN ABC CHARGES AND IMPOSING PENALTY THEREFOR**

Mr. Murphy offered the following resolution and moved its adoption:

WHEREAS, Chubby's Waterside Café Inc. t/a FIXX is the owner of Plenary Retail Consumption License No. 1340-33-026-008 (the "Licensee"); and

WHEREAS, On October 9, 2013, the Clerk of the Borough of Red Bank (the "Borough") duly served the Licensee with notices of charges for the following violations of the New Jersey Alcoholic Beverage Control Act and the regulations promulgated pursuant thereto:

1. The Licensee allowed and permitted a brawl, disturbance and acts of violence to occur on or about the licensed premises on September 22, 2013 in violation of N.J.A.C 13:2-23.6(a)(2), and on said date further failed to operate its business in an orderly and lawful fashion, so as to not constitute a nuisance in violation of N.J.A.C. 13:2-23.6(b).
2. The Licensee allowed and permitted a brawl, disturbance and acts of violence to occur on or about the licensed premises on October 6, 2013 in violation of N.J.A.C 13:2-23.6(a)(2), and on said date further failed to operate its business in an orderly and lawful fashion, so as to not constitute a nuisance in violation of N.J.A.C. 13:2-23.6(b); and

WHEREAS, the Licensee, by and through its counsel, Robert C. Williams, Esq., entered a plea of not guilty to the aforesaid charges; and

WHEREAS, the matter was scheduled to be heard on December 10, 2013 before the Borough Council; and

WHEREAS, by letter dated December 9, 2013, the Licensee's counsel advised the Borough that his client had authorized him to withdraw the guilty plea and enter a non vult plea to the charges on terms as set forth below, which charges were merged for purposes of this plea; and

WHEREAS, the Red Bank Police Department has reviewed the Licensee's non vult plea and has recommended that it be accepted by the Council.

NOW, THEREFORE, BE IT RESOLVED and ORDERED by the Mayor and Council of the Borough of Red Bank that:

1. The Licensee's plea of non vult to the aforesaid charges is hereby accepted by the Borough; and
2. On its plea, the Licensee's plenary retail consumption license no. 1340-33-026-008 is hereby suspended for a period of twenty (20) consecutive days commencing on January 2, 2014 and continuing through and including January 21, 2014; and
3. The following special conditions that were previously imposed on the Licensee and removed for the current licensing term shall be re-imposed on Licensee for the remainder of the current licensing term or until the sale of the license to a third party:
 - a. No music after 1:30 am.

- b. All windows and doors are to be closed when music is playing;
- c. At all times, a ratio of one security officer to seventy five (75) patrons will be in effect;
- d. A minimum of two security staff members will be stationed outside of the property from 1:30 am to the point which the crowd has disbursed to ensure that patrons leave the area in a safe and orderly manner;
- e. All floor and security staff will be distinctively and uniformly attired, making them easily identifiable to both patrons and police;
- f. Identifying information on ejected and/or arrested patrons will be retained on a "banned list". These patrons should not be allowed subsequent re-entry;
- g. Posting of a professional looking sign containing patron code of conduct rules inside the establishment near the entrance;
- h. Staff will immediately report all criminal activity to police as it occurs or is about to occur.
- i. Notify the Chief of Police of special events, appearances and promotions within 72 hours of the event;
- j. Meet on a monthly basis with the Chief of Police or his designee to review incidents at location, policies and procedures;
- k. All flyers, handbills, cups and debris etc should be cleaned from in front of the premises throughout the night; and
- l. Designate specific employees to conduct occupancy counts throughout the night.

BE IT FURTHER RESOLVED that a copy of this resolution be served upon the Licensee c/o Robert C. Williams, Esq, 622 Eagle Rock Avenue, West Orange, New Jersey 07052-2994, the Borough of Red Bank Police Department and to the Director of the ABC.

Seconded by Mr. DuPont and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	(x)	()	()	()
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: December 18, 2013