

REGULAR MEETING

Oceanport, New Jersey

June 2, 1994

- REGULAR MEETING:** The Regular Meeting of the Oceanport Mayor and Council was called to order at 8:00 P.M. on June 2, 1994.
- MEMBERS PRESENT:** Councilpersons Clark, McGee, Filippone, Miller, Taylor, Wolfe and Mayor Cavanagh.
- OFFICIALS PRESENT:** Borough Clerk, Patricia L. Varca and Borough Attorney, Francis A. Margalotti.
- PLEDGE OF ALLEGIANCE:** Mayor Cavanagh led the audience and members of the Council in the flag salute.

Mayor Cavanagh opened the meeting to the public for any comments or questions on the Borough's proposed application to the Monmouth County Community Development Program. Mayor Cavanagh explained that this application contains a request for funding from the Monmouth County Community Development Program to enable the Borough to meet the ADA requirements for curb cuts and a variety of other handicap facilities in terms of sidewalks. He also advised the public that the Borough of Oceanport no longer has a designated target neighborhood, so we are not able to apply for any other projects in the Borough. He also advised that this application will be in amount of \$50,200.

As no one from the public wished to be heard on this subject, Mayor Cavanagh closed the public hearing on this matter.

CLERK'S REPORTS:

1. Police report for the month of MAY, 1994 and a copy will be posted on the Bulletin Board.
2. Taxi renewal application made by Anthony Palmieri t/a PARAMOUNT CAB.

The Clerk advised the paperwork was in order, the required fee had been made and the vehicle had been inspected and approved by the Police Department, after which Councilman Miller moved to approve said license. It was seconded by Councilman Wolfe and unanimously approved by Council.

COMMITTEES:

COUNCILMAN CLARK: Councilman Clark called for the introduction of an amendment to the zoning ordinance with regard to the number of members on the Zoning Board of Adjustment and asked the Clerk to read the proposed ordinance by title only as follows: **AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "THE BOROUGH OF OCEANPORT ZONING ORDINANCE" PASSED AND APPROVED ON JULY 3, 1969.**

Councilman Clark moved to approve this ordinance on first reading. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Clark, McGee, Filippone, Miller, Taylor and Wolfe.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: NONE.

Councilman Clark moved to hold the public hearing on this ordinance at the next meeting scheduled to be held on June 16, 1994 and to advertise same in accordance with law. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Clark, McGee, Filippone, Miller, Taylor and Wolfe.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: NONE.

Councilman Clark called for the introduction of an ordinance vacating an un-named street off Riverside Avenue and asked the Clerk to read the proposed ordinance by title only, as follows: **AN ORDINANCE ABANDONING, VACATING, RELEASING AND EXTINGUISHING ANY AND ALL PUBLIC RIGHTS IN AND TO AN UN-NAMED STREET RUNNING OFF OF RIVERSIDE AVENUE IN BLOCK 105, IN THE BOROUGH OF OCEANPORT, COUNTY OF MONMOUTH AND STATE OF NEW JERSEY.**

Councilman Clark moved to approve this ordinance on first reading. It was seconded by Councilman Miller.

The Clerk called the roll:

AYES: Councilpersons Clark, McGee, Filippone, Miller and Taylor.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: Councilman Wolfe.

Councilman Clark then moved to hold the public hearing on this ordinance at the next regular meeting scheduled to be held on June 16, 1994 and to advertise same in accordance with law. It was seconded by Councilwoman Filippone.

The Clerk called the roll:

AYES: Councilpersons Clark, McGee, Filippone, Miller and Taylor.
NAYS: NONE.
ABSENT: NONE.
ABSTAIN: Councilman Wolfe.

Councilman Clark reported under Buildings & Grounds that the Port-au-Peck Chemical Hose Fire House is having problems with the 25 ton air conditioning unit and he is presently receiving quotes for the repair of same.

COUNCILMAN MCGEE: Councilman McGee reported that under the Police Committee, Sgt. John Connor had completed a course in NJ State Police Incident Command Systems at the Monmouth County Police Academy and Patrolman Don Ross had completed a course in Narcotics Investigative Techniques also at the Monmouth County Police Academy. Councilman McGee also mentioned that the Police Report for May shows two people were reported missing and three were found, which he found interesting.

Councilman McGee also advised that yesterday the Mayor and four of the Council members participated in Student Government Day at Maple Place School and he wanted to thank Mr. Pizzulli, the Principal and Mrs. Campbell who is the 7th Grade Social Studies Teacher for making it a very worthwhile event. He stated that the students were terrific as usual and had some very sound questions and some very thoughtful comments. Councilman McGee stated it was a pleasure to participate and he looks forward to participating again next year.

COUNCILWOMAN FILIPPONE: Councilwoman Filippone thanked the many people who participated in the Memorial Day parade and commented that it was a very moving ceremony and rightfully so, as we are recognizing the 50th Anniversary of the Invasion of Normandy. She particularly wanted to thank Cliff Hepburn, Commander of the Oceanport VFW, the VFW members, Chubby Catchnack, Patti Varca and Diane Super for helping so much with the advance work, the Disabled American Veterans and Joe Lyons. Councilwoman Filippone also noted that Rabbi Daina was not with us this Memorial Day because he is seriously ill and she spoke with his family this evening and he is not doing well and he is living in Long Island with his grand daughter because he is unable to care for himself and she asked everyone to remember him.

Councilwoman Filippone wanted to remind anyone who may not have purchased their 50/50 raffle ticket yet, for the First Aid defibrillator and playground equipment, the drawing will be taking place tomorrow night and she urged anyone who was interested, to please purchase one and help contribute to this worthy cause.

Mayor Cavanagh commented on behalf of the entire Council, he wanted to extend their appreciation to her for coordinating the entire Memorial Day event and it seemed to go very well this year and we are all appreciative of all the work that goes into an event like this, because it takes many hours and thanked her again and Councilman McGee seconded the Mayor's comments.

COUNCILMAN MILLER: Councilman Miller advised that he has some good news regarding the water quality and reported that Chris Widdis went out and took samples on May 31 in Branchport Creek and the highest numbers were at the Casa Comida Bridge at 300 and went way down to a 2 reading off Wardell Circle, 4 reading at Sommers Park and 13 at Blackberry Bay Park and he felt these numbers were quite encouraging since the race track is open and there are a large number of horses. He also commented that one of the other factors is that we have not had a really heavy rain in quite a while and dry weather and low numbers go hand in hand.

Councilman Miller also reported that the Water Watch Committee did some water quality testing on May 21 and for the most part, the water quality was pretty good and all the coliform counts as well ranged from a high at 100 off Troutman's Creek to a low of 12 off of Gooseneck Point. He also stated that this year we have a huge infestation of sea weed, which we have not had in several

years and he stated that the sea weed will begin to die and methane gas will be deposited into the air and if you smell a foul odor, it will not be from the Sewer Authority, but it is from the rotting sea weed.

Councilman Miller advised that he has been asked to sit on a Review Committee to review the Navesink River Non Point Source Pollution Project and they received \$192,000 from the State to determine the sources of NPS in the Navesink and he was asked to do this by the Monmouth County Planning Board.

Councilman Miller advised that the Shade Tree Committee with the help of the Eagle Scout project of the tree farm is completed and the nursery next to the Port-au-Peck Fire House now has 390 seedlings planted and it is going to be named in memory of Ron Maher who was a member of the Environmental Commission and a dedication will be held at a future date. He commented that this tree farm will save the Borough about 50% in the area of re-planting trees in the Borough instead of having to purchase them from a nursery.

COUNCILMAN TAYLOR: Councilman Taylor acknowledged the fine effort by Councilwoman Filippone during the Memorial Day ceremonies, which were excellent.

Councilman Taylor advised that the Environmental Commission held their annual Poster Contest and awarded Savings Bonds to the top 4 first place winners at the Community Center following the Memorial Day ceremonies. He thanked Pete Moore, Charlotte Bingham and Richard Parker for their efforts in coordinating this contest.

Councilman Taylor reported that Clean Up Day will be held on Saturday, June 18, 1994 at 9:00 A.M. at Blackberry Bay Park and everyone is invited to show up and help out and we will be handing out tee shirts.

R-94-44 Councilman Taylor asked the Clerk to read resolution **R-94-44** regarding the garbage contract, after which he moved to approve same. It was seconded by Councilman Wolfe and unanimously approved by Council.

Councilman Taylor also thanked Brad Clark for being Mr. Can on Memorial Day at the Community Center and commented that he did an excellent job.

COUNCILMAN WOLFE: Councilman Wolfe moved to authorize the Borough Engineer to prepare plans and specifications and advertise for bids for the 1994 Road Improvements. It was seconded by Councilman Clark and unanimously approved by Council. Councilman Wolfe commented that the work would proceed late summer, early fall of this year and the streets will be named after the plans are completed.

Councilman Wolfe reported he was recently contacted by Ms. Patricia McCabe of the Monmouth County Probation Department regarding two individuals who have community service to do and we have used these types of individuals before in the Borough and they will be working off their time at the recycling drop off center on the weekends, which will be a great help in keeping that area clean and orderly.

Councilman Wolfe commended Councilwoman Filippone for the outstanding job she did this year in organizing the Parade and ceremonies and thanked her for her hard work and efforts.

Councilman Wolfe offered his congratulations to Councilman Miller on being selected by the Monmouth County Planning Board to sit on the Review Committee for the Navesink River and they perform an admirable job in tracking down the non point source pollution and he felt it was quite an honor to be selected and he felt this proves that the Oceanport Waterways and Water Watch Committees are recognized at least on a County level, as a viable organization that has a major impact on the community.

MAYOR CAVANAGH: Mayor Cavanagh advised that he will be attending a meeting Monday night at Shore Regional High School which is sort of an AdHoc Committee being formed to address the situation involving the funding for Sea Bright and how we can best alleviate that problem as opposed to having them withdraw from the present school system and hopefully we can come to a solution.

Mayor Cavanagh also advised that he will be attending the Two Rivers Council of Mayors meeting next Saturday, which is the last meeting until after the summer and he will report back on what takes place.

Mayor Cavanagh then opened the meeting to the public for any comments or questions anyone might have.

PETITIONS FROM THE PUBLIC:

Mr. Katzenberger, 540 Seawaneka Ave. stated that next month it will be 11 years that he has lived at his present address and until last month, he and his family have enjoyed living there immensely. He continued that last month they were invaded by jet skis and the quality of their life has taken a nose dive. Mr. Katzenberger stated in today's newspaper there was an article about several Congressman trying to set up a public hearing on airplane noise and he felt that the noise generated by the jet skis was much, much noisier than any airplane. He stated that he and his family cannot sit on their deck, cannot eat dinner, due to the loud and constant noise and he is aware that Councilmen Miller and McGee and the Mayor have been out to observe what he is speaking about, but also wanted to point out that the days they have been out to this area, there have only been 4-5, but last Tuesday there were 13 jet skis and the noise was intolerable.

Mr. Katzenberger commented that what really angers him is that 25-30% of the jet ski users are Oceanport residents and the rest are from out of town and he has spoken to many of them and they are from Long Branch, West Long Branch, Little Silver, Rumson, Ocean Township, Atlantic Highlands, etc. and he felt that he does not pay taxes in Oceanport to put up with this noise and he is pleading with the Governing Body to please do something.

Mayor Cavanagh stated that he and Mr. Katzenberger have spoken about this matter and some times one becomes a victim of your own success because during the winter, we made a concerted effort to alleviate the problem in another section of town, which Mrs. Silkworth could explain in detail to him after the meeting, and apparently we were so effective in alleviating her problem, that Mr. Katzenberger became the recipient of this problem. He stated now we are faced with the same problem, but in a different location and we have gone down to the area and it is an obvious problem and we are concerned about this.

Mayor Cavanagh commented that he has personally spoken with Chief Joyce and the Chief has been in contact with the Marine Police and pointed out that both Captain Bebout and Patrolman Cioffi were in the audience this evening and perhaps they may be able to enlighten us somewhat, but he also believes that we have had contact between the jet skiers and the Police and the Marine

Police issued several warnings last Saturday to the jet skiers. Mayor Cavanagh stated we had hoped we would be as successful as we were in the prior location, however, he is not ready to say tonight that it is working, since it is still too early.

Mayor Cavanagh advised that at the work shop meeting held on Tuesday night, he directed the Borough Attorney to begin researching this matter as to what our ability is in this situation and as everyone is aware, they are launching from Borough land and he had the Clerk research a resolution the Governing Body has passed back in 1988 declaring that property as a wildlife preserve because we did not want to have any construction on that property for environmental reasons. He continued that he had asked the Attorney to look into the legality of the Borough essentially denying access to the type of machinery that causes the noise problem and we have to create a record of the noise complaints, which we have been doing through the Police Department.

Mr. Katzenberger stated there is also a safety problem, to which Mayor Cavanagh agreed and felt will only get worse once the Shrewsbury Sailing & Yacht Club is in full operation with all the added activity.

Mayor Cavanagh commented that his concern is that he is non-desirous of keeping the non-noisy type of boat, the sailboats or someone just wanting to get his fishing boat into the water, which is not causing the problem.

Mr. Katzenberger responded stating that they have been there now over 10 years and that property is used year round by the ice boaters in the winter and the sailboarders and other boats during the summer and they have never been a problem.

Mayor Cavanagh stated he has asked the Attorney to see if we can logically put together a motorized prohibition rather than denying access to the river to everyone because the river does belong to all of us and he wants people to enjoy this resource, but by the same token he does not want residents who reside near the water to be victimized and unable to enjoy their own homes. He felt the direction we were taking as of Tuesday night was to involve the Police and the Marine Police and if they are unsuccessful in controlling this situation, is to give consideration to blocking the access to motorized vehicles so that the noise and safety factors are attended to.

Mr. Margalotti, Borough Attorney commented that the fact that the motorized watercraft are creating a nuisance in the area would be sufficient justification to prohibit anyone from bringing motorized watercraft on that particular piece of public property for the purpose of launching it into the river and to constitute that type of activity as constituting trespass and in doing so, that would enable the Police to issue summonses to violators who would be prosecuted as disorderly persons here in the Municipal Court. He continued that the Governing Body does not have the capacity to prohibit these jet skis from being operated out on the river, and obviously if they enter the river from a different location, that would be beyond the scope of this Governing Body to regulate unless that other location was public property located within the Borough of Oceanport, but if that action were taken with respect to this specific piece of property, he felt that it would go a long way in solving this immediate problem.

Mr. Katzenberger stated that if the Council restricts use of this property to motorized vehicles, then you are not allowing the duck hunters, fisherman who come in and launch their boats and are gone, are being penalized.

Mayor Cavanagh stated this is a problem when we try to Legislate and the Borough Attorney pointed out that if we find that the jet skis are in a class by themselves, in terms of the amount of noise that they generate in comparison with other motorized craft, such as a small row boat with an outboard motor, and there is a basis to treat jet skis different from outboard motors, because of the volume of noise or the manner in which they are built and operated close in to shore, which only aggravates the nuisance feature, then there may be a possibility of limiting the restriction to jet skis or other vehicles that are in the same class as a jet ski, but you begin to run into possible problems in making sure that what you have prohibited, bears a logical distinction from other activities, or you run into the possibility of being accused of discrimination. He continued that you must see that the activity that you are attempting to regulate and prohibit can logically be distinguished from other types of activities and other types of uses.

Mayor Cavanagh stated that this is one of the reasons that he has asked Mr. Katzenberger and all the residents who are effected by this, is when the events precipitate a real noise problem, that we make the Police aware of that so that there is a record of the situation so that we have a defensible position if and when we get into that situation.

Mrs. Barbara Silkworth, 29 Mohawk Avenue stated that she is very appreciative that they have experienced relief on Blackberry Bay and feel very sorry for Mr. Katzenberger because that is what she experienced last summer. Mrs. Silkworth commented that if the Council looks at the State Statute that controls jet skis, you will find that they define jet skis, wave riders, etc. as a particular class and there was some regulation that differentiated them from other water craft.

Mrs. Silkworth also wanted to strongly recommend that if the Governing Body does decide to take this action and the research shows that this can be done, that it be moved quickly because it must be done over two meetings, which the Attorney pointed out was approximately 14 days apart. Mrs. Silkworth stated that if this does not happen quickly, she sees everyone being in the same situation we were in last summer which generated her letter back in September, which at that point was saying lets try to do something about it so that we don't have to face the situation now. Mrs. Silkworth also stated that we be sure that if this does go into effect, that the launching ramp is also included as public property, so it does not re-occur back at Blackberry Bay.

Mrs. Silkworth commented that she felt that the word is out that Oceanport is a nice place to launch these types of watercraft and felt that we have to send a message that while we are in no way looking to jeopardize the citizens who responsibly use these types of watercraft, that we are not the catch all and continued that the word got out that this is a nice place to launch wind surfers, but they are quiet and delightful to watch, the ice boaters from all over congregate at the beach on Seawaneka, but again, there is not a noise factor. She felt that the word should get out that perhaps it is not such a great place to launch a jet ski.

Mr. Elwood Baxter, 21 Pocano Avenue asked how did the Governing Body get the jet skis to leave Blackberry Bay, to which Mayor Cavanagh explained that the Police visited the premises and explained what the problem was and we had the Marine Police experience the situation and apparently that step worked in this location and either has not yet worked or is not going to work in the second location.

Mr. Baxter stated that under the present action being taken, in his opinion, was not going to work by merely having residents constantly calling the Police. He stated that most residents do not want to call the Police and the Police cannot be everywhere, all the time and will not see what is going on unless someone does call, which is annoying. He continued that the location of the little

beach on Seawaneka is much more attractive to jet skiers' than Blackberry Bay. He commented that when the launching ramp was under construction, he was Mayor and recalled the countless hours spent making that project become a reality and this ramp is used primarily by fishing boats, who do not stay near the shore and head out to deeper waters and felt that the focus must be kept on the jet skis. He commented that if someone were to launch a small boat for fishing purposes at the Seawaneka location, he did not think anyone was going to make any kind of fuss about it and it is only the jet skis and because it is convenient to where they park their vehicles and they can race up and down across the river. He felt that Legislation was the only way to keep this situation under control and wanted the Governing Body to be aware of his thoughts and he felt that citizens of the Borough will be thankful to the Council because one of things you pay taxes for is for the quiet enjoyment of our homes, especially when you live on the water and at the present time we are not getting this.

Gloria Filippone, 80 Seneca Place stated she too is a river front homeowner and has lived here her entire life and stated that we have been annoyed by the jet skiers for years and years, but unlike the other comments made earlier, they do not launch from our area, all they do is run up and down the river, so we do not have any control over them. She continued that her concern is if we keep pushing them away from the other side of the Borough, there is a launching spot close to her home and it is going to be compounded and asked the Borough Attorney if the discussion that was held earlier regarding the prohibition of launching possibly include other public locations in the Borough, to which Mayor Cavanagh stated it would have to because there is no sense in doing just one or two locations, but we will cover all the public areas.

Mayor Cavanagh stated if we decide to put together a prohibition it would not make any sense to keep chasing people from area to area and you would make it uniform and prohibit launching of jet skis from any public property.

Mr. Baxter commented that if the Council does effectuate Legislation to prohibit these types of vehicles from launching, then signs will be necessary in the areas where the launching could take place.

Mayor Cavanagh stated that the Council has been thinking about this and although he has a normal apprehension about restricting things, he thinks that if a need is demonstrated, then the Council must undertake certain restrictions.

Mr. Ward Coles, 555 Port-au-Peck Avenue asked if the wildlife preserve at Seawaneka were also made a bird sanctuary, the jet skis could be prohibited due to the loud noise level they create, but Mayor Cavanagh stated we have already done this by resolution and this may not solve the problem in other locations where this is not the case.

Councilman Miller stated that approximately 2-3 years ago, the Navesink River Group had the same kind of problem on that river and some of the ways they solved it was that Rumson introduced an ordinance and they now charge \$85 per year for a launching permit for any type of water craft.

Mrs. Silkworth asked that the Borough Council take into consideration that the original letter she presented to the Council last September had some 25 signatures on it in addition to the people who have come and spoken to the Council directly, to which Mayor Cavanagh stated it is not a question of numbers, because if 2 people were experiencing this type of situation and it was as bad as we have seen recently, they would be justified in asking for a resolution to this type of problem.

As no one else from the public wished to be heard, Mayor Cavanagh closed the public portion of the meeting.

Councilman Clark moved to approve the bills as listed on the Voucher Register dated June 2, 1994. It was seconded by Councilman Wolfe and approved by Council with the exception of Councilman Clark who abstained from voting on vouchers due Ed Brister and Councilman Miller abstained from voting on a reimbursement voucher to himself. TOTAL 1993 VOUCHERS PAID THIS MEETING \$1,300.00. TOTAL 1994 VOUCHERS \$54,964.95. TOTAL 1994 VOUCHERS PAID THIS MEETING \$18,601.24. TOTAL 1994 OPERATING FUND \$73,566.19. TOTAL TRUST ACCOUNT \$169.00. TOTAL MONEY MARKET ACCOUNT \$325,000.00. TOTAL DOG REGISTRY ACCOUNT \$5,479.95. TOTAL GENERAL LEDGER-TAX OVERPAYMENT \$916.64. TOTAL GENERAL LEDGER-MIDDLE DEPARTMENT INSPECTION AGENCY \$413.00. TOTAL GENERAL LEDGER-FIRE PREVENTION \$58.95. (SEE VOUCHER REGISTER)

At 8:45 P.M. Councilwoman Filippone moved to adjourn this meeting until the next regular meeting scheduled to be held on June 16, 1994. It was seconded by Councilman Miller and unanimously approved by Council.

Respectfully submitted,



PATRICIA L. VARCA
BOROUGH CLERK