

REGULAR MEETING *

Oceanport, New Jersey
May 20, 1993

REGULAR MEETING: The regular meeting of the Oceanport Mayor and Council was called to order on May 20, 1993 at 8:00 P.M.

MEMBERS PRESENT: Councilpersons Clark, Terra, Miller, Taylor, Wolfe and Mayor Cavanagh.

MEMBERS ABSENT: Councilwoman Filippone.

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.

CLERK'S REPORTS:

1. Raffle license applications made by the following:

- a] Monmouth Pk. Charity Fund, to be held 9/5/93, prizes: various merchandise.
- b] Monmouth Pk. Charity Fund, to be held 9/1/93, prize: mink coat.
- c] Mental Health Assn. of Mon. Cty., to be held 6/6/93, 50/50 cash raffle.
- d] Legal Aid Society of Mon. Cty., to be held 6/5/93, 50/50 cash raffle.

The Clerk advised that the applications for the above mentioned raffle applications were found to be in order and the required fees had been paid, after which Councilman Terra moved to approve said applications. It was seconded by Councilman Taylor and unanimously approved by Council.

COMMITTEES:

COUNCILMAN CLARK: Councilman Clark asked the Clerk to read resolution R-93-32 waiving the building permit fees for the replacement of a roof at the Oceanport Hook & Ladder Fire House. It was seconded by Councilman Terra and unanimously approved by Council.

Councilman Clark asked anyone in the Borough who has a convertible and would agree to drive it in the Memorial Day Parade should contact him and he explained further that there are several people who want to participate in our parade, including some Disabled American Veterans, who we would like to have ride in these automobiles.

COUNCILMAN TERRA: Councilman Terra asked the Clerk to read a resolution regarding a public auction for the 1957 Mack Aerial firetruck, after which he moved to approve same. It was seconded by Councilman Clark, but prior to the final vote, Fire Chief, Stu Briskey, asked permission to speak on this matter.

R-93-32

Mayor Cavanagh commented that although there is no public comment at this time, he would deviate from the normal agenda and asked Chief Briskey what he wanted to say.

Chief Briskey stated that he thought it was a disgrace that as the Chief of the Oceanport Fire Department, that he was not notified of the Council's intention to auction off a piece of fire equipment. He felt this was a slap in the face to the members of the Oceanport Hook & Ladder Company since there were not notified and this equipment is housed at their fire house and if he was not here tonight, he would never have known this was happening.

Councilman Terra stated that he felt Chief Briskey was wrong because this matter has been discussed for the past four months and at the last meeting at the Oceanport Hook & Ladder Fire House, he was given permission from the members who attended that meeting to go ahead and sell the truck and the Council agreed, since we are paying insurance coverage on this vehicle and it is not being used, it would be a waste of the tax payer's money. Councilman Terra stated he regretted that Chief Briskey was not informed of this, but he did not feel that it was necessary.

Chief Briskey stated that as the Chief of the Fire Department he should be notified if the Department would be losing a piece of equipment and he may be wrong, but he does not believe that the members of Oceanport Hook & Ladder gave the Council permission to auction off this vehicle and felt that they would look for other outlets in view of what happened with the pumper, which the Fire Department had wanted to donate in the name of Ski Budinski to his home Fire Department and instead the Council auctioned it off for \$500 and it cost the Borough a total of \$632 to get rid of in the end.

Councilman Terra reminded Chief Briskey that this vehicle has been out of commission for well over a year and we have been trying to get quotes on the repairs of the vehicle, and it was agreed that it was just too expensive to repair the truck and it was not a secret that we were going to get rid of this truck and during this past year he was approached by no one from the fire company with an alternative plan. He again stated that the only plan discussed was to auction off this vehicle and no one objected to this procedure and he felt if anyone was negligent, it is perhaps part of the Department who should have brought this matter to his attention.

Chief Briskey stated he would bring this matter to the attention of the members of the Oceanport Hook & Ladder Fire Company, but he wanted the record to show that he objects to the truck being auctioned off.

Councilman Terra stated that if Chief Briskey feels slighted by this he would be pleased to ask the Mayor and Council to table this resolution until we can get formal approval from the fire company, but he again reiterated that certainly everyone was aware of this matter.

Mayor Cavanagh asked Chief Briskey to go back to the Oceanport Hook & Ladder and discuss this with them, to which Chief Briskey stated he would speak with them because in his opinion, they were not aware of this situation.

Councilman Terra moved to table this resolution until the next regular meeting scheduled to be held on June 3, 1993. It was seconded by Councilman Wolfe and unanimously approved.

Councilman Miller asked if at the June 3, 1993 a decision will definitely be made, since we have been carrying this on the books and insuring this for quite some time, to which Mayor Cavanagh stated we will make a decision on this matter at the next meeting.

Councilman Clark commented that he took offense to the statements made by Chief Briskey because if Councilman Terra is at a meeting with the members of the Oceanport Hook & Ladder and they give him the okay, then they should have notified you because as the Chief, he is their supervisor and felt he was totally out of line in this matter.

Mayor Cavanagh stated that the paperwork on this matter has been started and at our next public meeting we are going to read the resolution and in the interim, he advised Chief Briskey that if he wants to speak with someone at Oceanport Hook & Ladder and clarify the fact that they did not speak to you about this matter, he stated the Council will give him that opportunity. He also commented that as a quick retort to Chief Briskey, who he thinks knows, that the reason the pumper was not donated was because of the legal implication of donating the truck and he felt sure that this was explained to him at the time, because it certainly was not a philosophical decision that the Council made.

Mayor Cavanagh asked the Borough Attorney if he was, in fact, making a correct statement that legally the Council had been advised that a piece of Borough equipment cannot be given away and must either be auctioned publicly, to which the Attorney concurred. Mayor Cavanagh stated he felt it was unfair of Chief Briskey to indicate that this was some sort of philosophical decision that we made opposed to his recommendation and was a legal restriction that we were advised we could not fulfill and he thought that Chief Briskey knew that because we had explained this to him.

Councilman Terra then called for the introduction of an ordinance regarding the prohibition of smoking in the Municipal Building and asked the Clerk to read the proposed ordinance by title only as follows: AN ORDINANCE PROHIBITING SMOKING IN PUBLIC BUILDINGS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

The Clerk called the roll:

AYES: Councilpersons Clark, Terra, Miller, Taylor & Wolfe.
NAYS: None.
ABSENT: Councilwoman Filippone.
ABSTAIN: None.

Councilman Terra then moved to hold the public hearing on this ordinance at the next regular meeting scheduled to be held on June 3, 1993 and to advertise same in accordance with law. It was seconded by Councilman Clark.

The Clerk called the roll:

AYES: Councilpersons Clark, Terra, Miller, Taylor & Wolfe.
NAYS: None.
ABSENT: Councilwoman Filippone.
ABSTAIN: None.

COUNCILWOMAN FILIPPONE: ABSENT.

COUNCILMAN MILLER: Councilman Miller reported under Water Watch, he wanted to thank the Environmental Commission of Monmouth Beach for donating \$100 to the Water Watch Committee, which will go toward the purchase of chemicals to continue their water sampling.

Councilman Miller also advised under the Water Watch Committee that the final map for the infrastructure project, according to our Borough Engineer, should be completed during the month of August and at that time, we will have a meeting with the Borough Engineer and representatives of the Water Watch Committee, and we will decide which storm drains we will be testing, since we must test 1/3 of all the drains and the Monmouth County Board of Health will come in and give the Committee instructions on the proper way to take samples.

Councilman Miller thanked Councilman Terra for basically taking over the Waterways Committee for this summer, until Councilman Miller's back is better.

Councilman Miller advised that the river clean up will begin in early June and sampling by the Water Watch Committee will start the 2nd and fourth Tuesday of June, July and August. He stated this sampling will take place in the Branchport Creek and it will be our continued monitoring of the health of this Creek in relationship with the race track. He also advised that the permit hearing for the track's lagoon project was held this month and we are hoping that the project will begin in September and hopefully completed within 12-18 months after that and will see 99% improvement of the Branchport Creek as well as the Shrewsbury and Navesink Rivers.

Councilman Miller reported under Recreation, he wanted to remind everyone that May 31 was Memorial Day and we will be having our Memorial Day Parade and in the absence of Councilwoman Filippone, Councilman Clark will be the Council Liaison to this event, along with Nancy Sheridan of Recreation and Cliff Hepburn of the VFW and he urged the residents to come out and support this project.

Councilman Clark reminded everyone that the Memorial Day Parade Committee would be meeting at the Borough Hall on Monday, May 24 at 7:45 P.M. and anyone interested in helping out is invited to attend.

Councilman Miller stated he attended the VFW installation of officers recently and he congratulated Cliff Hepburn for taking over as Post Commander and also offered his congratulations to Mr. Quackenbush who also holds an office in that Post.

Councilman Miller reported that the Recreation Committee is running a trip to the Bronx Zoo on June 6, 1993 and the cost is \$25 and the tickets are going fast and anyone who would like to go should contact Addie Nelson on the Recreation Committee.

Councilman Miller commented that the Basketball Association will host an open bar cocktail and hors d'oeuvres tip off party at the Squire's Pub in West Long Branch on Friday evening, June 25, 1993 from 7:00-9:30 P.M. and anyone who is interested in attending should contact Bob D'Agastino, Diane Morley, Jim Ryerson or Mark Hampton.

Councilman Miller commented that he was at a meeting last night of the Oceanport Drug Alliance and he wanted to commend the efforts of Councilman Taylor for the excellent job he is doing with this Committee as the leader because he has many good people working on this Committee with him, but he is supportive of various kinds of drug programs in the Oceanport Schools and the High School as well. He stated in addition he is providing funding for young people to attend Leadership Camp from the high school, the Committee supported the Rodeo Day, which was run by the Police Department, and had a puppet show on bicycle safety and drug awareness and the list goes on and on.

Councilman Miller reported that the last Water Watch sampling results of the six sites in the Shrewsbury River for coliform were outstanding for this year compared to last year and stated that Site 1 was 20; Site 2 was 14; Site 3 was 10; Site 4 was 12; Site 5 was 74 and Site 6 was 72, so as of the May 15 sampling, the river is in great shape.

COUNCILMAN TAYLOR: Councilman Taylor asked the Clerk to read resolution R-93-33 requesting the continuance of Drug Alliance funding in 1994, after which he moved to approve. It was seconded by Councilman Miller and unanimously approved by Council. R-93-33

Councilman Taylor commented that they are trying to take away the funds from the various Alliances throughout the County and State and these funds come from fines received through drug and alcohol abuse fines and have nothing to do with tax payers money. He continued that with this particular drug abuse program, we are actually recycling the money back into the communities trying to continue to have awareness and prevention about drug and alcohol abuse and the best way to do that is through education. Councilman Taylor stated that if we begin education of our young people at an early age, hopefully we can save many of them from becoming involved with drugs and alcohol.

Councilman Taylor also advised that the Alliance Committee is sending out letters asking our Legislators to do what they can to keep this funding going in the future and he has been advised that they should know about the funding for 1994 in approximately one week.

Councilman Taylor stated as Councilman Miller mentioned earlier, the Drug Alliance has undertaken many different programs and stated as examples the BABES Program, Center State and utilized Project Youths, which allows the high school students to go up to Blairstown and work on a summer program. He also advised that after the last meeting held on May 6, he attended the Coffee House at West Long Branch where the West Long Branch Drug Alliance put together a coffee house and some 65 students attended and he spoke with the West Long Branch Representative, Becky Miller, and offered her the use of the Oceanport Community Center as well.

Councilman Taylor reported the next meeting of the Oceanport Drug Alliance will be held on June 16, 1993 at Maple Place School.

Councilman Taylor informed the public that the last household hazardous waste day, sponsored by Monmouth County, is scheduled to be held on Saturday, June 5, 1993 at the Human Services Building located on Kozloski Road in Freehold from 10:00 AM to 3:00 PM.

Councilman Taylor reminded the residents that grass clippings have been banned from the landfill and they should either cut it and leave it or start a compost pile in their yard.

Councilman Taylor reported under recycling that the first quarter reports are in and advised that Oceanport recycled 330 tons of material that included paper, cans, glass, scrap, organics and other materials.

Councilman Taylor offered his congratulations to Mrs. Pearl Becker who presented the Board of Education with a quilt which was made up of the books that the students of her Literary Club read and also congratulated Ms. Susan Hershfield and Ms. Mary Murray who were selected as Teachers of the Year and they received a plaque and some flowers from the Board of Education and the Board also presented Mr. Lenny Longo with a plaque for his years of service on the Board of Education.

Councilman Clark questioned if Councilman Taylor had clarified that weeds can be put in the trash, to which Mayor Cavanagh stated after some temporary confusion on the County level, we have been now advised by the County that the weeds are not considered grass and can be placed in the trash.

COUNCILMAN WOLFE: Councilman Wolfe announced that the Borough wide street sweeping will be taking place the week of June 1 through June 4 and asked that all residents remove from the street any debris in front of their homes and any metal items that are out for pick up should be left up on the curb or grass area, so as to not interfere with the street sweepers. He also requested that any vehicles parked in the roadway be placed in the resident's driveways from Tuesday June 1 at 7:00 A.M. through Friday, June 4, until 5:00 P.M.

Councilman Wolfe reminded the residents that following the parade and ceremonies on Memorial Day, there will be festivities at the Community Center and the annual soccer sign up for the Fall and he asked all residents who have children entering the school grades from 1st through 8th in the Fall to please sign their children up on that date. He also stated there will also be a sign up for a Soccer Summer Camp taking place at Blackberry Bay Park for one week during the summer and the dates will be on the Community Events sign.

Councilman Wolfe was in attendance at the Oceanport First Aid meeting last night in Councilwoman Filippone's absence and wanted to report that the April Captain's report shows there were 27 calls, 207 volunteer hours and they traveled 268 miles performing their volunteer duties. He advised that the First Aid Squad is in the process of mailing out their annual fund drive letters to the residents and this is the only official fund drive that they sponsor and they do not solicit door to door or by telephone and he urged all residents to give what they can during this fund drive.

Councilman Wolfe then advised that at the meeting the Secretary of the First Aid Squad read various letters during the correspondence section of their meeting and one of the letters he felt should be read tonight in front of the Borough Council and stated that it was from the daughter of a resident of the Borough thanking the Squad for their response and caring in helping with an emergency situation and thanked them for their wonderful service.

Councilman Wolfe moved to authorize the release of a maintenance bond in the amount of \$2,022.30 to Mr. Leonard Longo for the subdivision at Block 18, Lot 14 - Algonquin Avenue, per the recommendation of the Borough Engineer, Thomas Rospos. It was seconded by Councilman Miller and unanimously approved by Council.

MAYOR CAVANAGH: Mayor Cavanagh commented in the absence of Councilwoman Filippone, she asked that the Mayor acknowledge that Emergency Medical Service week was from May 23 to May 29, 1993 and he will put together a proclamation tomorrow, but wanted to mention it tonight because we will not be meeting again in May. He also wanted the record to reflect that we acknowledge the contributions of the many First Aid volunteers who are entitled to be called EMS people.

Mayor Cavanagh then opened the meeting to the public for any questions or comments they may wish to make.

PETITIONS FROM THE PUBLIC:

Mrs. Marie Quackenbush, Shrewsbury Ave., and one of the owners of Foggia Florist stated that on March 12 she sent a letter to the Mayor and Council regarding their farmland assessment and wanted to know if she was going to get a response, to which the Mayor answered yes and Mrs. Quackenbush asked when?

Mayor Cavanagh stated he spoke with Mrs. Quackenbush last week on the telephone and he indicated to her by way of reply last week, that the situation for 1993 had been corrected, which was all that was within our power to do at this point in time. Mayor Cavanagh stated at that point, Mrs. Quackenbush asked the Mayor to do one more thing, which was to look into the advice that she received from the Tax Assessor and he spoke to Mr. Hoffman about this and he indicated that he received an inquiry from you in 1991, after the filing date for the 1991 tax assessment could be amended so that in essence, the only year that would have been different had he been responsive, would have been 1992. He also advised Mrs. Quackenbush that he advised the Tax Assessor what her position was and that was what she had asked the Mayor to do.

Mrs. Quackenbush stated that every year she has put in an applications for 10 acres of land and Mr. Hoffman would say she could not because there is a paper street going through her property and therefore, not entitled to the farm land assessment.

Mayor Cavanagh stated that Mr. Hoffman had indicated that it was only from 1991, to which Mrs. Quackenbush stated was not true. She stated that she wanted the record clear on this matter and said that she has been filing these application for years and every time she has, she has been told that she cannot get this because Maple Avenue goes through

her property and therefore breaks the property. Mrs. Quackenbush stated she came to find out that this is not a law and only happened to read this in the newspaper and that is how she found out she had been given incorrect information.

Mayor Cavanagh stated that as soon as she brought this to the attention of the Mayor and Council, she was given the farm land assessment and the situation was corrected. He stated when he received Mrs. Quackenbush's letter he contacted the Borough Attorney to look into the situation and he spoke to the Tax Assessor.

Mr. Margalotti commented that some time in 1992 the Tax Assessor called him and asked him for the first time, the question as to whether or not your property configuration could possibly qualify for farm land assessment treatment and at that request, he researched the matter and informed Mr. Hoffman that his interpretation of the law was that if in combination of the two parcels, you satisfied the minimum requirements for farm land assessments, the fact that those two parcels were separated by a public right of way, whether it was an improved or unimproved street as in her case, it would make no difference and she could still qualify for farm land assessment. He continued that after he gave the Tax Assessor that opinion, that is when the Tax Assessor took steps to correct for 1993, the proper classification for Mrs. Quackenbush's property. Mr. Margalotti also explained that the Tax Assessor cannot go back retroactively and re-classify the property for prior years because he does not have that legal authority and what he felt the Mayor was suggesting to Mrs. Quackenbush was even though the Assessor may have under the mistaken interpretation of what he thought the law was, made an incorrect decision, when she made her inquiries, her only recourse at that time, if she was dissatisfied with his decision or that he was incorrect, would have been to appeal his decision, not to the Mayor and Council because they have no jurisdiction over that, but to the County Tax Board.

Mrs. Quackenbush asked what responsibility does the Tax Assessor have since she goes to him for advice and filled out applications for 10 acres and he turns them down and she also has a letter from him in writing, that if she were to get the road vacated, then she would be entitled to the farm land assessment.

The Borough Attorney commented that this would have been consistent with his misunderstanding of what the law provided, because he thought because the right of way was in existence, that it rendered her incapable of qualifying for the farm land assessment.

Mrs. Quackenbush again asked who is responsible for the Tax Assessor's error, to which Mr. Margalotti stated the Assessor stands alone and legally the Assessor is an independent Official and operates independently of the Mayor and Council and they have no jurisdiction to tell him how to perform the duties of his office and the Assessor is answerable only to the Division of Local Public Finance in Trenton. He continued that the Assessor has no responsibility to the Governing Body because his responsibility is to the State and the County Tax Board.

Mrs. Quackenbush asked if that meant she must go to the State and the County about his responsibility, to which Mr. Margalotti stated that is her right if that is what she chooses to do, but he did not know what could be done about a prior incorrect decision because the books are closed for those prior years.

Mrs. Quackenbush stated she would like to just get a credit for the future for the past years that she was incorrectly assessed, to which Mr. Margalotti stated there is no legal basis for doing that, even though Mrs. Quackenbush might feel that equitably she is entitled to that, it is not a matter of equity, but a matter of what the law permits and there is no basis in the law to give her some type of credit to make up for the reduction in taxes that she would have received had her property been classified as farm land.

Mrs. Quackenbush stated she was very upset about this entire matter.

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 May 20, 1993. It was seconded by Councilman Terra and unanimously approved by Council. TOTAL 1992 VOUCHERS \$575.00. TOTAL 1992 VOUCHERS PAID THIS MEETING \$6,123.00. TOTAL 1992 OPERATING FUND \$6,698.00. TOTAL 1993 VOUCHERS \$430,775.77. TOTAL 1993 VOUCHERS PAID THIS MEETING 432,456.75. TOTAL 1993 OPERATING FUND \$463,232.52. TOTAL PUBLIC ASSISTANCE I ACCOUNT \$325.00. TOTAL PUBLIC ASSISTANCE II ACCOUNT \$792.17. TOTAL TRUST ACCOUNT \$3,313.00. TOTAL MONEY MARKET ACCOUNT \$560,000.00. (SEE VOUCHER REGISTER)

At 8:48 P.M. Councilman Miller moved to adjourn this meeting until the next regular meeting scheduled to be held on June 3, 1993 at 8:00 P.M. It was seconded by Councilman Terra and unanimously approved by Council.

Respectfully submitted,



PATRICIA L. VARCA
BOROUGH CLERK