

REGULAR MEETING MINUTES

Oceanport, New Jersey
May 3, 2001

- REGULAR MEETING:** The Regular Meeting of the Oceanport Mayor and Council was called to order on May 3, 2001 at 8:02 P.M.
- MEMBERS PRESENT:** Councilpersons Apruzzi, Gatta, Lyons, Wolfe, McGann, Silkworth and Mayor Gemma.
- OFFICIALS PRESENT:** Borough Clerk, Patricia L. Varca and Borough Attorney, Francis A. Margalotti.
- INVOCATION:** Borough Chaplain Berry gave the invocation.
- PLEDGE OF ALLEGIANCE:** Mayor Gemma led the audience and members of the Council in the flag salute.

As copies of the minutes from the regular meetings held on April 5 and 19, 2001 had been made available to the members of the Governing Body, Councilwoman Silkworth moved to waive the reading of same and approve the minutes as presented by the Borough Clerk. It was seconded by Councilman Wolfe and unanimously approved by Council with the exceptions of Councilman McGann who abstained from voting on the minutes of April 5 and Councilman Lyons who abstained from voting on the minutes of April 19, 2001 as they were not present at those meetings.

CLERK'S REPORTS:

1. Police report for the month of APRIL, 2001 and a copy will be posted on the Bulletin Board.
2. Application for membership to the Port-au-Peck Chemical Hose Fire Company made by Christine L. Mackay.

Councilman Lyons moved to approve this application, noting that this is the first female member of the Oceanport Fire Department. It was seconded by Councilman Wolfe and unanimously approved by Council.

COMMITTEES:

COUNCILMAN APRUZZI: Councilman Apruzzi reported that Sgt. Hendley has retired effective May 1, 2001 and the Police Chief and Police Committee have interviewed for a new Patrolman and he was pleased tonight to announce that the Council has agreed to hire Mr. Jonathan Tucci. In that regard, Councilman Apruzzi moved to hire Jonathan Tucci as a Patrolman V effective June 1, 2001. It was seconded by Councilwoman Silkworth and unanimously approved by Council.

Councilman Apruzzi reported the Police Department received 989 calls during the month of April, which were answered by our Dispatchers and our patrols responded to 642 of those calls. He also congratulated the following members of the Police Department on their completion of various courses and seminars: Chief Bebout, Captain Sutton, Det. Sgt. Baldanza, Sgts. Ross and Cioffi, Det. Tagerty, Patrolmen Ciani and Chenoweth.

Councilman Apruzzi advised that a meeting was held recently with regard to the proposed fingerprinting program under review by the Recreation Committee and we had representatives from Howell who are also reviewing this matter as well as a representative of the SafeKids Program who come into towns to fingerprint coaches on the various sports teams. He informed everyone that no formal decision has been made on this subject and the Committee is still reviewing the program.

COUNCILWOMAN GATTA: Councilwoman Gatta stated that last Friday the Coastal Drug Alliance sponsored a CoffeeHouse and lip sync, which we have held in the past, and everyone seemed to enjoy the event.

Councilwoman Gatta advised that last February she was asked by the Board of Education to sit on a Committee for the express purpose of assisting in selecting the Teacher of the Year and she was pleased to announce that at Maple Place School, the teacher of the year is Donna Bennet and at Wolfhill School, Kim Warwick was selected.

Councilwoman Gatta commented that last Sunday there was a first aid call, where an Oceanport resident had stopped breathing and the Police were first on the scene and because they now have defibrillators in the cars, both Sgt. Tagerty and Patrolman Barcus were able to bring this person back to life. She was very appreciative to the First Aid Squad who teaches and instructs our personnel in the use of the equipment as well as giving courses regularly on CPR and life saving techniques, which have saved lives in our community.

Councilwoman Gatta urged residents to try and clean up any stagnant water that they may have on their property, since we are going to have to deal with the West Nile Virus again this summer and stated that anyone who may find a dead crow, should contact the Monmouth County Board of Health because they will be testing them again and there is information in the Library and at Borough Hall about this virus and how to protect yourself and we will be keeping everyone informed of any changes or programs that become available.

Councilwoman Gatta was pleased to announce that June 2, 2001 will be Women's Day at the Old Wharf House from 9 a.m. to 3 p.m. to learn about safety, health issues, finances, domestic violence, etc. and it is by reservation only and since there is a limited number she advised anyone interested to reserve early if they are interested. She commented that every household would be receiving a flyer with the date and times and a reservation slip for this event and also noted that lunch would be served as well and she hoped this might become an annual event for the Borough.

COUNCILMAN LYONS: Councilman Lyons reminded everyone that the Memorial Day parade will be held on Monday, May 28 starting from Blackberry Bay Park at 10:30 a.m. and urged all Borough organizations and residents to come out and join the parade.

Councilman Lyons thanked Councilman McGann for his contacting him regarding the available grant monies through FEMA for volunteer fire companies and our Fire Chief got a copy of the application and requirements and has submitted same in a timely manner and requested monies for protective gear, which is mandated, such as the breathing apparatus they must wear together with the specialized protective clothing. He advised that these funds require a 30% match and the two fire companies have agreed to share the 30% cost for this equipment, if we are lucky enough to receive a grant.

COUNCILMAN WOLFE: Councilman Wolfe congratulated Tom Crochet who recently passed the exam making him a Certified Public Works Manager through the State Certification Program and this is mandated that the Superintendent of Public Works must be certified and he has been taking classes over the past five years and has achieved his goal.

Councilman Wolfe reminded everyone that the Port-au-Peck Chemical Hose annual flea market will be held on Sunday, May 20 at the intersection of Port-au-Peck Avenue and East Main Street and the urged everyone to stop by and show their support to the fire company.

COUNCILMAN MCGANN: Councilman McGann advised the residents that the Borough is now delivering truckloads of compost upon payment of \$10 for either a half or full truckload and a signed release from the resident. He stated anyone interested in receiving compost should contact the Borough Clerk's Office for more details.

Councilman McGann called for the second reading and public hearing of a capital improvement ordinance in the amount of \$9,000 which is for the balance of the purchase of a new truck, sander and plow for the Public Works Department and asked the Clerk to read the Affidavit of Publication and the proposed ordinance by title only as follows: AN ORDINANCE AUTHORIZING \$9,000 FOR THE BALANCE OF PUBLIC WORKS EQUIPMENT FROM THE CAPITAL IMPROVEMENT FUND.

Mayor Gemma opened the meeting to the public for any comments or questions on this subject only.

As no one from the public wished to be heard on this subject, Councilman McGann moved to close the public hearing. It was seconded by Councilwoman Gatta and unanimously approved by Council.

Councilman McGann then moved to adopt this ordinance on second and final reading and to advertise same in accordance with law. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Apruzzi, Gatta, Lyons, Wolfe, McGann and Silkworth.

NAYS: None.

ABSENT: None.

ABSTAIN: None.

Councilman McGann reported that the Borough has applied for and received approval for a grant in the amount of \$750,000 toward the purchase of the open space commonly known as the "soccer fields" on Port-au-Peck Avenue and the next round of funding takes place in October, where we feel we can receive another \$250,000 for this purchase through Green Acres. He offered his thanks to Councilpersons Silkworth and Gatta and to Mayor Gemma for all their assistance in making this a reality for the Borough.

COUNCILWOMAN SILKWORTH: Councilwoman Silkworth reported that the 2001 Directory has been mailed to every home in the Borough and asked that everyone review the information contained in the booklet and any changes, corrections or amendments will be included in our Bulletin as a cut out or insert for the Directory.

Councilwoman Silkworth extended her congratulations to Tom Crochet on receiving his certification and felt he must be proud of his accomplishment.

MAYOR GEMMA: Mayor Gemma reported that we have received a copy of the plans from the County of Monmouth for the intersection of Myrtle and Monmouth including the installation of a traffic light as well as resolving the drainage situation at that location and they are in the Clerk's Office for anyone who would like to review them.

Mayor Gemma stated that in light of the number of people in the audience and the pending application before the Planning Board, he requested that the Borough Attorney comment on this matter prior to opening the meeting as well as the discussion he had with him earlier with regard to the two Councilpersons who also sit on the Planning Board, since it is the belief of both the Mayor and Attorney, that these two Councilpersons should not be part of any discussion on the pending application before the Board, so that there is no conflict in case this matter winds up in court.

Mr. Margalotti explained that the Planning Board is an independent body and the Governing Body does not have the right to direct the Board in its deliberations on any particular manner; any application that comes before the Planning Board is decided solely by that entity and any appeal that may be taken either by the applicant or by objectors to any decision by the Planning Board is not taken to the Oceanport Governing Body, but to the Law Division of the State Superior Court. He continued that for that reason, if anyone were to attend a public meeting of the Governing Body concerned about any application that might be before the Planning Board and wanted to air their views either in support or an objection to any pending application, this is not the place to express those view, even though the people who sit on the dais are elected officials and therefore, are responsible to the electorate for the operation of the Borough, in this particular area the Planning Board because if functions as a totally independent body, cannot be influenced, directed or swayed in any way by the personal feelings of any member sitting here insofar as its handling of any application that might be pending before it.

Mr. Margalotti stated it becomes obvious if you are attending a public meeting, you have the right to express views about any matter, as the Mayor always says at every Council meeting, but again, reiterated to the audience that they should understand that whatever remarks anyone might wish to make or whatever feelings anyone might want to express about any application before the Planning Board, you have the right to say it, but it is not going to further anyone's position with respect to that application and suggested that energies would be better expended to assure that everyone's input gets known to the members of the Planning Board that are charged by law to make these kinds of decisions and obviously, he is speaking about the Planning Board.

Mayor Gemma then opened the meeting to the public, requesting that everyone give their name and address before making their statement.

Prior to Mr. Barecca speaking, Mayor Gemma confirmed that he was going to discuss the pending application before the Planning Board at which point, both Councilmen Wolfe and Lyons, who are the Council Liaisons to the Planning Board, excused themselves from the meeting room during this discussion.

Mark Barecca, 6 Maple Place commented that he was here with the other residents tonight because they don't know what to do about this situation and although he understands this application

is before the Planning Board and he is assuming that no one on the Planning Board wants to see the crematorium built in this town, because no matter what the environmental statement reads, he would rather we err on the side of caution and felt there are more appropriate locations for this type of building and not an area that is surrounded by residential homes and a park across the street. He expressed concerns about children participating in sports and exerting themselves and having added environmental impacts which can be more damaging to them. He also mentioned that there are two schools in the area with a lot of children and the residents are extremely concerned and need to know what they can do to position themselves to not let this happen.

Mr. Margalotti stated that the applicant before the Board is represented by legal counsel and asked if the concerned residents considered possibly banding together to engage legal counsel to represent the objectors, since this is something that is done all the time and if this issue is important enough to the residents in his neighborhood to unite in order to make sure that the Planning Board makes the right decision in their eyes, might that not be the way to find out what it is as concerned citizens that you might be able to do in this regard from a legal standpoint.

Mayor Gemma added that the Planning Board has jurisdiction over site plan issues and as members of the public you may certainly raise questions as to those issues and as our Borough Attorney stated, that is where your energies would be best spent.

Rosemary Conte, 15 Maple Ave. commented that the last Planning Board meeting the residents attended, no one was allowed to speak on this matter and asked if that was because they must have legal counsel to discuss anything with the Board.

Mayor Gemma explained that procedurally at a Planning Board meeting, they did not even hear the application and first the applicant gets to put their application on, interview their witnesses and put forth testimony and the members of the Board and members of the public then get to questions those witnesses and after the applicant is finished with their witnesses, if there are objectors, they are allowed to put on their witnesses if there are any and those witnesses are then questioned by both the objectors and applicant and then if there are any statements at the end, they allow public statements. He asked that some times Planning Board applications get drawn out over a long period of time and he urged the interested residents to stay with it and they will have their chance to ask questions of the applicant and to make a statement.

Mrs. Conte stated that she was made to feel by the applicant's attorney that the State had already given their approval for what the cemetery wanted to do and the objector's could not fight this and she didn't understand how this could happen.

Mr. Margalotti stated that is why he suggested the residents might consider getting independent legal advice and pointed out that the Borough cannot provide that advice because it is not the function of the Governing Body, but the concerned residents are certainly are entitled to obtain the advice of another attorney to see whether or not what they think they are hearing at the meeting is accurate or inaccurate.

Mayor Gemma explained that the Planning Board has an Attorney and his job is to tell the Planning Board members whether the statements made by the Attorney for the applicant are legally correct. He continued that normally the Attorney for an applicant will try to color the law in a favorable manner toward the applicant and the Attorney for an objector will try to color the law in a favorable manner toward the objector and the Planning Board Attorney will attempt to try to provide

what is the correct statement and there are certain venues to do that and we are asking the residents to follow the appropriate venues, because to not do that provides grounds for an appeal.

Mr. Margalotti felt it might be important for the residents to fully understand the role of the Planning Board Attorney and explained that the Board Attorney's function is to give legal counsel to the members of the Planning Board, to be sure the actions and procedures that they follow are statutorily correct, that the Board has the benefit of what the Attorney believes to be accurate, legal interpretations of case law or statutory law that may be relevant to the pending application. He continued that the function of the Board Attorney is not to espouse the cause of one side or the other, but is there to solely give legal counsel to the members of the Planning Board, therefore, if the residents want their voices to be heard and their position to be presented in as strong a fashion as possible, they might want to figure out how they are going to balance the scales.

Ms. Conte asked if a decision would be made on May 9 at the meeting, to which Mr. Margalotti stated there was no way for anyone to know the answer to that question and again reiterated that is a function of the Planning Board and the Mayor and Council have no input and no control over what that Board decides to do or how many meetings they decide to hold, how much testimony they feel is necessary or when a decision may be reached.

Ed Miller, 94 Hiawatha Ave. asked if there is anything the Council can do to reach out to our Legislators since it seems to him that a crematorium on that small size area, since the crematorium he is familiar with in northern New Jersey was on a very large site with nothing around it. He also noted that some of the concerns are the location of a day care center nearby, residential homes, etc. and wondered if the Legislator couldn't help us with this matter, since he felt there must be some type of maximum area for this purpose, as far as residential areas.

Mr. Miller touched on the health aspects of having a crematorium in our area and commented that mercury is an insidious type of poison and Dentists have been using mercury in the amalgam that goes into our teeth for many years and still do and his Dentist didn't think it was a problem, but after researching this on the Internet, he found some facts that indicate it is not okay. He stated that vapor goes into the atmosphere and has to come down some place and we are surrounded by water which then allows it to go into the fish, which people consume and pointed out that pregnant women are told not to eat tuna during their pregnancy because of the high levels of mercury present in the fish.

John Rise, 1250 Turf Drive stated that approximately 300 feet of his property borders Woodbine Cemetery and although he understood the procedures to be following pointed out by the Borough Council he felt that they must know how concerned the residents are about this matter and the emissions as was just pointed out. He has no information on this matter at all and only learned of this meeting an hour ago and asked if we go through the Planning Board to object to this matter, to which Mr. Margalotti stated that was the correct place to state any concerns and/or objections to this application.

Mr. Rise questioned whether the Planning Board would be willing to cooperate with the residents when someone else is being represented by an attorney and how we will be able to know if we are receiving honest information, to which Mayor Gemma responded by stating again that the applicant is represented by an attorney and they will put forth their experts and they will give testimony after which the Board members will ask their questions and he reminded everyone that the Planning Board has their own attorney and an engineer and the public will then be given an

opportunity to question each expert and then given an opportunity in that venue to set forth their concerns and he again reiterated that the forum to express their concerns for the record is before the Planning Board.

Mr. Rise stated he understood the procedure, but questioned how far he could go as an individual in challenging the expert's opinion, to which Mr. Margalotti advised that they get their own expert.

Mrs. Joann Alicakos, 1198 Eatontown Blvd. felt that the residents here tonight are in a neighborhood outside of Oceanport and if everyone in the Borough knew about the crematorium being proposed, she was sure they would be very upset about this application and half the people don't even know about this. She commented if an entire town is against something, she found it difficult to understand why the Borough Council cannot represent the citizens of this community.

Mr. Margalotti stated that is correct because the Planning Board is an independent body and function separately under the law and this Governing Body, even though it is composed of elected officials who are supposed to and do represent the town's interests, they cannot tell an independent body what they can and cannot do or how they should act or decide on any particular application.

Mrs. Alicakos said she understood that but questioned again why the Council cannot help the residents of this town to show them a way of how to go about fighting this application, to which Mr. Margalotti responded stating that he gave the residents a suggestion earlier about engaging legal counsel to help represent the concerned residents regarding this matter and more than that this Governing Body cannot do.

Mrs. Alicakos felt that since she and the other residents pay taxes, which the Governing Body uses to run the town, they should be able to help us in this situation and give us some advice, to which Mayor Gemma stated the best way we can help the residents is to make you all aware of how the Planning Board functions and what the procedures are that must be followed but other than that, we must be certain we don't say anything on the record that may prejudice the decision of the Planning Board and encouraged the residents to attend the meetings of the Board and set forth your concerns and questions in a vocal and intelligent manner, but anything more than these suggestions can be perceived as taking a side and giving one side or the other grounds for an appeal and a very good chance to win that appeal and that is the one thing he does not want to do and he felt that in all probability, an appeal will be made by whichever side loses.

Mr. Conte, 1194 Eatontown Boulevard asked if the Board Attorney was on the payroll, to which Mayor Gemma stated he was through the taxes paid by the residents of the Borough, followed by Mr. Conte questioning why then, couldn't he represent the residents who pay his salary. Mayor Gemma again explained that the Board Attorney is to make sure the members of the Planning Board act in the correct, procedural manner, because if they don't, any decisions made by that Board can then be overturned.

Mr. Conte commented that it was suggested that residents get representation by an Attorney, which costs money, to which Mayor Gemma again explained that we cannot represent the residents in any manner nor can any of the Attorneys represent the residents who work for the Borough.

Gail Mura, 22 Maple Place asked how the Governing Body is elected, to which Mr. Margalotti stated that every November the citizens of the Borough go out to vote for either Councilpersons or the Mayor.

Mrs. Mura cannot believe that no one else in the Borough has been noticed about this matter and now we are being told that we have to go out and hire legal advice and pay for this out of our pockets. She continued, she could not understand that they would have to pay for this themselves, after this was thrown upon them and no one can help the residents.

Mayor Gemma again explained that if the Borough were to hire someone to represent the residents, that would be seen as taking a position in this matter, either in favor or against the applicant, which would be grounds for whatever decision is made by the Board to be overturned and we cannot do that under the law. Mayor Gemma also stated that the Borough Attorney is trying very hard to make sure that whatever is said tonight does not in any way prejudice that application.

Mrs. Mura asked who would be here that any discussion would prejudice the application, to which the Mayor explained that this is a public meeting and everything that is said is on tape and a record of the proceedings is kept on file.

Mrs. Mura commented that she was under the impression that things that were on the record would be at the May 9 meeting of the Planning Board and not tonight, to which the Mayor stated was correct, but again explained that anything that might be said that would in any way indicate prejudice for or against the application or members of the Board, that could certainly be used to indicate prejudice and you cannot do that.

Mrs. Mura commented that the State has given permission to Woodbine Cemetery but none of the residents received any notice in that regard and her point is that the residents are being told to get legal counsel while it winds up costing them money and it does not seem democratic.

Mayor Gemma stated that Mrs. Mura is correct in that when the use was approved by the Cemetery Board, the Borough had neither notice or an opportunity to make any comment to that Board, which was a point brought up earlier asking if the Governing Body can do anything in this matter.

Mr. Margalotti offered that it is not a matter that Woodbine Cemetery specifically received approval from the State for this particular application, but it is his understanding that cemeteries by State Law, have the right to utilize a portion of their holding for the location of a crematorium. He continued that the State does not pass upon the site plan consideration, but that is left to the appropriate municipal jurisdiction, which in this town is the Planning Board. He wanted to make the point that it wasn't that the Cemetery Board entertained an application from Woodbine and said okay, you can have a crematorium, but it is a matter of State Law as to what cemeteries can and cannot do, so what Woodbine is positioning itself before the Board and saying we have the right to erect a crematorium because we are a duly licensed cemetery, which is under the control of the State and not the municipality, however, since it does involve the erection of a building, then from that standpoint, they must come before a municipal body, which is this case is the Planning Board with the usual site plan application, as would any commercial enterprise that would want to develop property or erect a building.

Mr. Margalotti stated this is the Borough's limited role in this matter, but what concerns him is and he asked Mrs. Mura is how close she lives from the cemetery property, to which she advised she lives about one block and Mr. Margalotti did not understand how an application of this type before the Planning Board could come before the Board, without the residents within a 200' radius of the property would not receive certified mail notices as well as notice by publication. He advised that these are issues that the residents are entitled to raise and should be raised before the Planning Board and prior to an application be processed, the Board must decide whether or not it has been vested with proper jurisdiction and if they don't, they cannot go forward and notice to property owners is necessary and he again stated that is why he suggested earlier that the residents hire their own legal counsel.

Jim Petrantis, 16 Burnt Mill Circle commented that he understands fully that we cannot effectively discuss this matter in front of the Governing Body, but he would like to draw a parallel to our neighboring community where a gun store was opened a short distance from the school and it was very unpopular. He continued that the Governing Body of that town questioned the Zoning Officer because they felt it was the wrong thing to do and the Governing Body retroactively changed the law, which will basically close this gun shop, to which Mr. Margalotti stated that what he just stated will never happen and explained that you cannot pass a law retroactively and without commenting on the internal affairs of a neighboring municipality and what a Governing Body may be doing and whether it is right or not, there are certain basic facts that are true. Mr. Margalotti stated that you can't pass a law and make it retroactive and put someone out of business that was legal when they requested permission to open their business.

Mr. Petrantis stated he understood what Mr. Margalotti was saying in that this will not hold up in an appeal, but he gave that Governing Body style points because anything that would happen here would not bind the Planning Board, would not pressure the Planning Board nor would it give a record to the plaintiffs to go to Superior Court with regard to the residents protests because of the record that exists, but at least the Council can go on record to show the residents what you all think of this application. Mr. Petrantis commented that everyone sitting in this room knows that that little parcel of property surrounded by schools, house and playgrounds is not the place to be putting poisonous chemicals in the air.

Mayor Gemma commented that this Governing Body has done a very good job over the last several years of trying to avoid style points and he does believe in it and he doesn't like style points and he doesn't like playing to an audience. He also advised that he is a land use lawyer and practices in this area and he feels strongly that by the Governing Body commenting on this matter we would be potentially damaging a record and he does not want that to happen.

Mayor Gemma stated that Mr. Petrantis did bring up a good point and when the meeting is over, he suggested that the residents speak to the members of the Governing Body one on one and asked us to our face how we feel, which is the only way for us to give an honest opinion.

Mr. Petrantis commented that both the Corporate Center and Turtle Mews have an attorney representing them and would he not be basically on the same side as the residents who are present this evening, but Mayor Gemma pointed out that he is representing those individuals who may be objecting to items other than what you are and felt that Mr. Margalotti's comments were well thought out, since they may reach some type of an agreement which you are not in favor of and you should think about someone who is representing your views.

property owners retaining counsel to set aside the resolution. With all that done, Mr. Skolnik asked if the Borough Counsel should be representing the Oceanport homeowners and follow the lead of the West Long Branch Zoning Official and seek to set aside this resolution as an improper way to amend the Zoning Ordinance.

Mayor Gemma responded that from a policy perspective from the Borough of Oceanport, it has always been the Borough's position that if the situation could be taken back to what it once was, then the concerns are addressed from our citizens. How West Long Branch handles their internal matters is West Long Branch's concern. He further explained that this means two things, back to the way it was is two flights in the morning and two flights in the evening since 1972. The problems started when it began being used as a commuter stop.

Mayor Gemma agreed with Mr. Skolnik regarding certain procedural aspects, but if it flights remain at two (2) flights in the morning and (2) flights in the evening it works.

Mr. Margalotti commented that the Borough has been monitoring and tracking the ongoing developments through the West Long Branch Municipal Court. He added that the facility is located in West Long Branch therefore it is only that town that has legal jurisdiction over the operation of the heliport and the question of whether or not the operation in its present form constitutes a zoning violation. The resolution referred to this evening was adopted last year by the West Long Branch Mayor and Council to memorialize what they hoped would be a satisfactory settlement of the problems that had arisen through the heliport operation in terms of the routing of the flights and the increase in numbers of flights, flights on weekends and holiday. The Borough of West Long Branch attempted to negotiate a settlement with the operators that would lessen the harsher effects of the operation as it had existed. However, at the time the resolution was passed there was pending in the West Long Branch Municipal Court complaints filed by the Code Enforcement Officer, Mr. Donlon charging that the operation as it existed represented a violation of the Zoning Ordinance, the theory being that it was an illegal expansion of a pre-existing non conforming. Mr. Margalotti gave a brief history on the heliport to explain why it was considered an expansion of use. He further explained that when the change of use occurred the owners of the building should have applied to the Zoning Board of Adjustment for an expansion of use, which they did not, thereby the basis for the Code Enforcement Officer issuing complaints against the property owner, which complaints are pending in the West Long Branch Municipal Court.

Mr. Margalotti continued that the session Mr. Skolnik referred to, the property owner attempted to get the complaints dismissed on the basis of the Resolution that had been adopted by the governing body. Mr. Donlon stated he didn't have to abide by that resolution, because it is his view that it is pure and simply a zoning matter, therefore something that can only be resolved within the jurisdiction of the Zoning Board of Adjustment. Because the property owner refused to make the appropriate application, Mr. Donlon has elected to continue the prosecution and it was Mr. Margalotti's understanding that the complaints are being carried to another trial date. He did not have the new trial date, but is supposed to be informed when the court schedules the new date.

Mr. Skolnik stated Mr. Margalotti may be right or wrong with regard to the historic aspect of the heliport, but felt there seems to appear to be a rush and the residents are going to be left with three flights a day under this deal unless somebody does something and if the Council refuses to do that, he would continue to request private counsel for the interest of the citizens.

As one else from the public wished to speak on the subject of the application before the Planning Board, at 9:12 p.m. both Councilmen Wolfe and Lyons returned to the dais.

As no one else from the public wished to be heard on any matter, Mayor Gemma closed the public portion of the meeting.

Councilman Wolfe moved to approve the vouchers on the Bill List dated May 3, 2001. It was seconded by Councilman Apruzzi and unanimously approved by Council. TOTAL 2000 VOUCHERS PAID \$2,929.51. 2001 VOUCHERS PAID \$87,769.53. 2001 VOUCHERS PAID THIS MEETING \$886,627.26. TOTAL 2001 VOUCHERS \$974,396.79. TOTAL RECREATION TRUST \$1,933.62. TOTAL DOG REGISTRY \$301.00. TOTAL TRUST \$3,111.00. TOTAL CAPITAL \$833.97. (SEE BILL LIST)

At 9:13 p.m. Councilwoman Silkworth moved to adjourn this meeting until the next regular meeting scheduled to be held on May 17, 2001 at 8:00 P.M. It was seconded by Councilwoman Gatta and unanimously approved by Council.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Patricia L. Varca".

PATRICIA L. VARCA
BOROUGH CLERK