

REGULAR MINUTES

Oceanport, New Jersey
March 2, 1995

- REGULAR MEETING:** The Regular Meeting of the Oceanport Mayor and Council was held on March 2, 1995 at 8:10 P.M.
- MEMBERS PRESENT:** Councilpersons Filippone, Miller, Taylor, Wolfe, Silkworth and Mayor Cavanagh.
- MEMBERS ABSENT:** Councilman McGee.
- 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.

As copies of the minutes from the regular meeting held on February 16, 1995 had been made available for review by the Mayor and Council, Councilman Wolfe moved to waive the reading of same and approve the minutes as presented by the Borough Clerk. It was seconded by Councilman Miller and unanimously approved by Council.

CLERK'S REPORTS:

1. Police report for the month of **FEBRUARY, 1995** and a copy will be posted on the Bulletin Board.

COMMITTEES:

COUNCILMAN MCGEE: ABSENT.

ORD. #
663

COUNCILWOMAN FILIPPONE: Councilwoman Filippone called for the second reading and public hearing of an ordinance regarding the Uniform Construction Code and asked the Clerk to read the Affidavit of Publication and the proposed ordinance by title only as follows: **AN ORDINANCE ESTABLISHING THE OCEANPORT UNIFORM CONSTRUCTION CODE ENFORCEMENT AGENCY, ESTABLISHING FEES, AND REPEALING PRIOR ORDINANCE.**

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

Mr. Elwood Baxter, 21 Pocano Ave., stated under Paragraph A of this ordinance, are various Officials listed created by this ordinance and he questioned if they already exist in the Borough under these titles, such as Electric Subcode Official, Fire Official, Elevator Subcode Official, etc.

The Borough Attorney, Mr. Margalotti stated that we have these positions already and clarified that technically we do not have an Electrical Subcode Official because we contract with the Middle Department Inspection Agency for electrical work, but the Statute, pursuant to which this ordinance allows the creation of the position, so we have to create it within our ordinance in case at some

future time we decide to use an independent agency to perform that function and to appoint a Subcode Official under the direct employ of the Borough.

Mr. Baxter commented that the ordinance also clearly says more than one such Official Position can be held by the same person, so you can have one person who is qualified, to take on three of the positions listed.

Mr. Baxter questioned the variety of the fees listed and asked from where they are developed and if they are from State Codes and asked if they are established fees?

Mr. Margalotti answered yes and explained that they are approved by the Division of Local Government Services, to which Mr. Baxter asked if the Borough is bound to accept these fees? Mr. Margalotti stated no and continued that there is a range and they can be even higher than what is listed under this ordinance, but the fees have to be set geared to making the Construction Department self sustaining fiscally and every year or two, the Department Head must do an analysis of the costs to see what fees are necessary to keep the Department self sustaining and the purpose is not to generate a source of revenue for the Borough, but to have the Department function on the revenue they receive through these fees.

Mr. Baxter asked if under Paragraph G there is a statement regarding 3 year inspections and then 4 and followed by 5 year inspections on elevators and the only elevators he was aware of were in the Senior Citizen Building, to which Mr. Margalotti stated the race track has elevators. Mr. Baxter asked if we have an outside person responsible for this type of inspection, to which Mr. Margalotti stated yes, because we do not have anyone locally who is qualified to perform this type of inspection.

Mr. Baxter questioned if that meant that the elevators only have to be inspected every 3 years for the price of \$270 each, to which Mr. Margalotti stated he is not that technically conversant with the State law on the various types of elevator inspections, but explained that the information that was put into this proposed ordinance was provided to us by the Construction Official, who is the technical person familiar with the various inspections.

Mr. Baxter asked if this ordinance was materially changed from what we presently operate under to which Mr. Margalotti answered no and stated that it does not materially change what the practice has been for some time in the Construction Department and the fees are the same fees that the Borough has been charging for these various inspections, permits, etc. and the rates have remained the same and they have been in effect for some time. Mr. Margalotti continued that the prior construction code ordinance was not kept current in the sense that it did not keep up with the various changes that were authorized in the NJ Administrative Code as promulgated by the Division of Local Government Services and we reached a point, where the entire ordinance had to be overhauled in major proportion to spell out in more defined detail the various types of inspections that the State Law now requires, the kinds of permits that must be obtained and to bring the fees into line with what the fees are that have been charged for quite a few years.

As no one else from the public wished to be heard on this matter, Councilman Miller moved to close the public hearing. It was seconded by Councilwoman Filippone and approved by Council.

Councilwoman Filippone moved to adopt this ordinance on second and final reading and to advertise same in accordance with law. It was seconded by Councilman Taylor.

The Clerk called the roll:

AYES: Councilpersons Filippone, Miller, Taylor, Wolfe & Silkworth.

NAYS: None.

ABSENT: Councilman McGee.

ABSTAIN: None.

ORD.# 664 Councilwoman Filippone then called for the second reading and public hearing on an ordinance prohibiting the feeding of waterfowl in the Borough and asked the Clerk to read the Affidavit of Publication and the proposed ordinance by title only as follows: **AN ORDINANCE PROHIBITING THE FEEDING OF WATERFOWL IN THE BOROUGH OF OCEANPORT, MONMOUTH COUNTY, NEW JERSEY, AND FIXING PENALTIES FOR THE VIOLATIONS THEREOF.**

Mayor Cavanagh 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, Councilwoman Silkworth moved to close the public hearing on this matter. It was seconded by Councilman Taylor and approved by Council.

Councilwoman Filippone moved to adopt this ordinance on second and final reading and to advertise same in accordance with law. It was seconded by Councilman Taylor.

The Clerk called the roll:

AYES: Councilpersons Filippone, Miller, Taylor, Wolfe & Silkworth.

NAYS: None.

ABSENT: Councilman McGee.

ABSTAIN: None.

Councilwoman Filippone moved to introduce the 1995 salary ordinance and asked the Clerk to read the proposed ordinance by title only as follows: **AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO FIX AND DETERMINE THE SALARIES OF CERTAIN BOROUGH OFFICIALS" PASSED AND APPROVED MARCH 16, 1939.**

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

The Clerk called the roll:

AYES: Councilpersons Filippone, Miller, Taylor, Wolfe & Silkworth.

NAYS: None.

ABSENT: Councilman McGee.

ABSTAIN: None.

Councilwoman Filippone then moved to hold the public hearing on this ordinance at the next regular meeting scheduled to be held on March 16, 1995 at 8:00 P.M. and to advertise same in accordance with law. It was seconded by Councilman Wolfe.

The Clerk called the roll:

AYES: Councilpersons Filippone, Miller, Taylor, Wolfe & Silkworth.
NAYS: None.
ABSENT: Councilman McGee.
ABSTAIN: None.

Councilwoman Filippone ended her report by wishing Mayor Cavanagh a very Happy Birthday tomorrow.

COUNCILMAN MILLER: Councilman Miller also wished Mayor Cavanagh a Happy Birthday.

Councilman Miller reported that the Cable Committee met last week with Councilwoman Silkworth also in attendance and he asked the reporter in the audience to report that on June 15, 1995, we will be having a public comment time for the renewal of the franchise agreement with ComCast/Storer Cable and we are one year away from that process. Councilman Miller advised that the Cable Committee over the last several years has sent out surveys to the residents, through the Borough Bulletin, questionnaires of what the residents thought of the cable service they were receiving and we have accumulated all of that information and the Committee will be presenting their findings and what has to be done to the Mayor and Council at a work shop meeting scheduled on April 3 and on June 15 we will have the public comment night during our regular Council meeting.

Councilman Miller stated that Keith Seeley, owner of the Oceanport Landing Marina, made a presentation at the last Water Watch meeting of his meeting attendance at a conference with the DEPE recently about pump out facilities and at that conference he found out that the State of NJ was given \$705,000 of federal funds, of which \$500,000 is supposedly earmarked for the Barnaget Bay project, which leaves approximately \$205,000 for the rest of the State and Mr. Seeley is in the process of making a permit request and the way it works is that the marinas must have matching fees. Councilman Miller advised that Mr. Seeley feels the cost involved is between \$8,000-\$10,000 of which he must put up half the funds, but again, this will be another big step in addressing the problem of non point source pollution in the Branchport Creek along with the prospects of what the track will have done by the end of this year in hooking up with the NMCRSA.

Councilman Miller advised that at the last meeting Councilman McGee gave a report about the finalizing of the Police negotiations and he felt that Councilman McGee would want to thank the Mayor for his activities involved and having a peaceful ending with all parties happy with the results.

Councilman Miller complimented the Board of Education for their continuing process of strategic planning and stated that after the different Committees that participated in the process this last fall, they are now forming a Committee of 25 people, of which he is one, to continue the process of prioritizing the needs for the school and to take the School District into the 21st Century and he is looking forward to that process under the guidance of Dr. Morgan, Superintendent of Schools and Maria Gatta who is the Chairman of that Committee. Councilman Miller offered his compliments to Mrs. Marybeth Nadler who was in the audience and was former President of the Board of Education.

COUNCILMAN TAYLOR: Councilman Taylor reminded the residents that on March 10 will be the 14th annual student/police basketball game at Maple Place and at 6 PM the first game will be the girl's basketball game and at 7 PM they will have the dedication of the Gym at Maple Place School in memory of Larry Boreisen followed by the student/police basketball game and after that, Tim Moss will be entertaining the students and families via the Borough of Oceanport Drug Alliance who will be

presenting a prevention and awareness program that evening. He invited all the residents to attend and commented that it will be a very entertaining evening as well as the dedication of the gym to Mr. Boresen.

Councilman Taylor also extended his best wishes to Mayor Cavanagh on his birthday.

Mayor Cavanagh stated that since there is a reporter from the Atlanticville with us tonight, asked that they try and send a photographer over to the Maple Place School on March 10, since there will be a lot of things they can take pictures of and there is quite a large turnout from the public.

COUNCILMAN WOLFE: Councilman Wolfe reported on Wednesday, February 22, 1995 he attended a meeting sponsored by the Monmouth County Planning Board with members of the Oceanport Planning Board and members Walter Joyce, Gordon Gemma, and the Chairman, Jim Slattery also accompanied him to this meeting in Colts Neck. He continued it was a three hour presentation given by various State, County and local officials dealing with development, in particular in the County, but also Statewide. He advised that they brought back some important information and will be presenting that to the other members of the Planning Board at their next meeting.

Councilman Wolfe reported under the Fire Committee, announced that the Oceanport Hook & Ladder Fire Company is sponsoring its first annual one pitch softball tournament on Sunday, April 2, 1995 and there are sixteen teams they are looking at putting into this tournament and the main field is going to be at Blackberry Bay Park and it is open to any surrounding towns or organizations that want to enter a team and they can contact any of the officers at the fire company.

Councilman Wolfe reminded the public that Oceanport Hook & Ladder Fire Company volunteers are in the final stages of preparing for their 100th Year Anniversary Celebration and it will be held on Saturday, May 20, 1995 at the Monmouth Park Race Track field location and it will be a fun filled day with many various events taking place and as the time draws nearer, he will be reporting on what will be taking place and hoped everyone would come out to help celebrate this occasion.

Councilman Wolfe also advised that the Port-au-Peck Chemical Hose Fire Company members will be conducting their annual Flea Market on Sunday, May 21, 1995 at the Monmouth Park field at Port-au-Peck Ave. and East Main St. and Rick Gallo can be contacted for information on renting space at this event.

R-95-27 Councilman Wolfe asked the Clerk to read resolution **R-95-27** amending the 1995 temporary budget, after which he moved to approve same. It was seconded by Councilwoman Filippone and approved by Council.

COUNCILWOMAN SILKWORTH: Councilwoman Silkworth reported that the one new sign cover has been installed on the Community Events Sign in front of Borough Hall and she offered her thanks to resident Bob Varca, who has volunteered to place the messages on the Board.

Councilwoman Silkworth also advised that the doors at both Borough Hall and the Port-au-Peck Chemical Hose Fire Company have been weather stripped to prevent heat loss.

Councilwoman Silkworth also extended her wishes to Mayor Cavanagh for a very Happy Birthday.

MAYOR CAVANAGH: Mayor Cavanagh offered the following appointments to the Economic Development Committee: Nancy Stokes to fill the unexpired term ended December 31, 1996 and Maryann Becker to fill the unexpired term ending December 31, 1995.

Councilwoman Silkworth moved to approve these appointments. It was seconded by Councilman Taylor and approved by Council.

Mayor Cavanagh stated we had also had two vacancies on the Environmental Commission and we have received letters of resignation from both members and offered the names of John Vivona to fill the unexpired term ending December 31, 1996 and Sol Clark to fill the unexpired term ending December 31, 1995.

Councilman Taylor moved to approve these appointments. It was seconded by Councilman Wolfe and approved by Council.

Mayor Cavanagh recognized Mr. Ward Coles in the audience this evening and as he understands from his recent attendance at the Sewer Authority meeting last week, Mr. Coles will now serve as the Secretary to the Northeast Monmouth County Regional Sewerage Authority, as well as Mr. Hughes, who is our other Borough Representative, will be serving as the Chairman of the Engineering Committee as well as Vice Chairman of the entire Committee. Mayor Cavanagh complimented the Borough representatives on their distinction and asked them to continue to do the work they have been doing and acknowledged their efforts with our thanks and appreciation.

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

PETITIONS FROM THE PUBLIC:

Mr. Ward Coles, Port-au-Peck Avenue wished Mayor Cavanagh a happy birthday and continued good health.

Mr. Stan Nadler, 165 Comanche Drive stated that several months ago he had a meeting approximately during the beginning of September with a group of the Councilpersons where we talked about the boat yard and the violations and he thought when we left that room that there was an agreement as to what the violations were and what was going to be done about this matter and he was under the impression that a letter would be forwarded to the boatyard owner within 10 days, but it was not until 6 weeks later that a letter was sent. Mr. Nadler commented that 30 days later he called Borough Hall and advised that the violations were continuing and received a call back advising that the Mayor would be looking into this matter and get back to him. Mr. Nadler stated another month went by and he again called the Borough Hall and received word again that the Mayor was going to look into this and get back to him.

Mr. Nadler advised that he wrote the Council a letter a month ago to which he has received no response and stated that the only course left to him is one that he does not want to take, because it will cost the taxpayers money if he files a lawsuit and he personally does not want to see this happen, but the lack of response on this continuing matter has pushed them to the only area left open to him.

Mayor Cavanagh asked the Borough Attorney to comment on this matter, since he has had meetings regarding this situation.

Mr. Margalotti advised that he attended the first meeting Mr. Nadler made reference to where we met with Ron Kirk, the Zoning Enforcement Officer and went over the list of Mr. Nadler's complaints and reviewed the old file, the survey, the Court Judgment, etc. and his recollection is that based upon and subject to an on site inspection by Mr. Kirk, there were some items contained in Mr. Nadler's list that the Attorney felt were not zoning violations nor violations of the Court settlement, but there were also other conditions that Mr. Nadler cited that potentially could have been violations and as to those conditions, Mr. Kirk was supposed to go out and do an inspection and if he found evidence of those violations, he was supposed to send a letter to the operator of the boatyard. Mr. Margalotti stated he has no knowledge as to the time sequence or why it took him longer to send that letter that Mr. Nadler expected it to go out, but that is his recollection of the last meeting.

Mr. Margalotti advised that approximately 3-4 weeks ago, which may have been a result of Mr. Nadler's most recent letter to the Governing Body, he met with Mr. Kirk, Mr. Remaley the owner of the boatyard and the owner's Attorney and that meeting lasted an hour or more and for the benefit of the Attorney and to be sure that the owner of the boatyard fully understood what the Borough's position was, he went over all of the terms and conditions of the court settlement, the survey that reflected the Court's determination on the division between the commercial lot and the residential lot, he went over, in detail what activities were permissible on the residential lot and which were not, he went over the fire lane situation and the limited purpose or use for which the fire lane was created and what could not be done with the fire lane and went over some of the complaints Mr. Nadler had raised several months ago, in their initial meeting. Mr. Margalotti continued that this meeting ended with the evident understanding of the owner of the boatyard and his attorney as to what the limitations were and what conditions they had to observe in order to be in compliance with not only the zoning ordinance, but the provisions laid down in the Chancery Division suit, including moving the blocks that separate the waterfront strip of the marina area from the rest of the residential lot and the routing of the traffic into the marina area so that they would not be using any portion of the fire lane improperly and not cutting across any portion of the residential lot.

Mr. Margalotti stated this meeting ended with Mr. Kirk agreeing to do an inspection shortly thereafter our meeting to be sure that whatever we had discussed that evening, was going to be implemented and that there were no on going violations after that point. Mr. Margalotti stated he has had no further contact with Mr. Kirk in the last several weeks since we had that meeting and he has received no information to indicate that there are any other on going violations and that is where the matter has remained.

Mrs. Nadler asked Mr. Margalotti to ask the Police how they access in and out of the boatyard; would he contact the Post Office and ask how they deliver mail and how they go in and out of the boatyard, because they are all using the fire lane and trespassing across the residential lot.

Mr. Margalotti asked if by this Mrs. Nadler was stating that the gate which is to be used only for emergency purposes where the fire lanes enters on Comanche Drive is being used as the main entrance and is open, to which she stated no, but they are coming in through the boatyard main entrance and going up to the river and then they make a left and go around the small shed/house that is there and then they are going around where you are allowed to park, crossing over the residential area, which is not supposed to be used, accessing over the fire lane to go out past and then go out back down the lane which they entered.

Mr. Margalotti questioned past where, to which Mrs. Nadler stated exactly in all the pictures she has shown him of everyone using the fire lane plus the people who are checking on their boats

that are being stored, people who stay on their boats in the marina are doing this in the morning and evening in the same way, including our own police.

Mr. Margalotti advised that we have forwarded Mrs. Nadler's complaints about that particular topic to the Fire Marshal, who is in charge of enforcing the fire lane restrictions and also to the Zoning Officer, and we are told that whenever an inspection has been made or passed by the boatyard, that they have found no evidence of vehicles or cars parked in or crossing the fire lane.

Mrs. Nadler asked why all of the pictures she has given him are not evidence of people using the fire lanes, but Mr. Margalotti stated he has not seen any recent photographs from Mrs. Nadler and asked what pictures she was referring to, to which Mrs. Nadler replied that she is speaking of the pictures she took all last summer. Mr. Margalotti stated that the pictures Mrs. Nadler is speaking about may have captured an activity that took place last summer, but what he is saying is that when we have asked our people to go out and do an inspection to follow up on the recent complaints you have made, they come back and inform us that at the time they have done their inspection, they have not see any evidence of the violation. Mr. Margalotti commented that Mrs. Nadler has to appreciate that all of these officials are part time officials and we cannot have them park in front of the boatyard and make it a 24 hour a day observation type of situation.

Mrs. Nadler commented that she and her husband have taken the time to try and substantiate this and now Mr. Margalotti is telling her that because the pictures were taken last summer it no longer counts, but when they came to him last summer, repeatedly with these, and sent these to you repeatedly monthly, we got no where and reminded everyone that this has been going on for years and we finally began taking pictures to document what was going on and it is still going on and nothing is happening.

Mr. Margalotti commented that based upon the photographs of violations that occurred last year, we did discuss those conditions with the owner of the boatyard and with the owners Attorney and did indicate that if we observed those kinds of activities continuing, that they would be cited because there were violations of both the fire ordinance and potential violations of our zoning ordinance. Mr. Margalotti stated that as far as he is being made aware, none of the appropriate officials who's duty it is to make those inspections, has reported back to him of any current violations.

Mr. Nadler commented that at this point, it seems what happened a couple of months ago, is still happening and that is the lack of curing the problem of using the fire lane and one way to cure it, is to put a boat right in the middle of the driveway where the fire lane is, and then no one would be able to use it, but Mr. Margalotti pointed out that would be a violation because you are not allowed to have any obstruction in the fire lane. Mr. Nadler stated he was not speaking of parking the boat on the fire lane, but if you were to go half way down, just before you get to the gate and make a left where there is an open spot between the boat and the Office Building, which leads you on to over the fire lane and on to the residential part and if we reverse this, people are going straight down the driveway, around the river, circle the Office Building and come out. He continued that one of the reasons is because the gravel has been put down so that everyone thinks that this is a normal way of egressing out of the place and you still have the parking facility and they are still parking cars on the residential lot and there has been no movement of the concrete barriers as well as a truck that has been sitting on the residential lot and has not moved in 3 years, to which Mr. Margalotti questioned who owns the truck, which Mr. Nadler stated that it must belong to the owner of the boatyard. Mr. Margalotti stated there is nothing in the ordinance or in the Court Settlement that prohibits the owner from using the residential lot for their own purposes. Mr. Nadler asked if this was allowed even if there are no plates on the truck, to which Mr. Margalotti stated that this would be a separate issue.

Mr. Margalotti again stated that if the vehicle belongs to the owners, they are allowed to put their own vehicles whether commercial or not, on the residential lot, as long as no customers of the boatyard park there, because that would be an expansion of or a facilitation of the marina operation which must be confined to the commercial lot.

Mr. Nadler commented that it would seem to him that you have someone who is saying, I hear you, but I am not going to do anything about it. Mrs. Nadler stated that the other problem is that when there is a violation happening, we cannot contact someone from the Borough to come over and witness what is going on at the boatyard. Mrs. Nadler also commented that no one on the Council has answered them as to their question of what they are supposed to do when they observe the violations happening, since apparently the pictures they have taken do not count and she asked what they are supposed to do. Mr. Nadler stated they are unable to reach anyone at Borough Hall, we cannot get in touch with Ron Kirk, so who are we to call and advise that there is a violation happening.

Mayor Cavanagh asked Mr. Nadler how many times would he estimate that someone from the Borough has been over to the boatyard to make an inspection in the last two years, to which Mr. Nadler stated he had no idea, but knew that it took Ron Kirk six weeks with prodding from Mr. Margalotti and himself to get one letter sent. Mayor Cavanagh stated that was not what he asked and wanted to know how many times someone has been out to the boatyard, such as himself, Ron Kirk, Walter Joyce, Mr. Margalotti, a Councilperson, to which Mr. Nadler stated perhaps 6 times. Mayor Cavanagh stated he thought that was a very low number and thought that it was at least a dozen times, and felt that Walter Joyce has probably been there six times at least, on his own.

Mr. & Mrs. Nadler both asked if this is the case, why is nothing being done, to which Mayor Cavanagh stated that if the inference they are trying to give is that nothing has been done about the boatyard over the last number of years, that is wrong and they know it is wrong. He continued that if they are suggesting that everything is not as they think it should be, that may be correct.

Mr. Nadler stated you cannot have an inspector come over there six months and then wait another six months to find out what is going on and this must be stopped. He continued that he and his wife told him last year and the year before to stop this, to which Mayor Cavanagh asked if Mr. Nadler was telling him that if tomorrow someone were to go over to the boatyard, they would find violations to be observed, to which Mrs. Nadler stated yes and when questioned by Mayor Cavanagh as to what they might be, she stated they could watch the Borough Police come in and drive over the fire lane and Mayor Cavanagh stated that the Chief is present this evening and he can go back and speak with his officers as to why they are driving down the fire lane, if this is accurate.

Mr. Nadler stated everyone uses the fire lane including the UPS driver, the Police, the Police Office, the Pepsi driver, etc., to which Mayor Cavanagh commented that we have no jurisdiction over the UPS or Pepsi truck drivers, to which Mrs. Nadler stated that the Borough does, if these people are driving onto the fire lane, to which Mayor Cavanagh responded that only the Fire Marshal has jurisdiction over the fire lanes.

Mrs. Nadler commented that she cannot understand after all the photographs she has submitted to the Borough Officials, why this matter is taking years to resolve these problems, to which the Mayor indicated that it has not taken years and numerous issues regarding this matter have been resolved.

Mayor Cavanagh stated that we are not going to sit here this evening and review all that has taken place in the past twelve years from the law suit, which was funded by the taxpayers of this Borough, to which Mrs. Nadler interjected that during the law suit, the Nadlers were not allowed to testify in the suit.

Mr. Margalotti stated that he must correct the statement just made by Mrs. Nadler and continued that Mr. Nadler most certainly testified at the law suit and described the videos which he took and offered into evidence and shown to the Court and Mr. Nadler narrated the videos pursuant to his sworn testimony, so he most certainly did testify in the law suit, as did their neighbor across the street from the boatyard.

Mayor Cavanagh stated we want the record to be correct, because the global picture that Mr. & Mrs. Nadler are trying to give people is grossly inaccurate.

Mr. Nadler stated the reason is due to the lack of communication from the Council to them and when they make an inquiry, they never receive an answer back, to which Mayor Cavanagh stated was not a true statement and went on to state that Mayor Cavanagh has called the Nadler's on several occasions and has spoken with Mrs. Nadler as recently as two months ago and he has left messages on their answering machine, so asked that Mr. Nadler not state that no one ever gets back to them. Mayor Cavanagh stated that when he has spoken with them or left messages, he advises that Mr. Kirk will be getting back to them, since he is the inspector, to which Mr. Nadler agreed this was correct.

Mr. Nadler commented that although what Mayor Cavanagh said is true, he has yet to hear from Mr. Kirk or speak with him about this situation.

Mayor Cavanagh asked if Mr. Nadler was saying that Mr. Kirk has not gotten back to him with regard to his inspections, to which Mr. Nadler agreed with that statement and Mayor Cavanagh stated he will speak with Mr. Kirk about this matter, since he agreed with Mr. Nadler, that if Mr. Kirk has not contacted him about his inquiries, that is not right and he will speak with Mr. Kirk about this the next time he sees him.

Mr. Nadler asked if we find that the same violations are still occurring, are the members of the Borough Council prepared to do something about this, to which Mayor Cavanagh asked what he meant by the same violations, to which Mrs. Nadler stated going across the fire lane, to which again the Mayor advised that the fire lane is under the jurisdiction of the Fire Marshal and he would presume that he would enforce the restrictions of the fire lane and advised that the Governing Body has nothing to do with the enforcement of the fire lane regulations, to which Mrs. Nadler stated they were never told this information or that they should be contacting the Fire Marshal about these types of violations.

Mayor Cavanagh stated that Mr. & Mrs. Nadler continue to use the word violations and asked if they are only talking about the fire lane situation, not the zoning problems because he does not do that nor does he take care of parking on the residential lot.

Mr. Nadler asked why they cannot have a phone number of someone that they can call on a weekend and report violations and hopefully someone could come down and observe what is happening? Mrs. Nadler asked if they can come down to the Police Department and file complaints themselves, to which Mayor Cavanagh stated you can always do that if you feel it is appropriate.

Mr. Nadler asked how the Mayor thought the present four violations can be taken care of, which the Mayor asked what exactly are the violations, since Mr. & Mrs. Nadler have discussed various complaints. Mr. Margalotti commented that one of the major violation that they have complained about is the way the commercial marina traffic is routed so that it essentially travels down a portion of the fire lane and also crosses a portion of the residential lot, which he asked Mr. & Mrs. Nadler if this was a fair statement, to which they agreed. Mr. Margalotti stated that recognizing this and at the last meeting he had with the owner of the boatyard and his Attorney, he and Mr. Kirk strongly recommended and in fact, told them to better delineate the proper and legal course for traffic flow by moving pilings and placing pilings so that the customer's vehicles do not have the ability to wander on to the fire lane or across the residential lot and he thought that would be the solution that would hopefully would prevent future violations. Mr. Margalotti advised that he personally has not made an inspection of the marina since that last meeting but it is his understanding that Mr. Kirk, pursuant to his normal duties, was supposed to do that, but he has not heard from him that he has found non-compliance or that he has found recurring violations, so he can only assume that what we had asked the owner to do, has been carried out.

Mr. Nadler stated he appreciated Mr. Margalotti's response, but again asked if there is a violation, whether it is the fire lanes, zoning or police, or whatever, who do we call on this matter.

Mayor Cavanagh commented that depending on the nature of the violation and depending upon the time, if something occurs during regular business hours they can call Borough Hall and we will reach out to Mr. Kirk or Mr. Slattery, depending on what the problem and on the weekend, to which Mr. Nadler commented is when the activity is most prevalent. Mayor Cavanagh stated it is his understanding that Mr. Joyce has been at the boatyard on several occasions on the weekends, but Mr. & Mrs. Nadler stated they would have no knowledge of this.

Mr. Nadler commented that the warm weather is approaching and the boatyard is going to become busy in another month and something must be done before this all happens.

Mayor Cavanagh advised Mr. & Mrs. Nadler that he cannot promise that Mr. Kirk or other Officials will be available on the weekends because this is not fair because these people are part time employees, to which Mrs. Nadler asked what are they supposed to do because this ongoing problem is a detriment to them and they want to get this resolved and asked if she should take video tapes and bring them into the Police Department or continue to take photographs because there must be some way to resolve this in light of the fact that the officials are part time and most of this happens on the weekends.

Mr. Margalotti suggested that he would be willing to contact Mr. Kirk and find out if he has made an inspection of the boatyard since our last meeting and if he has not, he will direct him to do so with the specific purpose of seeing whether or not the owner has carried out our suggestions about delineating the proper driveways for the customers and marina traffic to use so as not to create continuing violations as described tonight and if that has not been done, we will have to sit down with the owner again and make it clear that this must be done so that we can resolve at least these problems.

Mr. Nadler wished Mayor Cavanagh a Happy Birthday.

Mr. Baxter, 19 Pocano Ave., asked if this is the same Mr. Kirk that the Council is referring to that was supposed to take care of the matter that he brought up at the last Council meeting regarding

the debris on Pocano Ave., to which Mayor Cavanagh stated yes and Mr. Baxter advised that the debris is still there and nothing has been done to date to remove this.

Mayor Cavanagh stated this was addressed in a letter which he received a copy of today, which indicates that the owner has 5 days to either remove the debris or receive a summons returnable in Municipal Court.

Ward Coles, Port-au-Peck Ave., asked if the Borough has an ordinance where the town picks up the debris and charges the homeowner, to which Mayor Cavanagh stated that we used to do that all the time, but we found that people would rather have us do it like that, because our Road Department, when we charge the time compared to what a private contractor would get, was a much better deal to have the Road Department do it, so the people would leave it out and ask for a bill and we do not have a large enough work force to undertake this type of operation.

Mr. Baxter suggested if this was a better deal for the residents in the past, then why not raise that fee to an amount that they would not feel as comfortable with and Mayor Cavanagh stated perhaps what we can do is frame it in the context where we have a private contractor come in with a set bid and do it that way, because using our own people becomes both a man power problem and an economic problem.

Councilman Miller stated that a good friend of the homeowner on Pocano, happens to be under his direction at school and he has alerted him to the fact that this is becoming a problem and he has assured him that he would take care of it by this weekend, to which Mr. Baxter stated that Councilman Miller mentioned this possibility at the last Council meeting two weeks ago and nothing has happened yet.

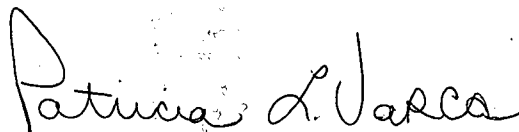
Mr. Baxter wished the Mayor a Happy Birthday.

Mr. Remaley, 157A Comanche Drive wished the Mayor a Happy Birthday and commented with reference to the statements made earlier regarding the boatyard, he wanted to point out that many changes have taken place over the past years and he has gone round and round with various Borough Officials and Building Inspections. He continued that he has had many random inspections made by Walter Joyce once and twice a week at times, and some times he came before a Council meeting and gave his findings that he has been more than cooperative in trying to resolve the problems that have been ongoing since his parents owned the boatyard. He stated that now that he is the owner of the marina there have been changes and complaints are still being made even though he has made many improvements and hoped the Council would keep that in mind.

Councilman Wolfe moved to approve the bills as listed on the Voucher Register dated March 2, 1995. It was seconded by Councilman Taylor and approved by Council with the exception of Councilman Wolfe who abstained from voting on the vouchers due Seeley Equipment. TOTAL 1994 VOUCHERS PAID THIS MEETING \$1,597.28. TOTAL 1995 VOUCHERS \$51,472.88. TOTAL 1995 VOUCHERS PAID THIS MEETING \$89,125.40. TOTAL 1995 OPERATING FUND \$140,598.28. TOTAL DOG REGISTRY ACCOUNT \$390.07. TOTAL CAPITAL ACCOUNT \$13,425.00. TOTAL MONEY MARKET ACCOUNT \$110,000.00. TOTAL CENTENNIAL CELEBRATION ACCOUNT \$1,000.00. TOTAL GENERAL LEDGER-OCEANPORT BOARD OF EDUCATION \$359,752.60. TOTAL GENERAL LEDGER-MIDDLE DEPARTMENT INSPECTION AGENCY \$1,145.50. (SEE VOUCHER REGISTER)

At 9:10 P.M. Councilman Miller moved to adjourn the meeting until the next regular meeting scheduled to be held on March 16, 1995. It was seconded by Councilman Taylor and unanimously approved by Council.

Respectfully submitted,

A handwritten signature in cursive script that reads "Patricia L. Varca". The signature is written in dark ink and is positioned above the printed name.

PATRICIA L. VARCA
BOROUGH CLERK