

REGULAR MEETING MINUTES

Oceanport, New Jersey
November 15, 2001

REGULAR MEETING: The Regular Meeting of the Oceanport Mayor and Council was called to order on November 15, 2001 at 8:10 P.M.

MEMBERS PRESENT: Councilpersons Apruzzi, Gatta, Lyons, Wolfe, McGann, Silkworth* and Mayor Gemma.
*Councilwoman Silkworth arrived at 8:40 p.m.

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 meeting held on October 18, 2001 had been made available to the members of the Governing Body, Councilwoman Gatta moved to waive the reading of same and approve the minutes as presented by the Borough Clerk. It was seconded by Councilman Apruzzi and unanimously approved by Council, with the exception of Councilman McGann who abstained because he was not present.

CLERK'S REPORTS:

1. Police report for the month of October, 2001 and a copy will be posted on the bulletin board.
2. Applications for membership to the Port-au-Peck Chemical Hose Fire Co. made by the following: Michael Reagor, Frederick Santi, Edwin Brister, Jr., Joseph Gray, Artie VanPelt and Albert Sico.

The Clerk advised that the background checks had been completed by the Police Department after which Councilman Wolfe moved to approve the applications. It was seconded by Councilman Apruzzi and unanimously approved by Council.

COMMITTEES:

COUNCILMAN APRUZZI: Councilman Apruzzi asked the Clerk to read resolution **R-01-66** #R-01-66 regarding green acres grant monies, which is merely changing the amount of the possible matching part, as was requested by the Green Acres Office, after which he moved to approve same. It was seconded by Councilwoman Gatta and unanimously approved by Council.

Councilman Apruzzi then asked the Clerk to read resolution **R-01-67** #R-01-67 regarding Block 81, Lot 7.01 and authorizing the Mayor and Borough Clerk to execute a Quitclaim Deed for this property, after which he moved to approve same. It was seconded by Councilman Wolfe and unanimously approved by Council.

Councilman Apruzzi advised that the Police Report for October indicated the Dispatchers received 1,016 calls, of which our Police Officers responded to 594.

Councilman Apruzzi read a letter from Mrs. Kelly of Gooseneck Point Road commending the actions of Chief Bebout in setting up an Officer to help direct traffic on Myrtle Avenue after the closing of Oceanport Avenue, which made it almost impossible to get out of Gooseneck.

Councilman Apruzzi reminded all residents that the annual Holiday Tree Lighting will take place at Borough Hall on Sunday, December 2nd at 5:00 p.m. with a visit from Santa and refreshments will be offered following the lighting at the Port-au-Peck Chemical Hose Fire House.

Councilman Apruzzi offered his condolences to the families of Cliff Hepburn, Mrs. Stapleton and John Rolly.

COUNCILWOMAN GATTA: Councilwoman Gatta announced that the Oceanport First Aid Squad will be selling trees, wreaths, grave blankets, roping, etc. beginning November 25th and urged everyone to try and purchase their holiday needs from the Squad.

Councilwoman Gatta also reminded everyone that the annual Holiday Bazaar and chance auction would be held by the Squad on Saturday, December 8th and commented that this event is the Squad's largest fund raiser and they work all year getting ready and she hoped everyone would come out and support our volunteers.

Councilwoman Gatta advised that she has a poster in the entrance of Borough Hall with regard to the recent Veteran's Day ceremonies that took place and she has also left the essays from the children at both Wolfhill and Maple Place Schools and urged everyone to take the time to read some of these very moving stories by our students.

Councilwoman Gatta also offered her condolences to the families of John Rolly, Cliff Hepburn and Merrill Stapleton on their recent passing.

Councilwoman Gatta wished all the residents a happy and healthy Thanksgiving.

COUNCILMAN LYONS: Councilman Lyons offered his condolences also to the Rolly and Stapleton families. He commented on the recent passing of Cliff Hepburn, who served as the Commander of VFW Post 10129 in the Borough, stating that Cliff was instrumental in preparing and supporting both Memorial Day and Veteran's Day ceremonies in Oceanport for many, many years and he will be missed greatly.

#R-01-68

COUNCILMAN WOLFE: Councilman Wolfe asked the Clerk to read resolution **R-01-68** transferring funds, after which he moved to approve same. It was seconded by Councilman Apruzzi and unanimously approved by Council.

Councilman Wolfe reported that the Borough has been officially notified that we have once again been successful in obtaining a grant from the Department of Transportation for the resurfacing of Wardell Circle in the amount of \$150,000 and that work will commence in 2002. He explained that we will be looking at the installation of curbing and doing some drainage work and our Borough Engineer will be drawing up several options for that street and once that is done, he and Councilman

McGann will meet with the residents of Wardell to discuss the options and receive input from the residents.

Councilman Wolfe offered condolences to both the Rolly and Hepburn families.

COUNCILMAN MCGANN: Councilman McGann called for the introduction of an amendment to the police ordinance and asked the Clerk to read the proposed ordinance by title only, as follows: **AN ORDINANCE REPEALING THE ORDINANCE ENTITLED "THE POLICE DEPARTMENT ORDINANCE OF THE BOROUGH OF OCEANPORT" PASSED AND APPROVED ON DECEMBER 1, 1938; SUBSTITUTING THEREFOR AN ORDINANCE PROVIDING FOR THE ORGANIZATION, MAINTENANCE, REGULATION AND CONTROL OF THE POLICE DEPARTMENT, AND PROVIDING FOR THE ADOPTION OF RULES AND REGULATIONS.**

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

The Clerk called the roll:

AYES: Councilpersons Apruzzi, Gatta, Lyons, Wolfe and McGann.
NAYS: None.
ABSENT: Councilwoman Silkworth.
ABSTAIN: None.

Councilman McGann then moved to hold the public hearing on this ordinance at the next regular meeting scheduled to be held on December 6, 2001 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 and McGann.
NAYS: None.
ABSENT: Councilwoman Silkworth.
ABSTAIN: None.

Councilman McGann moved to authorize the Borough Engineer to prepare a survey, LOI and complete Phase I for the property known as Block 88, Lot 26. It was seconded by Councilman Wolfe and unanimously approved by Council.

Councilman McGann explained that this motion is in regard to a grant application which we have received from the Department of Environmental Protection, Green Acres and have received a grant in the amount of \$750,000 to acquire property presently owned by Monmouth Park Race Track and more commonly known as the "soccer fields" on Port-au-Peck Avenue. He continued that we also have another application in Trenton and feel confident that it will be approved for \$250,000 in grants, giving us a total of one million dollars in grants toward the acquisition of this property, which equals forty-six acres of land, which will be available for future recreational use.

Councilman McGann also reported that the Borough's non-binding referendum on the ballot for the General Election passed three to one, so we have the ability of raising a bit more revenue to pay some debt service in order to maintain and improve our park systems. He stated we are now up

to two cents for this purpose and it is good long range planning for our children and our grandchildren.

Councilman Wolfe commended the work Councilman McGann has put forth in this area filing the applications and setting up the public questions for our residents to respond to and this has helped us get the grant monies, rather than just being offered loan money.

Councilman McGann thanked Councilman Wolfe for his comments and added that by having the a dedicated open space tax, we have picked up a half million dollars in grant monies because we would have only been eligible for 25%, but instead received 50%, which is a very large sum of money when we are talking about a two million dollar acquisition.

Councilman McGann then moved to authorize the Borough Attorney to do a title search on the subject property as well as to begin preparation of a contract for this property. It was seconded by Councilman Wolfe and approved by Council.

Councilman McGann asked the Clerk if we have any correspondence with regard to the next item on the agenda, which is an amendment to the Zoning Ordinance, to which the Clerk advised a memo had been forwarded to the Mayor and Council from the Planning Board Secretary dated November 15, 2001 advising that at the Planning Board meeting held on November 14, 2001 the Board unanimously approved the proposed zoning amendment stating it is consistent with the Land Use portion of the Master Plan and recommended that the review letter from the Borough Engineer be made part of their recommendation.

Mayor Gemma suggested that before going further with this matter and realizing the concerns of our residents, the Borough Attorney explain the process that is about to take place.

Mr. Margalotti advised that the present zoning ordinance does not address the cemetery that is located in the Borough and exists because it is a pre-existing, non-conforming use in that it was created years before the first zoning ordinance was adopted. Mr. Margalotti continued that because of a recent application that came before the Planning Board for site plan approval regarding a proposed crematorium, the planners and the Governing Body realized that we had absolutely no provision in our ordinance dealing with the operation of a cemetery.

Mr. Margalotti stated that the Planning Board has reviewed a draft of a proposed amendment to the zoning ordinance that would legitimize in some way the existing cemetery operation and advised that the cemetery is located in an R-2 residential zone and the intent of the proposed ordinance would be to create the cemetery as a special exception use in only the R-2 zone, because that is in fact, where it exists. He explained that the significance of it being created as a special exception use means that any change that would be proposed to the existing cemetery would have to go before the Planning Board because it is not a permitted use, such single family residences are a permitted use in this zone and the town, through the Planning Board would always retain a certain degree of review control over the cemetery and any future changes that might be proposed to the operation of the cemetery. He stated that with this in mind, the Planning Board apparently reviewed this draft and as the memo from the Planning Board Secretary indicated, the Board finds that the draft is consistent with the Master Plan and they have recommended that the Governing Body act on this and introduce the amendment and make it into an effective ordinance, subject to some comments made by the Borough Engineer, Thomas Rospos, in a letter that he directed to the Planning Board and provided to him this morning. He advised that he reviewed the comments and

had an opportunity to conference with Mr. Rospos today and go over the changes and modifications proposed and what he would like to do prior to the Council taking any action on this matter, is to go over those changes and explain what the Engineer had in mind and how it would impact on the draft that the Planning Board reviewed.

Mayor Gemma asked Mr. Margalotti to explain to the public the process as far as what happens tonight, does it go back to the Planning Board and more importantly, when does the public have the opportunity and at what venues to speak about this matter. Mr. Margalotti responded that if the Council decides to take action on this tonight in one form or another, it would be considered a first reading or introduction of this proposed ordinance and as a first reading, there is no public discussion and no public hearing with respect to the final approval of the ordinance, which comes at a later date and because it does affect zoning, the Council would be acting properly, if upon introduction and approval on first reading tonight, it would send the ordinance back to the Planning Board for one final review before it is listed for final action and a public hearing.

Mayor Gemma asked if at the Planning Board, can there be public input at that time, to which Mr. Margalotti stated yes and explained that the Planning Board meetings are public meetings and the public has an opportunity and right to attend and to make comments to the Board and depending on what the Planning Board does and if they were to approve it in the version in which it is being introduced tonight, it would come back to the Mayor and Council and would be placed on the agenda for a final reading and at that time, there would be a notice of public hearing on this ordinance alone and at that time, the public would have the right to come back to the Governing Body having had the ability to read the proposed ordinance and to offer any input they might want with regard to the form and any concerns they might have about what is proposed, so in answer to the Mayor's question, the public would have two opportunities to express their opinions. He also advised that if the Council elects to introduce this ordinance tonight, copies of the zoning amendment would be available to the public as of tomorrow in the Clerk's Office which would give them an opportunity to review the proposed ordinance before both the Planning Board meeting and the Council meeting.

Mayor Gemma then asked Mr. Margalotti to review the changes that have been made in this amendment, to which Mr. Margalotti stated one of the concerns the Borough Engineer had was the provisions with regard to a private mausoleum and commented that the ordinance defines a mausoleum as a structure which provides for the entombment of human remains, etc., but the law recognizes two types of mausoleums, one being the public mausoleum which we are all familiar with and are the larger buildings that presently exist at Woodbine and then there are private mausoleums, which are individual or family mausoleums generally of a much smaller structure. He explained that in the original draft of the ordinance that was before the Planning Board, regulated the maximum height of family or individual mausoleums at 15 feet, but it said nothing about the size of the private mausoleums, so on page 1 under the definition of mausoleums and with respect to the definition of a private mausoleum, the proposal that Mr. Rospos has made is to limit the size of a private mausoleum to 500 square feet, which is a combination of 20 x 25 feet or any combination of those two, but it cannot exceed 500 square feet and the Engineer was of the opinion that a typical family or individual mausoleum does not exceed that and in many instances is smaller than 500 square feet.

Mr. Margalotti stated the next change suggested and incorporated into the draft before the Governing Body tonight deals with maximum building length and explained that the draft had said that no building could be greater than 100 feet in length, and this would pertain to any building that could be lawfully erected in a cemetery. He continued that the Engineer's concern was that there was nothing in the draft pertaining to the size of the building, it did not state anything about width,

depth, etc. and only regulated the height and as for any elevation that would face a public street, that this elevation could not be longer than 100 feet. He commented that the purpose of that was because there was concern about driving alone a public street and seeing a massive structure that might be 500 feet or 1,000 feet and basically creating a large obstruction to view and to visibility paralleling a public street so that was the reason why the language was couched in terms of any elevation that could be viewed from a public street could not be greater than 100 feet in length, but to also address the overall bulk or size of the structure there has been added some language that would, in addition to that, limit the area of a building not to exceed 5,000 square feet, so if you had a building that was maximum 100 feet in length as it runs parallel to a public street, then the building could not be any greater than 50 feet in depth.

Mr. Margalotti explained that the next proposal dealt with the establishment of a five foot wide buffer around the perimeter of a cemetery and the Engineer's concern was what was the definition of the buffer and what was it intended to achieve, to which Mr. Margalotti explained after discussing this with Mr. Rospos, the agreement was that you wanted to maintain a perimeter buffer around the cemetery, particularly where it adjoins other properties that would prohibit the use, for any purpose, of that five foot strip, so there would be no graves, structures, markers, headstones, etc. and that any cemetery activity was going to be removed from the actual property line itself. He continued that the definition was then clarified to say that no public or private mausoleum, grave, headstone, marker or other building structure shall be erected within or upon the buffer area. Mr. Margalotti pointed out that with respect to specific structures like mausoleums or maintenance sheds or other buildings that might be legitimately constructed within a cemetery, there are other setback provisions that are far greater than the five foot buffer, so that is not to say that they can put up a maintenance building or a caretaker's house or some other structure five feet from someone's property line.

Mr. Margalotti advised that the next item deals with building clusters, which we did not distinguish between private mausoleums and any other type of structure for a public mausoleum in the cemetery and the section on building clusters states that buildings that are within a cluster itself, must be separated by not less than 200 feet distance between buildings within the cluster and the concern was that if you apply this to private mausoleums, which are generally erected on what would be the equivalent of grave sites, it would be imposing an undo hardship to require a 200 foot distance between private mausoleums and so a sub-section D was added into Section 8 of the ordinance which basically says that private mausoleums regardless of number, shall not be subject to the regulations regarding building clusters.

Mr. Margalotti commented that this last change did not stem from the Borough Engineer's recommendations or his conversation with him but on the instruction of the Planning Board Attorney, Mr. Menna, the Board Secretary sent a copy of the draft that was considered by the Planning Board yesterday to the cemetery and he was told by the Planning Board Secretary that some time today she received a phone call from Mr. Kunkowski discussing some of the contents of this draft and one of the comments made was that the section on building clusters provided that there had to be a minimum distance between a building cluster and any other free standing building of not less than 200 feet. He continued that there is another provision in this proposed ordinance that would require the erection of a crematorium to be not less than 700 feet from any residential property and he explained that Mr. Kunkowski's comment was that the two were inconsistent and there is not enough room in the cemetery to adhere to the 700 foot restriction and also locate a crematorium that would be at least 200 feet from the nearest public mausoleum. Mr. Margalotti stated he examined a copy of the site plan that had been filed by the cemetery with the Planning Board during the course of the last hearing that was before the Planning Board and subsequently withdrawn and he scaled off a location

that would satisfy the 700 foot requirement and he found that Mr. Kunkowski was correct that you could not also comply with the 200 feet minimum distance to the nearest public mausoleum. He continued that if you locate a crematorium with the 700 foot restriction, you are going to put it much closer to the mausoleum than what was before the Planning Board on the last application and in point of fact, when he scaled it off, it would be approximately 160-170 feet from the nearest public mausoleum, so with that in mind, the other change he proposed in the draft copy was to reduce that distance from 200 feet to 150 feet. Mr. Margalotti explained that the reason he did that was because the use of the cemetery for a crematorium is established by case law and there is no legal right for this Governing Body to enact an ordinance that would make it physically impossible for the cemetery, if it chose to, to erect a crematorium and if the Council were to pass an ordinance of that type, whereby because of inconsistent provisions, it became physically impossible to erect a crematorium, in his judgment, that ordinance would not be sustainable on a court attack, because basically what the town would have done is to say yes, you can have a crematorium, but you cannot do it without going for a variance and the case law is clear that the operation of a crematorium just as the operation of a mausoleum is an inherent function and part of an otherwise legally existing cemetery. He continued that all the town and Governing Body can do is attempt to control and regulate the location and placement of that type of structure so as to cause minimum negative impact on surrounding owners.

Mr. Margalotti stated that in his opinion it was necessary to make that slight modification so that we would not be faced with a situation after passage, that when you look at the site plan every possible site where that crematorium could be located, if the owner decides to go through with that, would be barred in some way or another, so you have to come up with regulations that would allow it without the necessity of the owner having to go for a variance.

Mr. Margalotti commented that this was a summary of what the Planning Board reviewed and transmitted and what was discussed with the Borough Engineer.

Mayor Gemma asked the Attorney, just to be clear, if the Council adopted nothing, what would happen, to which the Mr. Margalotti responded that if nothing was adopted and made no changes to the Zoning Ordinance, you are running the risk that the cemetery operator would come back before the Planning Board with some form of an application for the creation of a crematorium and you have then placed the Planning Board in a situation of having absolutely no guidelines to follow in judging that application and it seems to him, if nothing else, by amending the ordinance to address this unique type of use and it is unique, because when you look at the balance of the town, in his judgment, this proposed ordinance would require a minimum lot area for any cemetery of 20 acres and when you look at the town in all of the other residential districts of the town, there is not another piece that is at least 20 acres or larger where a cemetery could legally be built, so in that sense, Woodbine Cemetery is a unique situation and even though this problem may not and hopefully will ever come in any other part of town, he felt that it strengthens the town's position and gives greater protection to its residents by amending the ordinance to address this unique type of use specifically and to impose reasonable controls; reasonable in a sense that they can be defended in the event of a court attack, but will also keep in mind the public safety and the public welfare, so he thought essentially it would be a disservice for this Governing Body to turn its back on the problem and not take any action to try and address the issue through a proper amendment to the zoning ordinance.

Mayor Gemma once again asked just to be clear, if we adopted an ordinance that said no how/no way a crematorium would be permitted, what would happen, to which Mr. Margalotti stated

that he felt that ordinance would be challenged and in his opinion, based upon his knowledge of case law, that ordinance would not be sustained.

Councilman McGann called for the introduction of an amendment to the zoning ordinance and asked the Clerk to read the proposed ordinance by title only, as follows: **AN ORDINANCE TO AMEND AND SUPPLEMENT AN ORDINANCE ENTITLED THE "BOROUGH OF OCEANPORT ZONING ORDINANCE" PASSED AND APPROVED ON JULY 3, 1969.**

Councilman McGann moved to approve this ordinance on first reading. It was seconded by Councilman Lyons.

The Clerk called the roll:

AYES: Councilpersons Apruzzi, Gatta, Lyons, Wolfe, McGann and Silkworth.
NAYS: None.
ABSENT: None.
ABSTAIN: None.

Councilman McGann then moved to hold the public hearing on this matter at the meeting scheduled to be held on December 20, 2001 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.

Mayor Gemma advised the audience that the Planning Board will have a public hearing on this ordinance and the public hearing will be taken on November 28, 2001 and copies of this ordinance as amended and drafted, will be available tomorrow morning and after the November 28th public meeting by the Planning Board, the ordinance will be back before the Governing Body with a public hearing at our meeting scheduled on December 20th and he just wanted to make sure everyone was aware of the specific dates.

Councilman McGann expressed his condolences to the residents of Oceanport who recently lost family members and wished everyone a very Happy Thanksgiving.

COUNCILWOMAN SILKWORTH: Councilwoman Silkworth moved to authorize the Architect to advertise and receive bids for the replacement of roofs on various Borough buildings. It was seconded by Councilman Wolfe and unanimously approved by Council.

Councilwoman Silkworth also offered her condolences to the Borough residents who have lost family and also wished everyone a Happy Thanksgiving.

MAYOR GEMMA: Mayor Gemma expressed his condolences to the families of Cliff Hepburn, John Rolly and Mrs. Stapleton.

Mayor Gemma announced that there would be a fundraiser on Saturday for the Straine family at the Port-au-Peck Chemical Hose Fire Co. and Mr. Straine was a victim of the September 11 tragedy at the Twin Towers and he invited everyone to attend and raise funds for the family and advised that Mrs. Straine was left on the 11th with a two year old and a seven day old and it was Mr. Straine's first day back to work and it will be an all day event with activities scheduled for the evening and he hoped everyone would make an attempt to attend.

Mayor Gemma thanked Joe Lyons for his time on Council and he ran a good race and congratulated Councilwoman Gatta on her re-election and also to Michael Mahon in the audience on his election to the Council.

Mayor Gemma also extended his wishes to all the residents for a very Happy Thanksgiving.

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

PETITIONS FROM THE PUBLIC:

Ed Ryan, 24 Willow Court asked when the section of Main Street near Monmouth Park Place and Brookview Drive will be repaired, since it has been quite awhile.

Councilman Wolfe explained that Main Street was part of another DOT Grant that the Borough had received and the project was almost completed when there was a failure of two underground drainage systems and we had to go out and get a contractor to bid on that emergency project and it is scheduled to take place the week after Thanksgiving. He explained that it is a very deep cut in that area, some twelve feet down to the bottom of a forty-eight inch pipe, which is one of the largest drainage pipes we have in the Borough and there is a combination relocation of the water main that runs down the street and the re-installation of these two drainage systems, which means the road will have to be closed for a five day period with no access across that section of Main Street near Pan Gardens and traffic will be diverted to Eatontown Boulevard and Oceanport Avenue and we were also waiting for Oceanport Avenue to re-open, which is scheduled to happen on November 21st in order to help with the detour of traffic.

Councilman Wolfe also advised that after speaking with our Borough Engineer at our work shop meeting it was agreed that after the work is completed, the roadway in that area will only receive a base coat in order to allow that section of roadway to settle properly and then in the spring it will be milled out and receive a final paving, rather than have a continuous problem with the area sinking.

Mr. Keats, 17 Maple Ave. commented there are existing ordinances in the Borough that refer to smoke and odor and asked where these fit in regarding the proposed ordinance for the crematorium, to which the Borough Attorney advised that these are nuisance ordinances and they would apply to any activity either commercial or residential within the town and they would over ride any lawful use in the town and even though a use may be a permitted use, whether permitted by State law or by the local zoning ordinance, no use can be operated that would violate those other provisions in terms of smoke and odor.

Mr. Keats asked how this would be policed and/or monitored, to which Mr. Margalotti advised that it would not be policed on a daily basis, certainly not by town officials, but if evidence were

brought to the attention of the local officials that there were possible violations of this through smoke or odor, he believed that the appropriate health authorities would be contacted and brought in and probably also the State DEP would be requested to come in and do an on site inspection to determine if there are, in fact, any violations of that type.

Mr. Keats asked if Mr. Margalotti was referring to the County Board of Health, to which he stated yes as well as the State DEP. Mr. Keats questioned if the town had an air quality official, to which Mr. Margalotti stated not on a local level, to which Mr. Keats asked how we would go about having such a position created in the Borough. Mr. Margalotti was not sure if the Borough would or could create such a position because we are members of the Monmouth County Board of Health and they provide health services for the Borough and they have the expertise that we, as a small municipality would not have nor could most likely afford to have as a permanent member of the Borough staff. Mr. Margalotti continued that if we suspect any type of a violation for any use anywhere in the Borough, the first line of investigation would be through the Monmouth County Board of Health.

Mr. Keats asked how that would be initiated and if it would be through the Borough Council, to which Mr. Margalotti stated he felt if there was a pressing matter it could be brought to the attention of the Mayor and Council, but the Municipal Clerk would most likely be instructed to contact the County Board of Health and asked them to come in and make an investigation, which would be the same if we wanted to have a State Agency come to the Borough.

Mary Kinslow, 23 Locust Ave., West Long Branch commented that there were two DEP permits that came into the town and was wondering if the Mayor had the ability or if he wrote a response on the permits regarding the line of verification of the wetlands.

Mayor Gemma stated it is his understanding from conversations with the Engineer, that since they withdrew the application before the Board, he does not believe that they are seeking that permit any longer, but if they go ahead with that permit, he will obviously respond. He continued that he has a strange feeling that after this ordinance is adopted, they may re-seek that application and at that time we will respond.

Mrs. Kinslow questioned if Mr. Rospos, the Borough Engineer, verified from the DEP that it was withdrawn, to which Mayor Gemma stated yes and he had asked Mr. Rospos where we were with that and he had responded that as far as he knew they were not seeking their permit any further because the application itself was withdrawn.

Mrs. Kinslow stated that Mayor Gemma had promised at a previous Council meeting that if the application wasn't pending before the Borough Council, that you would write a resolution opposing for health and safety reasons of the public in close proximity to the residential area, that he would write something opposing the crematorium being erected, to which Mayor Gemma stated that what he did instead of making it a resolution, made it something stronger than that and wrote a letter to the people at the Cemetery Board asking for action and the same letter was sent to our State Legislators because ultimately this is a function of changing legislation and the Cemetery Act of 1970 gives the cemetery owners the right to put in this use which he felt was inappropriate and that in his opinion, as well as a lot of people, that they are putting in a retail use in a residential zone and it does not make sense. He continued that he received a response back only from Assemblyman Arnone and hopefully he is looking at making an amendment to the present legislation.

Mayor Gemma commented that a resolution is nice, but he wanted a response and often times resolutions do not receive responses. He stated we are looking for responses back from our Legislature and elected officials saying the it is up to the people in Trenton to change the law and to give small towns like ours the opportunity to say that maybe some crematoriums in small cemeteries in residential zones are not things that should be given automatically. He again stated that as of now, he as yet to receive any responses back other than Assemblyman Arnone and he will follow up on his letter to try and receive a response and he encouraged some residents who met with him, it is not just the voice of one Mayor or one resolution, but it is the voice of many to write to their elected officials and say this is an issue that requires an amendment to the present law.

Mrs. Kinslow stated that she appreciated the Mayor's efforts but had to ask again that since there are so many people who have signed the petition in the Borough and some in West Long Branch, that if a resolution was written, it would go on the record and she has a copy of the resolution written by West Long Branch if he does not have a copy.

Mayor Gemma stated we are having the public hearing on this ordinance on December 20th and he would rather not muddy up our consideration of the ordinance by having a resolution, but would rather pass the ordinance clean and done and then maybe pass the resolution and possibly by that time, he may have more responses to his letter.

Mrs. Kinslow stated that if the application comes back before the Board, then the Council cannot pass the resolution, to which Mayor Gemma responded that he understood what Mrs. Kinslow was saying, but at that point our ordinance would be in place, but we will discuss it at our next work shop meeting.

Mrs. Kinslow asked in relation to the Sunshine Act, when you are attending a Planning Board meeting and the ordinance is discussed by the Board, but not read and although they stated that the public couldn't comment on the ordinance because it wasn't really read and was only discussed, she felt they kind of confused the audience because they thought they were not allowed to participate, but yet the Board voted on it and asked if that is why the ordinance is going back to the Planning Board again or in order for it to be introduced tonight, did the Planning Board have to send it to the Council for approval.

Mayor Gemma stated no and stated that it was an administrative action and we are following the letter of the statute and making sure that we are following the statute verbatim and that is what we are doing, but what the Planning Board did he cannot comment on because he was not at the meeting last night, but he wanted to be clear to the members in the audience that the next hearing of the Planning Board, when they read the ordinance that was introduced tonight, there will be an opportunity for public comment at that time on this ordinance.

Stu Briskey, 46 Werah Place asked for an update on the Fiore punch list for the road program, to which Councilman McGann advised that we have requested our Borough Engineer to get on Mr. Fiore to see that the work is done and it has been lagging too long and we want to see the punch list taken care of and finished.

Mr. Briskey commented that last year the road program was delayed because normally there is no paving work done after November since the weather can get too cold, which Councilman McGann agreed with and stated this was one of the matters discussed at the work shop meeting with our Engineer.

Mr. Briskey suggested that in the future that it be put in the contract that if the final punch list matters are not addressed, there is no payment made, to which Councilman Wolfe stated the contractor has not been paid. Mr. Briskey stated that he inquired about that and he has been paid quite a large amount of money, but Councilman Wolfe stated we still are holding a certain retainage.

Mr. Briskey also commented that when the residents of Wardell Circle were here some time ago about the potholes, Councilman Wolfe stated that there are basically three ways they get reported—from the public, the Road Department and the Police Department. He continued that listening to his fire pager over the last several months, they have reported several pot holes just east of 275 Port-au-Peck Avenue and also a sink hole, which a cone was left that blows away in the wind and then the hole fills with leaves at Itaska Place and Comanche Drive and it has been well over two weeks and he asked if Councilman Wolfe could help him to understand why no action was taken at these two locations.

Councilman Wolfe stated he was not familiar with the hole on Port-au-Peck Ave. and will bring it to the attention of the Public Works Superintendent, but there is a slight cave-in at the inlet at Itaska and Comanche and we have the equipment to make the repairs, but we are just waiting for a break in the leaf pick up because it will take the Road Department two days out of their leaf schedule to make the repairs and this can be done even if the weather gets bad.

Mr. Briskey reiterated that he felt the sinkhole was a very dangerous situation, since a child on a bike could ride over it and seriously get injured as well as several senior women who walk near that area every day.

Mr. Vecchione, Woodbine Way complimented Mr. Margalotti on his explanation this evening with regard to the ordinance introduction and the procedures that are followed and felt it was very clear and easy to understand, which was very different from last night's Planning Board meeting and not only did he and the other fifty or so people in audience get the impression that they could not talk, but also got the impression that when the members asked questions that they shouldn't, they were told to come before the Mayor and Council to either ask questions as a member of the Planning Board or a member of the public, which is not consistent with what was explained tonight.

Mr. Vecchione presented a copy of an aerial map with a notation showing where the building would be erected if the 700 feet mentioned in the ordinance was used as well as showing that the only place that would be high enough ground would be next to the mausoleum and asked if when the change was made from 200 feet to 150 feet, if they realized what they were doing.

Mr. Margalotti commented that when he examined the site plan that the applicant had submitted to the Planning Board what is based upon what we understand to be an accurate survey of the property showing the correct locations of all existing structures including the mausoleum and when we measured to the nearest residential property line, both at the end of Turf Drive and also on the adjoining side of Burnt Mill Circle, 700 foot distance would enable the applicant to put up a building the size of the building they had proposed previously before the Planning Board and still be approximately 150 feet from the nearest corner of the mausoleum. Mr. Margalotti commented that he did not know what the other markings on Mr. Vecchione's copy indicated or what the scale is, but he based his calculations on what he believed to be an accurate engineering prepared survey of the cemetery property.

Mr. Vecchione stated what he is asking is when Mr. Margalotti changed the 200 feet to 150 feet with regard to the cluster which is there now, what you are doing is not being generous at all because 150 feet is a long way from the mausoleum which puts you basically back in the swamp area, to which Mr. Margalotti stated he does not know that and there is nothing before the Board in terms of wetlands delineation, to which Mr. Vecchione advised he did know and was merely informing Mr. Margalotti.

Mayor Gemma stated to Mr. Vecchione that this is a time for general comments but the specifics of the setbacks and the hours of operation, etc. should be discussed at the appropriate venue which would be on the 28th of November in front of the Planning Board and back here on December 20th in front of the Governing Body, to which Mr. Vecchione stated he was only commenting that they are being quite conservative in their approach on this ordinance.

Mr. Vecchione commented that last night at the Planning Board that Mr. Joyce did not deny any permits and they can come back to apply for permits and he asked what would happen if Mr. Joyce granted permits tomorrow or next week, what happens to where the crematorium may be located, to which Mayor Gemma stated he would not respond that this type of question because it is speculative.

Mr. Vecchione then asked if the burners show up before this ordinance is passed, does that negate this ordinance, to which Mr. Margalotti stated in his judgment if the burners are delivered to the cemetery property tomorrow, they cannot be installed or hooked up without the appropriate permits and if they attempt to do any type of work without a permit, it would not surprise him to learn that Mr. Joyce would issue a stop work order on the property the very next day.

Mayor Gemma stated that work that is going on presently has nothing to do with the crematorium, but is just renovations to the building with appropriate permits.

Mrs. Kinslow commented that Councilman McGann mentioned something earlier about another property and the Borough having an environmental study being done and wondered since we had asked about this prior to the hearings and now that the hearings are over, they never did get the study and wondered why did other situations get environmental impact studies when we asked for one on this matter.

Councilman McGann explained that this is an entirely different procedure and process that she is speaking of and one of the requirements for Green Acres grants that we have received and in order for us to acquire the property through these funds, is to have a Phase I environmental study performed on the subject property and it has no inter-relationship with the processes before the Planning Board. He continued that an environmental study can be required by ordinance for an application before the Planning Board or interested parties who oppose the application can retain their own expert to perform an environmental study.

Mrs. Kinslow commented that as far as protected wetlands over there, Mr. Kunkowski has stated that he has the great blue heron on his property and they are protected and she went on to say that there is a form letter that without an environmental study, the Borough Council could fill out and send in to the DEP and there would be could be a 150 foot buffer zone established to protect that wetland area.

Councilman McGann responded by stating that most environmental study requirements and development ordinances require minimal tract size of say one hundred acres and we don't have such an ordinance in this Borough.

Mrs. Kinslow stated that what she was saying was to forget about the environmental study and just fill out the form that says that these birds exist on that property and let's protect them, to which Councilman McGann felt that there must be some standards and things of that nature, to which Mrs. Kinslow stated no, on the form basically whoever has sighted the bird on the property, fills out the form and you send it in to the DEP and they come in and do a survey.

Mark Barrecca, 6 Maple Court stated that the Mayor was kind enough to share with the audience the name of the elected official that responded to his letter and he felt that all of the people in this room who vote, would be interested in knowing the names of the officials who have not responded, since the people control who remains in office.

Mayor Gemma advised that his letter was copied to Assemblyman Arnone who was kind enough to respond, Assemblypersons Farragher, Corodemus, Smith, Senators Palaia and Bennett.

Mr. Skolnik, Burnt Mill Circle stated he did not understand the Planning Board's function in connection with this ordinance.

Mr. Margalotti explained that the function of the Planning Board in this procedure is to make certain that the proposed changes to this zoning ordinance would be consistent overall with the Master Plan that was adopted several years ago and is revised by law every five years and which is supposed to basically lay out a blue print for the future growth and development of the town. He continued that the law does require that any time a governing body proposes to make any change to its zoning ordinance, that it must have the input of the Planning Board, because the Planning Board is the local agency that is entrusted by law with developing and implementing the overall Master Plan, so since this would represent a significant change in the existing zoning ordinance by creating a special exception use and imposing various controls on the future development of that use, it's very important that the Planning Board be given an opportunity to pass upon it, evaluate it and also, should be in a position to receive public input at that level on what is proposed, so that when they respond back to the Mayor and Council as to what their analysis is to the proposed change to the zoning ordinance, that they have reflected on the public input as well.

Dave Gruskos, 75 Cayuga Ave. asked when the Planning Board is presented with these documents should they be publicly reading the documents when they are questioning parts of it rather than discussing only certain parts, to which Mr. Margalotti asked if he was referring to last night's meeting, to which Mr. Gruskos stated he was and Mr. Margalotti advised that he was not at that meeting and does not know what went on or what advice they were acting upon, but all he can say is that as of tomorrow morning, these proposed changes will be available to the public and you will have an opportunity to study them and you will be well acquainted with what is proposed when you go back before the Planning Board at their November 28th meeting.

Mr. Gruskos advised that he is a member of the Planning Board and because of the Sunshine Law is why he has questions about what took place and explained that when the document is before the Board, if the public asks the Board what they are looking at, are they entitled to know what we have before us and should we be reading the document to them, to which Mr. Margalotti stated that when the meeting is opened up to the public and invite public comments or questions, that certainly

is a legitimate question. Mr. Margalotti continued that the Board may not be able to provide copies to the public at that time because it is a draft, but if a member of the public gets up at the appropriate time at a Planning Board meeting and asks specific questions about what is being considered, it would be his judgment based upon how all public agencies are run, that the public would be entitled to have those questions answered.

Mr. Vecchione commented that once again the Borough Attorney, Mr. Margalotti explained the definitions of public and private mausoleums, which he felt, was not properly done at the Planning Board meeting.

Mr. Keats commented on the Planning Board stating that he has been to quite a few meetings on this issue and several of the members are elected Council Officials and several of the members are appointed and he gets the distinct impression that the whole show is run by the Attorney and its run in a very un-democratic fashion as he perceives it and it is not run like the Council meetings which are done in a more democratic fashion.

Mrs. Kinslow stated she was upset with the manner in which the Planning Board runs their meetings and at the last meeting the people were leaving because they felt they were not going to have a chance to speak. She continued that when they opened the meeting to the public, she was in the process of moving up closer, since it was difficult to hear and the meeting in that short amount of time was adjourned and they would not re-open the meeting for any public comments.

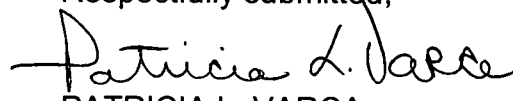
Mayor Gemma reiterated that this is why he has made very clear the public hearings scheduled for the zoning ordinance so that everyone has an opportunity to be heard both by the Planning Board and the Governing Body.

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

Councilman Wolfe moved to approve the vouchers on the Bill List dated November 15, 2001. It was seconded by Councilman Apruzzi and unanimously approved by Council. 2001 VOUCHERS PAID \$921,087.02. 2001 VOUCHERS PAID THIS MEETING \$824,999.05. TOTAL 2001 VOUCHERS \$1,746,086.07 ADDENDUM – GPU BILL \$2,866.06. CAPITAL ACCOUNT \$79,167.00. RECREATION TRUST \$475.00. TRUST OTHER \$2,384.00. DOG REGISTRY \$250.00. TOTAL 2001 VOUCHERS \$1,748,952.13 (SEE BILL LIST)

At 9:30 p.m. Councilwoman Silkworth moved to adjourn this meeting until the next regular meeting scheduled to be held on December 6, 2001 at 8:00 P.M. It was seconded by Councilwoman Gatta and unanimously approved by Council.

Respectfully submitted,


PATRICIA L. VARCA
BOROUGH CLERK