

## **Township of Vernon**

### **TOWNSHIP COUNCIL MEETING MINTUES**

**JUNE 25, 2018**

The Regular Meeting of the Township Council of the Township of Vernon was convened at 7:00 p.m. on June 25, 2018 in the Vernon Municipal Center, 21 Church Street, Vernon, New Jersey with Council President Jean Murphy presiding.

#### **STATEMENT OF COMPLIANCE**

Adequate notice of this meeting had been provided to the public and the press on January 5, 2018 and was posted on the bulletin board in the Municipal Building in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-7.

#### **ROLL CALL**

Present were Council Members Sandra Ooms, Dan Kadish, Mark Van Tassel, John Auberger and Council President Murphy. Also present were Mayor Harry Shortway, Business Administrator Charles Voelker, and Township Attorney Josh Zielinski.

#### **SALUTE TO THE FLAG**

Council President Murphy led the assemblage to the Flag.

#### **MAYORS REPORT**

Mayor Shortway reported that the Vernon governing body has approved and will continue to formulate ordinances that improve our community such as the vacant building and soil fill ordinances. He expressed his support to a maintenance and chicken ownership ordinance should Council authorize and noted the required enforcement to all residents.

Mayor Shortway detailed the need for regulation for Short-term rentals due to their rapid growth but recommends not prohibiting them entirely in our community as there are an estimated 146 in operation in Vernon.

Mayor Shortway explains there have been complaints received about Short Term Rentals (STR), so-called party houses in Vernon, severely impacting neighborhoods with noise, trash and parking problems which could drive down nearby home values. Increased tourist traffic from short-term renters has the potential to slowly transform peaceful residential communities into “communities of transients” where people are less interested in investing in one another’s lives like full-time residents do.

Mayor Shortway added that the absence of proper regulation or limited enforcement of existing ordinances causes tension or hostility between short-term landlords and their neighbors and stressed that enforcement is required and costs money. He added that Short-Term Rentals are unregulated and untaxed businesses causing unfair competition to our local bed & breakfasts and hotels and suggested a 6% occupancy tax and permit fee be charged to cover the enforcement costs.

Mayor Shortway detailed his suggestions for a proposed Ordinance to regulate Short-Term Rentals:

- Residents will be generally permitted to rent their homes for less than 30 days.
- An agreement with the short-term rental company, such as Airbnb will charge six-percent hotel occupancy tax on their rentals in the Township.
- The Company will also reimburse property owners for up to one million dollars in damage caused by renters.
- The ordinance will prohibit homeowners and renters from “changing the character of the neighborhood.”
- The STR Ordinance will ease the burden of requiring that the owner obtain a c.o. for every change in occupancy, by permitting owners 7 classifications of properties to obtain an annual short-term rental permit, paying one annual fee and having one set of inspections for a 12-month period. The STR permit will be good for a 12-month period, from its issuance, and will

allow the owner to rent the property on a short-term basis up to a cumulative total of 220 days in that 12-month permit period

- Classifications for allowable STRs:
    1. A single-family residence in a qualified community or a condominium, if the respective association and bylaws permit short-term rentals.
    2. A single-family residence in commercial and resort zones;
    3. Qualified private communities can self-determine if the residence can be placed in a short-term rental program that is subject to Township regulations and fee structure;
    4. Farms, where the property is farmed by the owner and it is a qualified farm.
    5. One (1) unit in a two-family residence, where the other unit is the principal residence of the owner;
    6. One (1) unit in a multi family residence, where one of the other units is the principal residence of the owner;
    7. Not more than two rooms (i.e. bedrooms) within a single-family residential dwelling unit in residential zones, where the room shares common kitchen and bathroom facilities with the occupant of the dwelling unit, and the remainder of the single-family dwelling unit is owner occupied (this is the original definition of “home sharing”).
  
  - Principal address means the address: (1) where at least one of the property owners spends the majority of his or her non-working time, **and** (2) which is most clearly the center of his or her domestic life, **and** (3) which is identified on his or her driver’s license or state identification as being his or her legal address. All the above requirements must be met for an address to constitute being a principal residence.
  - Short-term Rental property owners are required to obtain a permit prior to advertising their property for rental on a short-term basis. All advertisements for rental of the property must contain the Short-term Rental Permit number issued by the Township
  - Eligible property owners or entities will submit a permit application to the Township of Vernon Zoning Department, together with all required documentation, and the application fee. The Township will issue a Permit to applicants who satisfy all requirements, which includes an inspection of the property for the issuance of an annual Certificate of Occupancy.
  - The permit fee is \$250.00 annually. (The fee for the renewal of the permit is \$250.00). That fee includes the Short-Term Rental Permit as well as the fees for all inspections, and the issuance of the required annual Certificate of Occupancy.
  - Each time that occupants change of Short-Term Rental property throughout the year, Property owners are required to fill out a Short-Term Rental Occupant Change Form and submit to the Township. This form requires, among other information relating to respective Short-Term Rental, the names, ages and gender of each occupant who will be occupying the property. This form will be available and may be completed and submitted online. Just as in any standard application for a regular Certificate of Occupancy, when property owners rent their property in the Township, this basic identifying information of the intended occupants of the property is required for purposes of police, fire, and emergency personnel and Township Officials being aware of who is occupying the property at all times. Further, it is required to ensure that no overcrowding of the property is occurring.
  - Three violations for quality of life issues at the Short-Term Rental property within the permitted time use will result in forfeiture of the permit for the remaining year and subsequent year.
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Regarding the 3 Silver Spruce Soil Issue, Mayor Shortway outlined a timeline of events.

On July 23, 2014 an initial investigation of an incident was received at the NJDEP Hot line and site was inspected with NJDEP CLUE inspector and the respective Soil Conservation District inspector. The Soil Conservation District issued a Stop Order with violation and the NJDEP found a potential violation at this site.

On September 11, 2015 an investigation of an incident reported to the NJDEP office and Sussex County Soil Conservation issued a Stop Order and the NJDEP office issued a warning letter.

On October 5, 2015, a site visit to verify fill material slide complaint received by the DEP office which investigation found mostly dirt, wood mulch, stone and few small pieces of concrete. DEP Investigator informed the property owner that the incident will be reported to the Sussex County Conservation District immediately. Mayor Shortway stated that the current Township administration became aware of this situation in November of 2017. Vernon Township has just recently received reports from DEP

through the assistance of Senator Oroho and Congressman Gottheimer who have supported my requests since this matter was brought to my attention.

On December 7, 2017, Vernon Township Code Enforcement officials followed up on a complaint of excessive truck traffic entering the said property and potential illegal dumping occurring. The NJDEP inspected the property with a police escort but the property owner refused to allow Vernon Code Enforcement members onto the property. Officials found large piles of questionable concrete material was still present and did not appear to be disturbed or added too, however a few new smaller piles of aggregate crushed stone/gravel, lumber, and mulch materials were new and clearly being used.

On December 19, 2017, a joint site visit was conducted with representatives of Vernon Township, and the NJDEP offices, to verify whether incoming and outgoing truck traffic were importing fill material on the silver spruce site. Officials viewed a mixture of concrete, brick, block, asphalt pieces and large pieces of stones and concrete at the bottom of the side slope at few sections. He added that there were no trucks importing fill material and no filling activities was occurring during the investigation and the overall site appeared to be same last visit. The residential property owner was advised not to import construction/solid waste/fill material without proper analytical data/paper work.

On January 12, 2018, NJDEP officials met in Trenton and determined that although the filling activities are unacceptable, State offices were unable to determine the appropriate regulation of their programs to regulate this filling/importing fill material activity and representatives present believed that this is a local matter.

Mayor Shortway stated the Sussex County Soil Conservation District was to take the property owner to court to enforce the County Stop Work Order. Vernon Township Administration found itself without State and County support to regulate and/or stop the dumping at 3 Silver Spruce and other locations in the Township which led to research and ultimately pass our own soil fill ordinance. The NJDEP continued to conduct inspections at 3 Silver Spruce and other locations within the Township.

On January 26, 2018, the NJDEP received information that excavated soil from a BP gas station was transported to the Silver Spruce property without proper authorization, but inspectors were unable to find immediate solid waste concern at this time. A follow -up visit was done on April 6, 2018 by NJDEP and inspectors were unable to detect any immediate solid waste concerns.

Mayor Shortway added that on April 10, 2018, this governing body passed Ordinance 18-15 to regulate dumping of potentially contaminated soil being trucked into our community. As a new chapter to our municipal code, the Ordinance established soil fill application requirements and permitting fees for a practice that had largely remained unnoticed by most local officials which then led to 6 (six) summonses for alleged violations issued to the Silver Spruce location.

On May 2, 2018, NJDEP inspectors again inspected the site and found 3 (three) trucks waiting to dump material which was wet soil type material and contained incidental amounts of small pieces of stone, concrete and asphalt. The inspectors were unable to detect any abnormal odor, color from the material deposited on site and/or material contained in the trucks. A visual analysis by the NJDEP inspectors determined it was not solid waste. Based on physical nature of the fill material the inspectors were unable to determine whether the fill material exceed the residential direct contact soil remediation standards or non-residential direct contact soil remediation standards.

On May 25, 2018 NJDEP inspectors conducted yet another inspection at the site and were met with the representatives of the residential property and Vernon Township. The property owner denied access to the township representatives. NJDEP inspectors observed are was mostly dirt/soil with broken bricks on top surface of filled area and mixture of stones, broken bricks/blocks on few sections of side slope. All metal/plastic drums/totes were empty as seen during last inspection. The inspectors were unable to detect any abnormal odor, and/or color from the material deposited on site and/or material and based on visual analysis of the fill material determined it was not a solid waste as per the N.J. regulations. Also, based on physical nature of the fill material the inspectors were unable to determine whether the fill material exceed the residential direct contact soil remediation standards or non-residential direct contact soil remediation standards.

On Friday June 22, 2018, Congressman Gottheimer called State officials and demanded that all related information in this matter be forwarded (as promised two weeks earlier) to the Attorney General's Office for a probable cause determination and for a search warrant. Environmental core testing is

needed to determine if chemical contamination has resulted from Mr. Wallace's refusal to abide by the County Stop Work order and submit a plan as requested.

Mayor Shortway stated that Vernon Township Attorney wrote up a complaint requesting an injunction to stop the dumping on Silver Spruce which was reviewed and signed and presented to Superior Court today.

Although this may cost the Vernon taxpayer thousands of dollars, Vernon must use legal means to stop this dumping. I have requested assistance from the County and we await their reply.

Mayor Shortway urges residents to reach out to our Freeholders to respectfully ask for their assistance in this matter which in Vernon's eyes should have been spearheaded by the NJDEP, County Board of Health and Soil Conservation.

Mayor Shortway commented that the 2014 County Stop Work Order on the Silver Spruce property has fallen on the Vernon Taxpayers due to the lack of action by upper levels of government which is unfair. He added that Sussex County requires Vernon residents to fund the Solar Fiasco and their 911 Center that we do not use.

Mayor Shortway explained that a bill to regulate dirt brokers has been sitting in a respective NJ legislature committee for two years and based on NJDEP, Vernon Police, Sussex County Soil Conservation, and zoning reports that the property owner at 3 Silver Spruce is operating an alleged landfill without a Recycling Facility Approval which can result in an environmental hazard and needs action.

Mayor reiterates that the operator has ignored a stop work order issued in 2014 by Sussex County Soil Conservation. Vernon Twp.'s position is the NJDEP has an affirmative obligation to analyze soils and rectify environmental concerns/hazards and requests NJDEP to conduct core discrete environmental testing for chemical contamination. Legislation, though, is required to permit the NJDEP the authority to enforce environmental regulations including the requirement that all landfill operations be subject to discrete environmental testing by NJDEP authorized lab. Mayor Shortway will present an Ordinance on July 9, 2018 to Council similar to Bill 1683 to regulate dirt brokers. which will include severe penalties for failure to comply or operate an illegal facility punishable by fines up to \$3000.00 per day and up to 364 days incarceration which is the maximum incarceration period for a municipal ordinance violation permitted by statute.

Mayor Shortway stated that he met with Councilman Kadish to discuss his concern over Herald Square regarding financing. Vernon Township received a special legislative \$1,000,000 grant during the mid-2000s of which \$500,000 was used to purchase the property for the wastewater system. Seven acres was provided to SCMUA for the recharge station and the Township's obligation has been met and there is no claw back regulation regarding the grant. Research was also done on other grants related to the wastewater plan and sewers received at the time and none were used to purchase Herald Square. Mayor Shortway explained the only stipulation on the property is that no blasting be allowed.

Mayor Shortway stated he requested assistance from Senator Oroho regarding the New Jersey's Urban Enterprise (UEZ) Program, which exists to foster an economic climate that revitalizes designated urban communities and stimulates their growth by encouraging businesses to develop and create private sector jobs through public and private investment. Mayor suggested that the same program should be legislated for communities affected by the Highlands Act to stimulate economic growth which he feels would cut the NJ sales tax in half.

Mayor Shortway requested from Council an Ordinance amendment to permit feather signs for Vernon's businesses with provision that police, and zoning concerns are met.

Mayor Shortway announced that Vernon Township CFO Ms. Elke Yetter has resigned effective July 5, 2018 and was hired by Sussex County as their CFO.

Mayor Shortway expressed a comment to Governor Murphy, to please drain the swamp and get to the high ground. When municipalities are dealing with State agencies on issues such as RR ties in the wetlands, Legends and now this dumping on Silver Spruce, moving forward has been a nightmare marred in red tape with an "I can't do" attitude. Mayor Shortway opined that we need to show the bureaucrats the pathway out and create an environment with a "Can Do" attitude. Mayor Shortway opined that most of state employees work hard and want to solve problems without fear of reprisals. He added that local governments look to the State for help but in recent years is missing.

Council Member Ooms commented that the Lake Community Associations should be involved in the Short-Term Rental Ordinance. Mayor Shortway agreed that all parties involved should submit their suggestions to the Council for the Ordinance. Council President Murphy said many complaints have been received by the Highland Lakes Association of excessive noise, parking problems and visitors using amenities without permission which is enforced by the association. Mayor Shortway commented that he is unaware of the legal issues of the Short-Term Rentals in the Qualified Lake Communities.

Council Member Ooms questioned if there were any issues selling if Vernon used grant money to purchase the Herold Square property. Mayor Shortway explained that he and Ms. Yetter researched numerous past financial reports in the mid 2000's to ease any kind of controversy and found Vernon has fulfilled its obligation for the grant and can sell remainder of parcel not being used for the Recharge Facility. He added that Vernon Township bought the entire parcel for \$1,250,000 as noted in the 2009 Forensic Audit even though appraisals came in at \$440,000 and \$1.2 million. Council Member Kadish commented that the soils on the property are unique and ideal for an expansion of the recharge facility in the future. Mayor Shortway explained one developer is no longer interested since a majority of the site is rock and selling the unused township property is up to the Council.

### **PUBLIC COMMENTS (On Current Agenda Items Only)**

Council President Murphy asked for a motion to open the meeting to Public Comments.

MOVED: John Auberger

SECOND: Dan Kadish

All members voted in favor.

Sally Rinker commented on items not on the agenda. Ms. Rinker was advised to make her comments during the second public comment.

Seeing no other members of the public wishing to come forward, Council President Murphy asked for a motion to close the meeting to Public Comments.

MOVED: Dan Kadish

SECOND: John Auberger

All members voted in favor.

### **MINUTES**

Council President Murphy asked for a motion to approve the Regular Meeting Minutes May 31, 2018.

MOVED: Dan Kadish

SECOND: John Auberger

A roll call vote was taken:

AYES: Sandra Ooms, Dan Kadish, John Auberger, Mark Van Tassel, Jean Murphy

NAYES: None

ABSTAIN: None

ABSENT: None

Motion was approved.

### **ITEMS FOR DISCUSSION**

Council President Murphy stated the Mayor detailed his suggestions about an Ordinance for Short Term Rentals such as Air BNB and council should review comments for future action. Council Member Ooms suggested discussion with the Lake communities before moving forward.

### **CONSENT AGENDA**

Council President Murphy gave a brief explanation of Resolutions #18-171 to #18-177.

Council President Murphy asked for a motion to approve Resolutions #18-171 to #18-177.

MOVED: Dan Kadish

SECOND: John Auberger

A roll call vote was taken:

AYES: Sandra Ooms, Dan Kadish, John Auberger, Mark Van Tassel, Jean Murphy  
NAYES: None  
ABSTAIN: None  
ABSENT: None

Motion carried to approve Resolutions #18-171 to #18-177.

**TOWNSHIP OF VERNON**

**RESOLUTION #18-171**

**(REFUND OVERPAYMENT- (BOILING SPRINGS SAVINGS BANK) BL 190 Lot 9**

**BE IT RESOLVED**, by the Council of the Township of Vernon, Vernon, New Jersey, that a warrant be drawn to Boiling Springs Savings Bank in the amount of \$2,768.43 representing refund for overpayment of 2<sup>nd</sup> qtr. 2018 property taxes for Block 190 Lot 9, also known as [REDACTED], [REDACTED]

**RESOLUTION #18-172**

**CHAPTER 159 RESOLUTION REQUESTING APPROVAL OF REVENUE AND APPROPRIATION AMENDING THE 2018 BUDGET AS A REVENUE AND APPROPRIATION OF \$52,125.99**

**WHEREAS**, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount; and

**WHEREAS**, the Township has been awarded a \$52,125.99 Clean Communities Grant from the State of New Jersey Environmental Protection Agency; and wishes to amend its 2018 budget for this amount as a revenue.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Council of the Township of Vernon hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2018 in the sum of \$52,125.99 which is now available as a revenue from the State of New Jersey Department of Environmental Protection,

**BE IT FURTHER RESOLVED** that a like sum of \$52,125.99 is hereby appropriated under the caption 2018 Clean Communities Grant.

**RESOLUTION #18-173**

**AUTHORIZING NEGOTIATIONS FOR ROLL OFF VEHICLE UNDER N.J.S.A. 40A:11-5(3)**

**WHEREAS**, the Township publicly advertised and sought receipt of public bids on June 7, 2018 at 1:00pm and June 19, 2018 at 12:00pm, for a total of two (2) times for a Roll Off Vehicle; and,

**WHEREAS**, the Township has duly advertised for bid #9-2018 and #9R-2018 where no bids were received on both occasions; and,

**WHEREAS**, the New Jersey State Local Publics Contract Law, N.J.S.A.40A:11-5(3) allows for negotiations subsequent to two (2) rejected or non-received bids; and,

**WHEREAS**, it remains the desire of Township of Vernon to secure a contract with a local and economically efficient provider of Roll Off Vehicles for the Department of Public Works; and,

**WHEREAS**, relief is available through the New Jersey Local Public Contract Law N.J.S.A.40A:11-5(3) and the Township desires to avail itself of this remedy through negotiations

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon, Sussex County, that the Township Administrator and Qualified Purchasing Agent or their designee are authorized to enter into negotiations with contractors under the provisions of N.J.S.A. 40A:11- 5(3) which correspond to available funding.

This Resolution shall take effect immediately.

#### **RESOLUTION #18-174**

#### **RENEWAL OF LIQUOR LICENSES IN THE TOWNSHIP OF VERNON FOR THE 2018-2019 LICENSING TERM**

**WHEREAS**, all licenses to dispense alcoholic beverages must be renewed and reissued annually no later than June 30, 2018; and

**WHEREAS**, pursuant to N.J.S.A. 33:1-1 et. seq., the Vernon Township Police Department has made the necessary inspections and reported same to the Township Clerk; and

**WHEREAS**, all of the licenses have complied with all of the regulations as set forth by the Alcoholic Beverage Control Commission of the State of New Jersey;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon that the following licenses shall be reissued for the 2018-2019 licensing period effective as of July 1, 2018.

#### **PLENARY RETAIL CONSUMPTION**

Drew's Tavern, Inc. (Lamp Post Inn)

1922-33-001-004

#### **PLENARY RETAIL DISTRIBUTION**

Mac & Lindy's LLC (Mac & Lindy's Fine Wine & Spirits)

1922-44-012-001

#### **RESOLUTION #18-175**

#### **RENEWAL OF INACTIVE LIQUOR LICENSE IN THE TOWNSHIP OF VERNON FOR THE 2018-2019 LICENSING TERM**

**WHEREAS**, all licenses to dispense alcoholic beverages must be renewed and reissued annually no later than June 30, 2018; and

**WHEREAS**, pursuant to N.J.S.A. 33:1-1 et. seq., the Vernon Township Police Department was unable to make the necessary inspections as the licensed premise is currently inactive and reported same to the Township Clerk; and

**WHEREAS**, the licensee has applied for renewal of their inactive license as it is still a license premise; and

**WHEREAS**, the Township is in receipt of an Order of Indefinite Suspension from the Office of the Attorney General, Division of Alcoholic Beverage Control dated January 17, 2018 under the Agency Docket Numbers: S-15-37216; H-2015-51137.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon that the following licenses be reissued for the 2018-2019 licensing period effective as of July 1, 2018 with the restrictions noted.

#### **PLENARY RETAIL CONSUMPTION**

**BE IT FURTHER RESOLVED THAT:**

- 1) The licensee must prior to reactivating the license provide written proof in the form of an order or other supporting documents, as approved by the Township Attorney, stating the suspension on the above named license has been lifted; and
- 2) The licensee must submit to the regular renewal inspections as required by the Vernon Township Police Department.

**RESOLUTION #18-176**

**AUTHORIZING THE UPGRADE TO THE ENTERPRISE LICENSE OF SPATIAL DATA LOGIC**

**WHEREAS**, the Township currently uses Geologic Software from Spatial Data Logic, Somerset, NJ, which is currently being used in the Planning & Zoning, Building, Administration, Fire Prevention and Assessor’s Offices for permitting, licensing, electronic maintenance of all inspection reports and transmission of monthly activity reports directly to the Department of Community Affairs; and

**WHEREAS**, the Traditional Seat Licensing is end of life and no longer supported after 2018; and

**WHEREAS**, the cost for the upgrade to the Enterprise Version for the remainder of 2018 is \$0 with a commitment to sign up for 2019 at an approximate cost of \$19,500 for thirteen (13) seats.

**NOW THEREFORE BE IT RESOLVED**, by the Township Council of the Township of Vernon, County of Sussex and State of New Jersey as follows:

- 1. The Township of Vernon is authorized to engage Spatial Data Logic for the purpose of Technical Customer Support and Upgrades to currently owned modules.
- 2. The Mayor and Township Clerk are hereby authorized and directed to Contract with Spatial Data Logic, Somerset, NJ.

**BE IT FURTHER RESOLVED**, that the governing body of Vernon Township pursuant to NJAC 5:30-5.5(b) (the certification of available funds), states that the Chief Finance Officer shall either certify the full maximum amount against the budget at the time the contract is awarded, or no contract amount shall be chargeable or certified until such time as the goods or services are ordered or otherwise called for prior to placing the order, and a certification of availability of funds is made by the Chief Finance Officer;

**RESOLUTION #18-177**

**RESOLUTION APPOINTING ALTERNATE FUND COMMISSIONER**

**WHEREAS**, the Township of Vernon (hereinafter “Local Unit”) is a member of the Statewide Insurance Fund (hereinafter “Fund”), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

**WHEREAS**, the Fund’s Bylaws require participating members to appoint a Fund Commissioner; and

**WHEREAS**, the Township appointed its Fund Commissioner and Alternate Fund Commissioner via Resolution 18-16 on January 1, 2018; and

**WHEREAS**, the Township is desirous to change its Alternate Fund Commissioner effective July 9, 2018.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Township of Vernon that the Township Clerk (Lauren Kirkman) is hereby appointed as the Alternate Fund Commissioner for the Local Unit effective July 9 2018; and

**BE IT FURTHER RESOLVED** that the Local Unit’s Fund Commissioner is authorized and directed to execute all such documents as required by the Fund.

**INTRODUCTION/1<sup>ST</sup> READING OF PROPOSED ORDINANCES**

Council President Murphy read Ordinance #18-20 by title only:

**Ordinance #18-20:** An Ordinance Replacing Chapter 447 Of The Code Of The Township Of Vernon Entitled “Property Maintenance”



Council Member Ooms made a motion to discuss before Introducing Ordinance which was seconded by Council President Murphy. All members were in Favor.

Council Member Ooms said section 'F' about properties with utilities turned off should be revisited due to residents using property as summer home and noted ordinance should be concerned only about outside of home. She further questioned verbiage in section F (E) 447-10 which Mr. Zielinski stated was from the BOCA National Code. Ms. Ooms suggested definition of 'good' condition regarding exterior surfaces be more specific and questioned who would enforce. Ms. Ooms referred to Section 'L' and questioned why commercial properties are not included and how to enforce aesthetics of a home.

Council President Murphy explained that the Council received the Ordinance showing changes made from review by the Township Attorney and Zoning Officer based on repetitive public complaints and needs of the Township. Council President Murphy added that items were not arbitrarily removed. Council Member Kadish opined that there is no need to duplicate any regulations if they are already in the Building Codes.

Council President Murphy commented that section on exterior painting in the ordinance may not be needed but added that there are many issues with occupied homes having tarps on roofs, trash and vehicles left outside and generally not being maintained. Neighbors are calling the Zoning Officer complaining about these issues which she is unable to enforce so the Council needs to provide direction. Council Member Ooms questions if the Ordinance is maintaining the structural, agricultural or aesthetic aspect of properties and needs clarification why the home on a farm-assessed property is exempt from the Ordinance as they may have various vehicles on lot. Council Member Kadish explained that farm properties are directed by the Council Board of Agriculture and the Right to Farm Act.

Council President Murphy explained the Ordinance was edited to current issues that the Zoning officer, will be able to adequately enforce. Council Member Ooms recommended removing Section E – Exterior Paint.

Council Member Kadish stated he understands the necessity to put pressure on neighbors for the safety and good of the public but feels Ordinance is too intrusive and arbitrary in standards. He added the appeal process needs to be replaced with some form of appeal or it will become unconstitutional. Council Member Ooms agreed with Council Member Kadish that emphasis should be on structural issues. Council President Murphy added that there are some residents unable to take care of their property which leads to maintenance issues.

Council President Murphy makes a motion to table Ordinance #18-20 to the next meeting for revisions as discussed to be reviewed by Township Attorney and Zoning Officer and Ordinance amended.

MOTION: Jean Murphy  
SECOND: Sandra Ooms

A roll call vote was taken:

AYES: Sandra Ooms, Mark Van Tassel, John Auberger, Jean Murphy  
NAYES: Dan Kadish  
ABSTAIN: None  
ABSENT: None

Motion carried to table Ordinance#18-20 to July 9, 2018.

## **PUBLIC HEARING/2<sup>ND</sup> READING OF ORDINANCES**

Council President Murphy read Ordinance #18-21 by title only:

**Ordinance #18-21:** An Ordinance Of The Township Of Vernon, County Of Sussex, State Of New Jersey Authorizing The Sale Of Property Owned By The Township And Not Required For Public Purposes And More Commonly Known As Herold Square 114 Rt. 94, Block 232, Lot 12

Council President Murphy asked for a motion to open the public hearing for Ordinance #18-21.

MOVED: Sandra Ooms  
SECOND: John Auberger  
All members voted in favor.

Seeing no members of the public wishing to come forward, Council President Murphy asked for a motion to close the public hearing for Ordinance #18-21.

MOVED: Mark Van Tassel  
SECOND: John Auberger  
All members voted in favor.

Council President Murphy asked for a motion to adopt Ordinance #18-21.

MOVED: Mark Van Tassel  
SECOND: John Auberger

A roll call vote was taken:

AYES: Mark Van Tassel, John Auberger, Jean Murphy

NAYES: Dan Kadish

ABSTAIN: Sandra Ooms

ABSENT: None

Motion carried to approve Adoption of Ordinance#18-21.

**PUBLIC COMMENTS** *(Limited to 3 minutes on any topic)*

Council President Murphy asked for a motion to open the meeting to Public Comments.

MOTION: John Auberger

SECOND: Dan Kadish

All members voted in favor

Sally Rinker commented on the number of ordinances that the Township had brought forward. Ms. Rinker thanked Members Ooms, Van Tassel, Auberger and Kadish for moving forward on the Soil Fill Ordinance and encouraged them to work together for a democratic process. Ms. Rinker commented on the soil placed on a property in High Ridge. Ms. Rinker opined a work session was needed. Ms. Rinker opined that this is not the time to save money on Engineering Services as the Soil Issue is not decreasing and a meeting must be held with the Attorneys, Zoning Officers, Mayor & Council and Public to address and solve the problems.

Council President Murphy explained that prior to the Ordinance being approved in April, there was lengthy discussions involving the Engineer, Attorney, local contractors, as well as residents from Silver Spruce. Council President Murphy indicated that for a member of the public to come forward with misinformation is not helpful.

Council President Murphy stated the Environmental Commission Chairperson organized a meeting on Thursday with Mr. Auberger, the Township Engineer, and DEP representatives to review our Ordinance and report on suggestions.

Margaret Distasi, [REDACTED] stated she has been dealing with the soil dumping issue since 2009 and suggests Township Attorney investigate that Silver Spruce Road is a Right of Way and not a private road therefore no one has control who is on the roadway. Ms. Distasi expressed dissatisfaction with her neighbor for his activities with the soil.

Linda Jacob, Vernon resident for 35 years, noted the soil concerns in town and suggested residents work together by filing complaints with NJDEP and Sussex County Soil Conservation District and urges Council to hold a public meeting to brainstorm for suggestions. Ms. Jacob expressed concern for the town and compared the Soil issue with the Radon problem of the past and urged all residents to work together. Council President Murphy noted the court hearing on this matter was coming up. Council President Murphy noted that there is 32 page piece of legislation that is before the legislature about the soil issue and public awareness is widespread.

Andrew Pitsger, [REDACTED] stated that the site where soil dumping is occurring is zoned residential but used as commercial which is violation which needs to be addressed. Mr. Pitsger, said nothing was done by the Township for the last ten years and expressed support for the actions that Mayor Shortway have done. He added that in 2009, the owner of 3 Silver Spruce requested to have a cell tower built but was not approved. Council Member Kadish noted that Vernon has not received any support from county or state levels and the court proceedings are costly and take a very long time but the Township is going forward.

Seeing no more members of the public wishing to come forward, Council President Murphy asked for a motion to close the meeting to Public Comments.

MOVED: Dan Kadish  
SECOND: Sandra Ooms  
All members voted in favor.

Council Member Ooms questioned if road is a Right of Way or Private Road and can any restrictions be put on it to stop trucks.

Council President Murphy asked for a motion to open the meeting again to Public Comments.

MOTION: John Auberger  
SECOND: Mark Van Tassel  
All members voted in favor

Diana Kennedy, [REDACTED] expressed concern about soil dumping because the home water test for their property showed arsenic levels and questioned if the soil is causing these findings. She added the trucks cause noise, beeping, clouds of dirt.

Council Member Van Tassel questioned if the Township can order testing of the soil. Mr. Voelker stated it is difficult to obtain probable cause and Vernon did request assistance from NJDEP and Senator Oroho about testing but have received no response. Mr. Voelker suggested that residents reach out to the Attorney General or their local Assemblyman for assistance.

Seeing no more members of the public wishing to come forward, Council President Murphy asked for a motion to close the meeting to Public Comments.

MOVED: Mark Van Tassel  
SECOND: Sandra Ooms  
All members voted in favor.

Council Member Ooms expresses empathy for the many residents near Silver Spruce and noted the Soil Fill ordinance does not enforce aggregate amounts of soil and suggested having a stop gate or a limited timetable. Ms. Ooms also suggested that the ordinance be revised that fill must be at least 100 feet away from neighbors, the Township Engineer review all applications, and all soil must be tested.

Mr. Zielinski questioned when testing should be done on soils before or after putting on property as entry to private property may warrant concerns. He added the ordinance needs to balance restrictions with legitimate freedoms to one's property.

Council Member Ooms made a motion to schedule a worksession to review needed changes to the Soil Fill Ordinance. Council President Murphy explained a worksession should not be held until after Vernon receives a response back from the State Legislature, so all concerns can be addressed.

Mr. Voelker stated that the two applications received were not approved per the Engineer's review which can be distributed to Council for review.

## **COUNCIL COMMENTS**

Council Member Ooms requested if the Environmental Commission minutes can be updated on the website.

Council Member Kadish commented that enforcing the Soil Fill Ordinance may be perceived as abuse and suggested to hear from Mr. Wallace, owner of 3 Silver Spruce who was present in the audience.

Council Member Van Tassel stated that it is amazing the soil dumping issue has been going on for 10 years without an enforcement ordinance and he will work with Council to amend as needed.

Council Member Auberger stated that Professionals, Contractors, and Township Officials were confident the Soil Fill Ordinance was a good enforcement tool and recognizes that amendments may be needed in the future. Council Member Auberger suggested that the Township work with the Board of Education with a shared services to eliminate wasteful spending on duties that can be done with township equipment such as the road sweeper. Administrator Voelker explained that due to the late spring, the road department is not finished yet with the township roads but will check with the Board of Education.

#### **COUNCIL PRESIDENT COMMENTS**

Council President Murphy stated that all Council Members receive the agenda in time to review and present any questions to Administration. She added that the meeting set up by the Environmental Commission Chairperson with Administration was to review public input from their monthly meeting. Council President Murphy announced that the soil issue will be in Court tomorrow.

#### **ADJOURNMENT**

There being no further items of business to be conducted on the agenda, a motion for Adjournment was made by Council Member Van Tassel, seconded by Council Member Kadish with all members voting in favor.

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 8:45 p.m.

Respectfully submitted,

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Lauren Kirkman, RMC, CMR  
Municipal Clerk

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Jean Murphy,  
Council President

Minutes approved: July 23, 2018