

Township of Vernon

TOWNSHIP COUNCIL MEETING MINTUES

August 27, 2018

The Regular Meeting of the Township Council of the Township of Vernon was convened at 7:00 p.m. on August 27, 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 Dan Kadish, Mark Van Tassel, John Auberger and Council President Jean Murphy. Mayor Harry Shortway, Business Administrator Charles Voelker and Township Attorney Josh Zielinski were also present. Council Member Sandra Ooms was absent.

PRESENTATIONS

Lynne Schweighardt, Vernon Assessor, came forward for a Presentation on the Barry Lake's Dam #2 Assessment per Ordinance #18-18, signed April 11, 2018 in accordance with N.J.S.A. 40:56-1 et seq.; N.J.S.A.40:49-6 as well as N.J.S.A.58:4-12 (Safe Dam Act). She explained in 2009, Barry Lakes requested, and Vernon Township agreed to be Co-Borrowers and Collectors of Fees for the Dam #2 Project ordered by the State of New Jersey and added that this is not a Municipal Tax.

Ms. Schweighardt explained the Restoration and Repair of Dam#2 is for the benefit and common good of the entirety of Barry Lakes Community, also known as LCPOA (Lake Community Property Owner's Association), and the assessment was determined equally amongst property owners in the Barry Lakes Community. Together with Barry Lakes Association, Vernon Township determined the list of property owners in the Lake Community parameters.

Ms. Schweighardt explained the Township of Vernon shall not contribute to any part of this payment as any costs of supplies, postage or labor that Vernon expended for this assessment will be reimbursed by Barry Lakes Association. The NJ DEP deems Barry Lakes Association responsible for the total repayment of the loan. She stated that Resolution #18-199 is required to allow the collection and transfer of funds only. This Special Assessment for Barry Lakes is in addition to the existing loan for Repair and Restoration of Barry Lakes Dam #1.

Ms. Schweighardt stated the total cost for Dam #2 is \$469,800 broken down as follows:

Principal:	\$376,000.00
Amortized Interest	\$ 75,695.50
Start Up Costs	\$ 18,104.50
Total Cost per Property Owner:	\$ 648.00
Yearly Payment per property Owner	\$ 81.00
Years of Equal Payments:	8 (Eight)

Ms. Schweighardt stated that bills will be mailed out tomorrow with the first installment due within the 30-day grace period ending September 28, 2018. If at any time the payment is presented after the 30-day grace period, the entire Special Assessment shall be due and owing immediately per State statute.

Ms. Schweighardt described photos showing location of Dam #2 located along Barry Drive North, across from and to the right of Fern Lane, directly on the lake with a spillover area below it and the posted signage. She noted on map properties in red are not included in the assessment.

Ms. Lynne Schweighardt stated she certifies the Special Assessment to Barry Lakes Dam #2 Restoration. Council Members had no questions regarding presentation.

Council President Murphy asked for a motion to approve Resolutions#18-199

MOVED: Dan Kadish
SECOND: John Auberger

A roll call vote was taken:

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

Motion carried to approve Resolution #18-199.

RESOLUTION 18-199
A RESOLUTION ADOPTING AND CONFIRMING THE TAX ASSESSOR'S REPORT ON
THE SPECIAL ASSESSMENT OF THE BARRY LAKES DAM #2 RESTORATION

WHEREAS, a special assessment of property owners affected by improvements to the Barry Lakes Dam #2 was adopted by the Township Council by Ordinance #18-18; and

WHEREAS, the project has been completed and the costs have been certified to the Assessor, who conducted a meeting of affected persons as required by statute on July 18, 2018; and

WHEREAS, the Township has complied with all statutory requirements including consideration of the report of the Tax Assessor establishing the individual special assessments and finds same to be fair and equitable allocation of the special assessment among the affected properties.

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 report of the Tax Assessor establishing the individual special assessments is hereby confirmed and adopted by the Township Council and the Tax Collector shall forthwith be served with a copy of this Resolution and the assessment report, certified by the Township Clerk as a true copy.
2. The Tax Collector is hereby authorized to invoice and collect said special assessment as hereafter set forth:
 - A. The Total assessment per assessed lot is \$648.00, inclusive of interest, which shall be payable in equal yearly installments of \$81.00 for a period of 8 years (or until paid in full) to begin on August 28, 2018 and to be paid each subsequent year on the 28th day of August.
 - B. Payments are subject to a 30 day grace period after which interest on an unpaid payment shall accrue at a rate of 8% per day of the first \$1,500.00 and 18% per day on the remaining balance.
 - C. The Tax Collector is instructed to record an assessment for benefits on each of the affected properties in the amount of \$648.00.
 - D. The assessment or any balance, and the accrued interest, may be paid in full at one time prior to the due date.
 - E. If any installment shall remain unpaid after 30 days of the due date for same, the entire assessment or balance of same remaining shall immediately become due and payable and shall accrue interest as set forth above and shall be collected in the same manner as provided by law for the other past due assessments.
3. This Resolution shall take effect immediately upon adoption according to law.

Council President Murphy asked Jackie Espinosa of JCP&L to come forward.

Jackie Espinosa, 56 Hampton House Road, JCP&L Representative, explained the New Reliable Plus Program, an enhanced distribution system recently filed with the Board of Public Utilities to help reduce the frequency of outages as well as the duration of outages. JCP&L hired a consultant to design the plan in an effort to better customer service but noted there will be a Capital Improvement rate increase averaging between \$0.25 to \$1.89 to users over next four years. Ms. Espinosa requested Township support in form of a Resolution forwarded to the Board of Public Utilities. She added the Sussex County League of Municipality monthly meetings will begin in September.

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: Mark Van Tassel
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 meeting to Public Comments.

MOVED: John Auberger
SECOND: Dan Kadish
All members voted in favor.

CONSENT AGENDA

Council President Murphy gave a brief explanation of Resolutions #18-200 and #18-201.

Council President Murphy asked for a motion to approve Resolutions#18-200 and #18-201.

MOVED: Dan Kadish
SECOND: John Auberger

A roll call vote was taken:

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

Motion carried to approve Resolutions #18-200 and #18-201.

TOWNSHIP OF VERNON

RESOLUTION #18-200 (REFUND OVERPAYMENT- (BOILING SPRINGS SAVINGS BANK))

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 \$2,960.67 representing refund for overpayment of 3rd qtr. 2018 property taxes for Block 190 Lot 9, also known as [REDACTED]

RESOLUTION 18-201

RESOLUTION OF THE TOWNSHIP OF VERNON COUNTY OF SUSSEX STATE OF NEW JERSEY AUTHORIZING THE EXECUTION OF A FIFTH ADDENDUM TO A CONTRACT FOR THE SALE OF REAL PROPERTY

WHEREAS, the Township entered into a Contract to purchase 9 Wisteria Court from Classiclake Enterprises, LLC which Contract was dated July 6, 2016; and

WHEREAS, there was a need to amend the Contract in order to extend the due diligence period and to include an appraisal contingency clause (the "First Addendum"); and

WHEREAS, there was a need to further extend the due diligence period in order to provide for an additional time to perform a Phase 2 environmental assessment (the "Second Addendum", "Third Addendum" and "Fourth Addendum"); and

WHEREAS, there is a need to further extend the due diligence period to perform said Phase 2 environmental assessment; and

NOW, THEREFORE, BE IT RESOLVED by the Township Council, Township of Vernon, County of Sussex, State of New Jersey that the Mayor and Clerk are hereby authorized to execute and attest to the Fifth Addendum in a form similar to the document attached hereto. The Township Attorney may make applicable language changes deemed in the best interest of the Township.

PUBLIC HEARING ON ORDINANCE AMENDMENT ONLY

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 President Murphy asked for a motion to open the public hearing for the amendment to Ordinance #18-20.

The Ordinance had been amended at the August 13 meeting to amend Section 447:10 (A) that it would refer to sidewalks in Town Center Zone only. Section 447:14, the first sentence the word 'may' be changed to 'shall' and the entirety of the second sentence in Section 447:13 (A) was removed.

MOVED: John Auberger
SECOND: Mark Van Tassel
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 #18-20

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

ADOPTION OF ORDINANCE

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 President Murphy asked for a motion to adopt Ordinance #18-20.

MOVED: John Auberger
SECOND: Mark Van Tassel

A roll call vote was taken:

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

Motion carried to approve Adoption of Ordinance#18-20.

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

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

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

Sally Rinker, Vernon, stated the Township Council approved the Soil Fill Ordinance on April 9, 2018 which requires a permit for certain soil situations and compliance of zoning and engineering requirements. She opined an illegal soil fill placement took place in May 2018 at 1 Indian Trail at High Ridge Estates and voiced concerns for potential runoff from loose soil. She expressed concerns over the height of the soil and runoff. Ms. Rinker claimed that the matters are Vernon's problem solely since the County declared no jurisdiction on enforcement.

Ms. Rinker took exception to Mayor Shortway's July 23rd Mayor's report. Ms. Rinker claimed the soil fill ordinance was being selectively enforced.

Ms. Rinker expressed dissatisfaction with the enforcement of the soil ordinance.

Peg Distasi, [REDACTED], reminded the Council of the concerns on Silver Spruce over the last four years causing a great deal of destruction.

Pat Distasi, [REDACTED], questioned the outcome of the hearing held in Morristown and the intention of the Township to appeal the case. Mr. Zielinski explained it was a request for an injunction and not a trial.

Scott Geysels, Barry Lakes Association, thanked the Mayor, Council, Administration, Assessor and former CFO for their assistance for coordinating the Loan process for the Barry Lakes Dam #2 Repair and Restoration.

Dave Lally, Sussex, commented on Judge's decision at a recent hearing regarding dumping in the Township and opined that Vernon should appeal. Mr. Zielinski noted he cannot comment on pending litigation. Mr. Lally commented that the property owner claimed he was running a business which should be researched by the Zoning Officer since it is a residential zone.

Council President Murphy noted that the Judge's decision stated he could not discern what section of the property the Stop Work Order pertained. Mr. Lally urged Council to appeal the decision and consider added expert testimony

Andy Pitsger, [REDACTED] requested that soil trucks be restrict on Sundays and after 6:00 pm on weekdays. He noted that the trucks have no consideration for the public or neighbors and urged Council to set some timeframes for the deliveries.

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: Mark Van Tassel
All members voted in favor.

MAYORS REPORT

Mayor Shortway announced the Municipal Parking Lot and Recycling Lot will be milled and paved next week. An appointment of Agatha Wyman was made to the Arts Advisory Committee. Mayor Shortway congratulated the Arts and Recreation Committees for their new free event “Movie Mondays” which 200 residents came out to enjoy. Also, Mayor thanked local food vendors: The Tracks, The Daily Bean; The Scoop, and Sue’s House of Fudge for participating as well as Mishelle Downtain and Chief Mills for their assistance.

Mayor Shortway announced the Superior Court ruled in favor of the Board of Elections deciding that municipalities must pay for programming of ballots as opposed to printing ballots in prior elections. The Court ruled that legislature failed to amend or include any provisions to address programming. Mayor Shortway noted that laws need to be updated to the current century and technology, not 1961 standards and opined this decision may bring to light more changes that are needed.

Mayor Shortway announced the Paladini lawsuit against the Mayor and Governing Body has been dismissed with prejudice. He added that supporters of previous administrations again attempted to hold on to power through the legal system only to be dismissed from the very Court they sought relief from. Mayor Shortway explained he has ordered a copy of the transcripts for review and if reasonable may request the Township Council to file suit to collect legal costs of \$25,000 that taxpayers paid to defend Ms. Paladini’s claim for a seat on the Land Use Board. He added that the suit was filed by the former Prosecutor Michael Hannifan who was not reappointed by the current Administration. Ms. Paladini’s appointment by Mayor Marotta was contrary to law because terms were not staggered as required. A second lawsuit filed by former Mayor Marotta’s political appointees was also dismissed. Mayor Shortway explained that, although not reflected in the 2016 Environmental Commission (EC) meeting minutes, former Mayor Marotta advised the EC to file a frivolous lawsuit against the Township costing taxpayers \$5,429.85 in legal fees. Mayor Shortway added that Mr. Hannifan filed another lawsuit against Vernon Township on behalf of Beverly Budz, who also was appointed by Mr. Marotta for breach of contract which Vernon will defend. Mayor Shortway stated thousands of taxpayer dollars and man-hours are spent on frivolous lawsuits and the magnitude of their deviance and attempt to impede this administration’s efforts to move forward has been exposed.

Mayor Shortway commented that Mountain Creek has filed a Motion to relieve themselves of their financial obligation of the 2012 Agreement made with Vernon Township which could place a \$28 million liability on taxpayers equating to an added \$1.5 million in budgets expenses per year through 2023.

Regarding the Soil Fill issue on Silver Spruce, Mayor Shortway commented that Vernon cannot rely on regulatory agencies to protect the environment and plans to include funds in next year’s budget for a portable truck scale, two additional police officers and training to enforce truck weights and traffic laws. Further police training will include drug intervention to combat the opioid epidemic.

Mayor Shortway announced that Camp Sussex owners have paid all of their 2018 taxes as well as fines due and intends to submit a Land Use application for a \$2-3 million Art Camp project.

Mayor Shortway stated he has met with investors for Medical Marijuana Extraction Businesses vying for 1 of 6 available state licenses which could result in 100 new jobs and large amounts of revenue.

In 2011, the Township commissioned an engineering report by Golden, showing difficulty factors for qualified private communities (QPC) to determine reimbursement for snow & ice removal. Mayor Shortway explained the study quantifies the various factors to each QPC, which added difficulty to normal plowing and sanding such as steep grades, curves or conditions of roadways and not based on the 1998 Court decision by Judge Stanton Stonehill v. Vernon. He noted that the former administration extended the maximum 1.5 difficulty factor to all qualified private communities without any additional engineering analysis resulting in an overpayment of \$461,085.37 between 2013-2017. Mayor Shortway stated he will create a policy per the report beginning in 2019 that will have an estimated cost savings of \$83,000/yr. Reimbursement parameters:

- all QPC with difficulty factor < 1 will receive reimbursement of 1
- all QPC with difficulty factor between 1-1.2 will receive reimbursement of 1.2
- all QPC with difficulty factor > 1.2 will receive reimbursement rounded to next tenth to maximum of 1.5

Mayor Shortway explained the Township will also reserve its right to put forth a Request for Proposal for private contractors to remove snow & ice in the Qualified Private Communities if necessary.

Mayor Shortway stated due to the two recent horrific accidents on RT 515, he respectfully requests the Council to rescind the Township’s support of the Western Scenic Byway on RT 515 until safety measures or the newly proposed truck team can be put into effect.

Mayor Shortway announced that the Township has received and accepted Donelle De Couto as our new Chief Financial Officer and welcomed her to our team.

Mayor Shortway ended his report with a quote from Senator McCain: “We are taught to understand correctly that courage is not the absence of fear, but the capacity for action despite our fears. The truth is a hard pill to swallow because it causes difficulties at home and abroad. Sometimes it is used by enemies in an attempt to hurt us, but the American people are entitled to it none the less.” Mayor Shortway added that residents of Vernon will meet these challenges before us and will succeed.

Council Member Kadish suggested sending a Resolution to Sussex County expressing need for a truck ramp on RT 515. Mayor Shortway explained that Vernon needs cooperation from Hardyston and it is difficult to differentiate trucks allowed for local deliveries. Council Member Auberger stated that more signage would increase driver’s awareness, but there still needs to be a safe turnaround spot and suggested to address the issue at the county level. Council President Murphy noted the Clerk researched past Ordinances and meeting minutes and found comments that businesses would be hindered if restrictions on RT 515 were increased which is why local deliveries are allowed.

COUNCIL COMMENTS

Council Member Kadish had no comment.

Council Member Van Tassel had no comment.

Council Member Auberger commented that remarks posted on social media and attributed to him were not accurate. Council Member Auberger explained that he strongly believes in the need for Open Space Maintenance and to give an opportunity for the public to vote.

COUNCIL PRESIDENT COMMENTS

Council President Murphy commented that the Mayor’s proposed budget may include an additional employee to process the numerous OPRA requests in our Land Use, Building, tax and other departments that the Township must legally fulfill. Ms. Kirkman compared quantities in past years: 2014: approximately 240; 2016: approximately 441; and in 2018 to date: 475, amount has doubled in 4 years which is taking staff away from normal duties. Council President Murphy noted the continual battle to fulfill these requests and added that many OPRA requests are duplicates.

Council President Murphy commented that she does not see the benefit when residents make personal attacks on the Mayor, Council or employees of Vernon Township who work and live here too. Vernon is diligently working to address problems such as Silver Spruce but noted that some information cannot always be publicized immediately.

Council President Murphy stated that the Council go into an Executive Session.

EXECUTIVE SESSION

Attorney Zielinski read the Resolution for the Council to enter Executive Session.

RESOLUTION TO GO INTO EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-6 permits the exclusion of the public in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Vernon as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matters to be discussed are:
 - a. Litigation – Paladini v. Twp. of Vernon
 - b. Litigation – Twp. v. Joseph Wallace
(N.J.S.A.10:4-12 (b) 7)
(Anticipated Time of Disclosure January 2019)
3. This resolution shall take effect immediately.

Council President Murphy asked for a motion to go into Executive Session at 7:40 p.m.

MOVED: Dan Kadish

SECOND: Mark Van Tassel

All members were in favor.

Motion carried to enter Executive Session at 7:40 p.m.

Council President Murphy asked for a motion to adjourn Executive Session at 8:08 p.m.

MOVED: John Auberger

SECOND: Mark Van Tassel

All members of the Council were in favor.

Motion carried to adjourn Executive Session at 8:08 p.m.

Council President Murphy asked for a motion to reconvene Regular Meeting at 8:09 pm.

MOVED: Dan Kadish

SECOND: John Auberger

All members of the Council were in favor.

Motion carried to reconvene Regular meeting at 8:09 p.m.

ADJOURNMENT

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

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 8:09 p.m.

Respectfully submitted,

Lauren Kirkman, RMC, CMR
Municipal Clerk

Jean Murphy,
Council President

Minutes approved: September 24, 2018