

TOWNSHIP OF VERNON
REGULAR TOWNSHIP COUNCIL MEETING

October 13, 2011

The Regular Meeting of the Township Council of the Township of Vernon was convened at 7:04pm on Thursday, October 13, 2011 in the Vernon Township Municipal Building, 21 Church Street, Vernon, New Jersey, with Council President Brian Lynch presiding.

STATEMENT OF COMPLIANCE

Adequate notice of this meeting had been provided to the public and the press on July 8, 2011, and was posted on the bulletin board in the Municipal Building in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6.

ROLL CALL OF MEMBERS

Present were Council Members Eddie Dunn, Daniel Kadish, Patrick Rizzuto, Dick Wetzel, and Council President Brian Lynch. Also present were Mayor Vic Marotta, Business Administrator Jerry Giaimis, and Township Attorney Kevin Kelly.

SALUTE TO THE FLAG

Council President Lynch led the assemblage in the salute to the flag.

MOMENT OF SILENCE

Council President Lynch asked for a moment of silence in honor of Rick Regen, past Chief of the Pochuck Fire Department, who had died that week.

RESOLUTION TO GO INTO EXECUTIVE SESSION

At 7:05pm, Council President Lynch asked for a motion to go into Executive Session. Council Member Rizzuto made a motion to close the meeting to the public and enter into executive session. Motion seconded by Council Member Dunn with all members present voting in favor.

The Municipal Clerk read the following resolution to go into executive session:

WHEREAS, Section 8 of 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 matter to be discussed is:
 - a. Litigation/Thompson case
3. It is anticipated that the above-stated subject matter will be made available upon final decision.
4. This resolution shall take effect immediately.

The Township Council entered into Executive Session at 7:06pm

Return to Open Session

Council Member Rizzuto made a motion to return to open session. Motion seconded by Council Member Kadish, with all members present voting in favor. **7:50pm**

Mr. Kelly explained to the audience the nature of the executive session discussion and that the minutes would be released after the matter was resolved.

PRESENTATIONS

Craig Williams – Environmental Commission – on Open Space

Mr. Williams gave an update on what has been done in the past, and what they would like to do in the future. He noted that a comprehensive report was made a part of the 2010 Master Plan, which included a bike path from New York State to Hardyston. They believe they can accomplish their goal within the next two (2) years.

The Council President asked if prices had come up. Mr. Williams advised that values had come down @25%. He explained the data on this issue, as well as easements, and access to portions of properties.

Council Member Wetzel asked how many parcels they are considering. Mr. Williams advised that there were ½ dozen, or maybe 8, and that they may be able to utilize some conservation grants.

The discussion continued on who would be responsible for maintaining the properties and the bike path - possibly the Recreation Dept. and/or the DPW.

Council Member Dunn asked about the potential outcome to benefit the Township. Mr. Williams noted that bed & breakfasts and other businesses would benefit from increased customers. Mr. Dunn asked Mr. Williams to come back to further present the Economic Development piece.

Mayor and Council – First 100 Days

Council Member Rizzuto gave a power point presentation outlining actions of the Mayor and Council, Boards, and Commissions during the first 100 days in office. Some highlights were: changed election day to same day as NJ General Election to enable greater voter participation and reduce cost; appointed members to the Municipal Utilities Authority; oversaw completion of the HVAC repairs in the Municipal Center; received \$107,830 in new revenue from auctioning of surplus vehicles; established new administrative code for the new government as required within the 90-day time period; and the Board of Recreation held a “Night Out Against Crime” sponsored by the Department of Community Affairs.

MAYOR’S REPORT

Mayor Marotta reported on the following items:

- The DPW will hold a Clean Communities/Bulky Waste Day on 10/22 from 8am to 4pm at the Recycling Center. The cost is \$20.00 per vehicle load. Tickets can be purchased ahead of time.
- Risk Manager correspondence was received offering a 45-minute seminar/training session on workman’s comp and liability claims for the Mayor and Council and the Business Administrator. For each person who attends there will be a \$250 reduction on our premiums.
- Baldwin & Mott drainage project update:
 - Will go out to bid to complete the project
 - Community will have a meeting for their input
 - Hope to do remedial action to get through the winter
 - Woodland area was moving forward – they were prepped for paving of these 5 streets
 - Breakneck Road was open and all work had been finished
 - Maple Grange Road was now open – the guardrails still need to be done
 - Vernon Crossing and Drew Mountain Road – the roads have been undermined and are being navigated with alternate traffic patterns.
- League of Municipalities attendance report – the Mayor noted that Department Heads require Continuing Education Credits to maintain their licenses and certifications. Council had been provided with a complete breakdown of all costs associated with this year’s attendance - \$3,298 is the total cost. This includes hotels, meetings, and attendance at the conference hall. This breaks down to about \$300 per employee attending (8+ the Mayor).
- Bills List amendment reflects the additional payment to SCMUA that related to a memorandum of understanding, which had been signed prior but was now due.
- A lease with the Board of Education for the Historical Preservation Commission has been drafted. The Board was meeting that night to review it. The property is located at 293 Rt. 94.

The Council President asked if Canistear Road was completed. The Mayor advised that paving and line painting were completed; the guardrails should be done by the end of this week or next week. The Mayor also noted that there were speeding concerns on Breakneck now that it had been paved. He advised that he had spoken to the Chief about this issue. He also advised that Resolution #11-191 is for phase II of the Canistear Road project requiring \$220,000 more from our budget above the grant request, which will complete the last section of Canistear Road.

PUBLIC COMMENTS

Council President Lynch opened the meeting to public comments at this time.

Jessi Paladini – noted that she had made 4 attempts with regard to the Special Services building; she expressed concern that the start times for meetings over the past few months had been at various times, noting Resolution#11-116 and the new code, etc.; addendum to this meeting had only been posted that morning.

Council President Lynch explained that meetings had been posted at a later time as Council had not needed an executive session. As for this meeting, Council had anticipated a short executive session and had changed the times accordingly.

Dan Borstad – was concerned with the cost to the residents for the sewer fees as increased taxes.

Tom McClachrie – addressed Mr. Lynch that the County Clerk candidate at the last meeting should have been allowed to talk. (Mr. Lynch advised that she had been allowed to talk, but was not allowed to hand out campaign material.) He opined “no new debt, no new taxes” relative to Ord. #11-22 and #11-23, and pointed out what the Township needed to do before signing the contracts on these ordinances.

Michael Cheski – asked if the pipeline company had contributed anything to the repair of Canistear Road, as he felt their heavy equipment had damaged the roadway.

Gary Martinsen – spoke about biking paths and that customers who head to other areas for biking would stay here if the paths were installed. He advised that the Kiwanis Club was holding an event on Sunday – coats for residents. The coats are free to residents, but any donations would be given to the food banks. He noted that Ord. #11-23 had only been added this day, and that #11-22 seemed to benefit the resort area and specialized groups of people.

Heloise Ruskin – Environmental Commission – thought she had heard that the pipeline would not contribute to repair the damage to properties below them when the pipeline collapsed (mudslides, etc.) – and was concerned with their liability being so low.

CLOSED TO PUBLIC COMMENTS

No one else wished to speak at this time, and Council President Lynch asked for a motion to close the public portion of the meeting.

MOVED: Patrick Rizzuto

SECOND: Eddie Dunn

All were in favor.

APPROVAL OF MINUTES

September 22, 2011 Special Meeting Minutes

MOVED: Daniel Kadish

SECOND: Dick Wetzel

A roll call vote was taken:

AYES: Eddie Dunn, Daniel Kadish, Patrick Rizzuto, Dick Wetzel, Brian Lynch

NAYS: None

Minutes were approved.

September 26, 2011 Regular Meeting Minutes

MOVED: Patrick Rizzuto

SECOND: Brian Lynch

There was a brief discussion on attendance at this meeting.

A roll call vote was taken:

AYES: Eddie Dunn, Patrick Rizzuto, Dick Wetzel, Brian Lynch

NAYS: None

ABSTAIN: Daniel Kadish

Minutes were approved.

RESOLUTIONS #11-189 - #11-195

Council President Lynch gave a brief description of each Resolution for the Council members.

Motion to approve Resolution #11-189 through #11-195:

MOVED: Daniel Kadish

SECOND: Dick Wetzel

A roll call vote was taken:

AYES: Eddie Dunn, Daniel Kadish, Patrick Rizzuto, Dick Wetzel, Brian Lynch

NAYS: None

ABSTAIN:

Resolutions #11-189 through 11-195 were adopted.

RESOLUTION # 11-189

AUTHORIZING THE APPROVAL OF BILLS LIST

BE IT RESOLVED that the following bills listed are hereby approved:

Disbursement Journal	Fund	Amount	Major Vendor
#1	Current	\$ 937,774.99	BOE
#2	Current	\$ 828,744.98	BOE
#3	Current	\$ 232.17	
#4	Capital	\$ 40,997.75	Warnock Fleet
#5	Capital	\$ 123,382.00	Envirocon
#6	Other Trust	\$ 23.00	
#7	Other Trust	\$ 1,500.00	
#8	Other Trust	\$ 178.33	
#9	Outside Services	\$ 17,277.52	
#10	Outside Services	\$ 4,741.44	
#11	Recreation	\$ 235.08	
#12	Recreation	\$ 500.00	
#13	Open Space	\$ 2,875.00	
#14	Sewer Operating	\$ 482.45	
#15	Grant	\$ 150,000.00	SCMUA
	Payroll	\$ 306,524.48	3rd Pay-Sept
	Total	\$2,415,469.19	

RESOLUTION # 11-190

TAX COURT OVERPAYMENT

WHEREAS, a **Tax Court Judgment** has been favorably awarded for the year 2010; and,

WHEREAS, such judgment has resulted in an overpayment of the 2010 taxes;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Township of Vernon, County of Sussex State of New Jersey, hereby authorize the Township Treasurer to issue check for said overpayment and the Tax Collector refund said overpayment of taxes on the following account:

BLOCK	LOT	NAME	AMOUNT	LOCATION
73.16	71 &72-73	McQuitty, Robert & Lisa	\$ 200.40	

RESOLUTION # 11-191

AUTHORIZATION TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR CANISTEAR ROAD – PHASE II

NOW THEREFORE BE IT RESOLVED, that the Vernon Township Council of the Township of Vernon, County of Sussex, State of New Jersey, formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk are hereby authorized to submit an electronic grant application identified as MA-2012- Vernon Township-00633 to the New Jersey Department of Transportation on behalf of Vernon Township.

BE IT FURTHER RESOLVED that the Mayor and Municipal Clerk are hereby authorized to sign the grant agreement on behalf of Vernon Township and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement.

My signature and Municipal Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST AND AFFIX SEAL

Susan Nelson
Municipal Clerk

Victor J. Marotta
Mayor

RESOLUTION #11-192

CHAPTER 159 RESOLUTION – OVER THE LIMIT UNDER ARREST

WHEREAS, N.J.S.A. 40A4-87 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 will receive \$4,400.00 from the State of New Jersey Over the Limit Under Arrest 2011 Mobilization Grant and wishes to amend its 2011 budget for this amount as a revenue. Benefit period is August 19, 2011 to September 5, 2011.

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 2011 in the sum of \$4,400.00 which is now available as a revenue from the Division of Highway Traffic Safety in the amount of \$ 4,400.00.

BE IT FURTHER RESOLVED that a like sum of \$4,400.00 is hereby appropriated under the caption Over the Limit Under Arrest 2011; and

BE IT FURTHER RESOLVED that the above is the result of funds from New Jersey Division of Highway Traffic Safety in the amount of \$4,400.00.

RESOLUTION #11-193

**CHAPTER 159 RESOLUTION
RECREATIONAL OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES
GRANT**

WHEREAS, N.J.S.A. 40A4-87 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 of Vernon has made application and obtained a grant from the New Jersey Department of Community Affairs, for \$8,000.00 State Share with \$1,600.00 local share for a total contract of \$9,600.00 for 2011 to provide therapeutic horseback riding recreational opportunities for people with disabilities.

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 2011 in the sum of \$9,600.00 which is now available as a revenue from the New Jersey Department of Community Affairs and the Township of Vernon.

BE IT FURTHER RESOLVED that a like sum of \$9,600.00 is hereby appropriated under the caption Recreational Opportunities for Individuals with Disabilities Grant 2011.

RESOLUTION #11-194

CHAPTER 159 RESOLUTION – DRUNK DRIVING ENFORCEMENT FUND

WHEREAS, N.J.S.A. 40A4-87 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 receive \$5,163.63 from the State of New Jersey Drunk Driving Enforcement Fund and wishes to amend its 2011 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 2011 in the sum of \$5,163.63 which is now available as a revenue from the Division of Highway Traffic Safety.

BE IT FURTHER RESOLVED that a like sum of \$5,163.63 is hereby appropriated under the caption Drunk Driving Enforcement Fund 2011; and

BE IT FURTHER RESOLVED that the above is the result of funds from New Jersey Division of Highway Traffic Safety in the amount of \$5,163.63.

RESOLUTION # 11-195

AUTHORIZING CHANGE ORDER #1 OF THE MECHANICAL UPGRADES PHASE II BOILER REPLACEMENT AT THE VERNON TOWNSHIP MUNICIPAL BUILDING

WHEREAS, on August 8, 2011, by way of adoption of Resolution #11-165, the Council of the Township of Vernon awarded a contract to Envirocon, LLC. For Mechanical Repairs and Upgrades to the Municipal Building HVAC System Phase II Boiler Replacement, which contract provided for an expenditure of \$160,000.00; and

WHEREAS, in a memo dated September 30, 2011, the Township Engineer states certain additional work, as stated in Change Order No. 1 herein attached, was unanticipated in the original bid awarded but necessary for the project; and

WHEREAS, Change Order #1 specifics included the temporary relocation of the Glycol Feed System during completion of the Chiller Upgrade and the Boiler's installation; and

WHEREAS, the Township Engineer, in a letter dated September 30, 2011, recommends approving Change Order #1 which will increase the total contract amount by \$1,860.38 to a total of \$161,860.38; and

WHEREAS, the Chief Financial Officer has certified that funds are available to support this change order.

NOW THEREFORE BE IT RESOLVED, by the Council of the Township of Vernon that it hereby approves with the Township Engineers recommendations and authorizes the Mayor to execute said Change Order #1 for said project increasing the total contract amount to \$161,860.38; and

BE IT FURTHER RESOLVED, that certified copies of this Resolution be forwarded to Envirocon, LLC. and the Township Engineer.

INTRODUCTION OF PROPOSED ORDINANCES

Ordinance #11-22 on 1st Reading by Title Only
BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF SANITARY SEWERAGE COLLECTION AND TRANSMISSION FACILITIES IN AND BY THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$4,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,809,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING SUCH APPROPRIATION

Council Member Kadish moved to table the introduction of Ord. #11-22 til after a work session. No one made the second. Motion died.

Motion to approve Ord. #11-22 on 1st reading by title only:

MOTION: Patrick Rizzuto

SECOND: Brian Lynch

Mr. Kadish wanted a detailed explanation on both bond ordinances. Mr. Rizzuto agreed that a work session was warranted.

A roll call vote was taken:

AYES: Eddie Dunn, Patrick Rizzuto, Dick Wetzel, Brian Lynch

NAYS: Daniel Kadish

Ordinance #11-22 was approved on 1st reading.

ORDINANCE #11-22

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF SANITARY SEWERAGE COLLECTION AND TRANSMISSION FACILITIES IN AND BY THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$4,000,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,809,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING SUCH APPROPRIATION.

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement to be made or acquired by The Township of Vernon, in the County of Sussex, New Jersey. For the said improvement or purpose stated in said Section 3, there is hereby appropriated the sum of \$4,000,000, said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$191,000 as the down payment for said improvement or purpose required by law and now available therefor by virtue of provision in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes.

Section 2. For the financing of said improvement or purpose and to meet the part of said \$4,000,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$3,809,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Township in a principal amount not exceeding \$3,809,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. o The improvement hereby authorized and purpose for the financing of which said obligations are to be issued is the acquisition, by purchase, of sanitary sewerage collection and transmission facilities in and by the Township, including pipes, pumping stations and related facilities, appurtenances, property and equipment, and currently owned by United Water, a publicly owned utility company, and commonly known as United Water Great Gorge which services approximately 1,443 customers in the Great Gorge Condominiums, the Black Creek Sanctuary and the Mountain Creek Resort and the United Water Vernon Sewerage Company which services the Mountain Creek ski area and water park, all in accordance with and as further described in a proposed contract of sale therefor, a copy of which is on file or to be filed in the office of the Township Clerk and hereby approved.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$3,809,000.

(c) The estimated cost of said purpose is \$4,000,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the amount of the said \$191,000 down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this bond ordinance is not a current expense and is a property or improvement which the Township may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is forty (40) years.

(c) The supplemental debt statement required by said Local Bond Law

has been duly made and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Township as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$3,809,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$300,000 for interest on said obligations, costs of issuing said obligations and other items of expense listed in and permitted under section 40A:2-20 of said Local Bond Law may be included as part of the cost of said improvement and is included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Township, and, unless paid from revenues of the sanitary sewerage system of the Township, the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Township Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

Council President Lynch asked to schedule a work session on the Ordinances. He suggested either Wednesday, 10/19 or Friday 10/21. He asked the Mayor to have the professionals attend.

Mayor Marotta advised that Mr. Ursin would not be able to attend due to a scheduling conflict.

Other possible dates were discussed, but it was decided that Wednesday, October 19 at 7:00pm would be scheduled for a work session on the bond ordinances #11-22 and #11-23.

Ordinance #11-23 on 1st Reading by Title Only

BOND ORDINANCE PROVIDING FOR THE RESTRUCTURING OF A PORTION OF THE COST OF ACQUISITION OF CAPACITY AT THE SANITARY SEWAGE TREATMENT PLANT OF THE SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY BY THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$2,800,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,666,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING SUCH APPROPRIATION

Motion to approve Ord. #11-23 on 1st reading by title only:

MOTION: Patrick Rizzuto

SECOND: Eddie Dunn

A roll call vote was taken:

AYES: Eddie Dunn, Patrick Rizzuto, Dick Wetzel, Brian Lynch

NAYS: Daniel Kadish

Ordinance #11-23 was approved on 1st reading.

BOND ORDINANCE PROVIDING FOR THE RESTRUCTURING OF A PORTION OF THE COST OF ACQUISITION OF CAPACITY AT THE SANITARY SEWAGE TREATMENT PLANT OF THE SUSSEX COUNTY MUNICIPAL UTILITIES AUTHORITY BY THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$2,800,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,666,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING SUCH APPROPRIATION.

WHEREAS, the Township of Vernon, in the County of Sussex, New Jersey (the “Township”), and The Sussex County Municipal Utilities Authority (“SCMUA”) entered into a service contract dated as of November 2, 2005, and entitled: “2005 Service Contract Between The Sussex County Municipal Utilities Authority and The Township of Vernon in the County of Sussex” (the “Service Contract”) relating to the treatment by SCMUA of sanitary sewage collected and transmitted by the Township to SCMUA; and

WHEREAS, pursuant to the provisions of the Service Contract, SCMUA has agreed to accept and treat from the Township sewage of a volume up to 265,000 gallons per day (monthly average) (the “Reserved Township Treatment Capacity”) which includes wastewater from the Vernon Town Center Collection System and the Mountain Creek Development not including the Black Creek Sanctuary Development nor the Appalacian Hotel all as further described in the Service Contract; and

WHEREAS, pursuant to the provisions of the Service Contract, the Township has agreed to make a payment annually to the Authority (referred to herein and in the Service Contract as the “Annual Charge”) for or with respect to the facilities made available to the Township under the Service Contract by the Authority regarding the conveyance, treatment and disposal of sewage; and

WHEREAS, the Annual Charge consists of an Operating Charge and a General Charge (each as defined and described in the Service Contract); and
WHEREAS, the General Charge payable by the Township to SCMUA on an annual basis includes, among other things, an amount sufficient to pay the principal of and interest on any bonds of SCMUA issued to finance the Reserved Township Treatment Capacity; and

WHEREAS, on September 15, 2008, SCMUA issued \$27,498,738.20 of bonds, consisting of \$4,095,000 Wastewater Facilities Revenue Bonds, Series 2008A, and \$23,403,738.20 Wastewater Facilities Revenue Bonds, Series 2008B (Capital Appreciation Bonds) (collectively, the “SCMUA Expansion Bonds”) for purposes of financing an expansion to the wastewater treatment plant of SCMUA to provide for the Reserved Township Treatment Capacity; and

WHEREAS, the SCMUA Expansion Bonds mature in the years 2010 to 2039, both inclusive; and

WHEREAS, the General Charge payable by the Township to SCMUA as part of the Annual Charge includes an amount equal to the debt service on the SCMUA Expansion Bonds (the “SCMUA Reserved Capacity Capital Charge”); and

WHEREAS, the Township has not received and does not expect to receive sewer charges from users of its sanitary sewerage collection and transmission facilities in an amount sufficient to pay the Annual Charge due to SCMUA until the year 2017; and **WHEREAS**, the annual SCMUA Reserved Capacity Capital Charges payable by the Township to SCMUA in the years 2012 to 2016, both inclusive, total \$2,635,754 and are \$355,156, \$407,343, \$509,343, \$656,156 and \$707,756, respectively; and

WHEREAS, the Township is desirous of restructuring a portion of the cost of acquisition of the Reserved Township Treatment Capacity so that sewer charges expected to be received from users of its sanitary sewerage collection and transmission facilities will be sufficient to pay the annual SCMUA Reserved Capacity Capital Charges, together with the balance of the Annual Charge payable to SCMUA; and

WHEREAS, in order to accomplish the foregoing the Township is desirous of issuing bonds (or bond anticipation notes in anticipation thereof) to provide monies to pay the annual SCMUA Reserved Capacity Capital Charges in the years 2012 to 2016, both inclusive, and any costs associated therewith; and

WHEREAS, the Township expects to initially issue temporary bond anticipation notes for such purpose and to convert such bond anticipation notes to long-term bonds at a time and in a manner such that the sewer charges expected to be received from users of its sanitary sewerage collection and transmission facilities will be sufficient to pay the principal of and interest on such bonds, together with the Annual Charges then and thereafter payable to SCMUA;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all the members thereof affirmatively concurring), **AS FOLLOWS:**

Section 1. The improvement described in Section 3 of this bond ordinance is hereby authorized as a general improvement to be made or acquired by The Township of Vernon, in the County of Sussex, New Jersey (the “Township”). For the said improvement or purpose stated in said Section 3, there is hereby appropriated the sum of \$2,800,000, said sum being inclusive of all appropriations heretofore made therefor and including the sum of \$134,000 as the down payment for said improvement or purpose required by law and now available therefor by virtue of provision in a previously adopted budget or budgets of the Township for down payment or for capital improvement purposes.

Section 2. For the financing of said improvement or purpose and to meet the part of said \$2,800,000 appropriation not provided for by application hereunder of said down payment, negotiable bonds of the Township are hereby authorized to be issued in the principal amount of \$2,666,000 pursuant to the Local Bond Law of New Jersey. In anticipation of the issuance of said bonds and to temporarily finance said improvement or purpose, negotiable notes of the Township in a principal amount not exceeding \$2,666,000 are hereby authorized to be issued pursuant to and within the limitations prescribed by said Local Bond Law.

Section 3. ○ The improvement hereby authorized and purpose for the financing of which said obligations are to be issued is the restructuring of a portion of the cost of acquisition of 265,000 gallons per day of reserved sewage treatment capacity at the sanitary sewage treatment plant of The Sussex County Municipal Utilities Authority (“SCMUA”) and being the portion of such cost payable by the Township to SCMUA in the years 2012 to 2016, both inclusive, and being attributable to the cost of construction incurred by SCMUA in connection with an expansion of said sewage treatment plant for such reserved capacity, all as more fully described in the preambles to this bond ordinance.

(b) The estimated maximum amount of bonds or notes to be issued for said purpose is \$2,666,000.

(c) The estimated cost of said purpose is \$2,800,000, the excess thereof over the said estimated maximum amount of bonds or notes to be issued therefor being the amount of the said \$134,000 down payment for said purpose.

Section 4. The following additional matters are hereby determined, declared, recited and stated:

(a) The said purpose described in Section 3 of this bond ordinance is not a current expense and is a property or improvement which the Township may lawfully acquire or make as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of said purpose within the limitations of said Local Bond Law, according to the reasonable life thereof computed from the date of the said bonds authorized by this bond ordinance, is forty (40) years.

(c) The supplemental debt statement required by said Local Bond Law has been duly made and filed in the office of the Township Clerk and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey, and such statement shows that the gross debt of the Township as defined in said Local Bond Law is increased by the authorization of the bonds and notes provided for in this bond ordinance by \$2,666,000, and the said obligations authorized by this bond ordinance will be within all debt limitations prescribed by said Local Bond Law.

(d) An aggregate amount not exceeding \$164,246 for interest on said obligations, costs of issuing said obligations and other items of expense listed in and permitted under section 40A:2-20 of said Local Bond Law may be included as part of the cost of said improvement and is included in the foregoing estimate thereof.

Section 5. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the Chief Financial Officer, provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with the notes issued pursuant to this bond ordinance, and the Chief Financial Officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of N.J.S.A. §40A:2-8. The Chief Financial Officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the dates of delivery thereof. The Chief Financial Officer is directed to report in writing to the governing body of the Township at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the principal amount, interest rate and maturities of the notes sold, the price obtained and the name of the purchaser.

Section 6. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and interest on the said obligations authorized by this bond ordinance. Said obligations shall be direct, unlimited obligations of the Township, and, unless paid from revenues of the sanitary sewerage system of the Township, the Township shall be obligated to levy ad valorem taxes upon all the taxable property within the Township for the payment of said obligations and interest thereon without limitation of rate or amount.

Section 7. The capital budget or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith and the resolutions promulgated by the Local Finance Board showing all detail of the amended capital budget or temporary capital

budget and capital program as approved by the Director, Division of Local Government Services, are on file with the Township Clerk and are available for public inspection.

Section 8. This bond ordinance shall take effect twenty (20) days after the first publication thereof after final adoption, as provided by said Local Bond Law.

COUNCIL PRESIDENT

Council President Lynch advised that he had a few items of note:

- ♦ Tall Timbers – a committee needs to be set up with the attorney and the zoning officer to tighten the ordinance relative to year-round residents. Council Members Kadish and Wetzel agreed to serve on the committee.
- ♦ Asked that municipal flags be flown at ½ staff on October 16 for National Fallen Firefighters Day.
- ♦ This week was fire prevention week, and falls on the anniversary of the great Chicago fire. This year's theme is "cooking causes 3 out of 10 residential fires." He advised that people should change their smoke alarm batteries every year when they turn their clocks back in October; that they should all have an escape route in case a fire breaks out in their home; they should change their electric smoke alarm units every 10 years, and their Carbon Monoxide (CO) detector units every 10 years as well.

COUNCIL BUSINESS

Council Member Dunn advised that Saturday, October 15 was a Job Fair from 9:00am to 5:00pm in the Senior Center. It was being held in conjunction with UPS, and with his expertise as a Human Resources professional. It was open to all residents.

Council Member Kadish and Council Member Rizzuto had nothing at this time.

Council Member Wetzel thanked the Vernon Police Department (and the Police from other towns) on behalf of his family and relatives for the turnout at his nephew's funeral, especially Det. Steven Moran and his Drum & Fife group who played at the funeral.

ADJOURNMENT

There being no further items of business to be conducted at the Regular Meeting, a motion for Adjournment was made by Council Member Dunn. Motion seconded by Council Member Rizzuto, with all members voting in favor.

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 9:16pm.

Respectfully submitted,

Susan S. Nelson, RMC, CMR
Municipal Clerk

Minutes approved: November 14, 2011