

Township of Vernon

REGULAR TOWNSHIP COUNCIL MEETING

November 8, 2012

The Regular Meeting of the Township Council of the Township of Vernon was convened at 7:30pm on November 8, 2012, in the Vernon Township Municipal Building, 21 Church Street, Vernon, New Jersey.

STATEMENT OF COMPLIANCE

Adequate notice of this meeting had been provided to the public and the press on January 9, 2012, 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.

SALUTE TO THE FLAG

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

ROLL CALL OF MEMBERS

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

PRESENTATION

Reenee Casapulla, Recycling Coordinator & Safety Officer of the Sussex County Municipal Utilities Authority presented the Township with the NJDEP 2012 Recycling Award. Ms. Casapulla had accepted the award on behalf of the Township at the recent award ceremony held in Neptune. Vernon Township was the winner in the "Government" category. As stated in the State of New Jersey press release, "The Vernon Township Department of Public Works took over the daily operations of the local recycling center previously run by outside vendors. Under DPW management, the center is saving money on operating costs while generating revenues from the sale of recyclables. At the same time, operating hours remained the same, and the basic recyclables continued to be accepted, with the addition of other items such as scrap metal, white goods, consumer electronics, used motor oil, batteries, rigid plastics, and used clothing. In 2010 with outside vendor management, Vernon Township recycled 623 tons; in 2011, with DPW management, they recycled 821 tons – an increase of 32 percent." On hand to receive the award from Ms. Casapulla were DPW Director Dave Pullis, his Assistant Jennifer Ruess, Dave Speziale, and Business Administrator Jerry Giaimis.

PUBLIC COMMENTS

Council President Lynch asked for a motion to open the meeting to public comments at this time.

MOVED: Daniel Kadish

SECOND: Patrick Rizzuto

All were in favor.

Krista Geary – spoke about the salary ordinance issue. She defended Mr. McClackrie for his efforts on the petition. She also noted that she felt unfairly barred from passing out political paperwork at the senior center.

Sandra Ooms - also spoke about the salary ordinance issue.

David Riker – was thankful for the Police Dept. facebook page for the storm updates. He spoke about the damage from Irene that has still not been addressed. Mayor Marotta noted that Sheba Drive is a private road, which does not make it easy for the Township to work on. He advised that he would work with the County to try to get them to address the drainage issues. Mr. Riker asked about JCP&L, specifically their poor performance following the storm. Council President Lynch advised that he would address this issue later in the meeting.

Sally Rinker – asked about her OPRA request for the Main Street agreement. Mr. Kelly noted, as he had at the last meeting, that he would address this issue through proper OPRA channels and not at a Council meeting. Ms. Rinker advised that people had been calling her during the aftermath of Hurricane Sandy, noting that there was a lack of information on the Township website. At the end of Ms. Rinker’s allotted five-minute timeframe, she was asked to please sit down and allow others to speak.

Robert Oliver – suggested that Ms. Rinker should refer such calls to the elected officials.

Len Colosia – noted that the parking lot was unlit, though the Building Department has forced businesses to provide outside lighting. The Council President advised that the Municipal Center was without power and was operating on generators for essential services only. He also spoke about the MUA rates and asked what information determined the number of bedrooms. Mr. Kelly advised Council not to comment on this issue while negotiations were on-going. Mayor Marotta noted that the last revaluation company had made the decision to count a loft as a bedroom. He also advised that a request had been made to the Condo Association’s management company during preliminary MUA planning to provide a listing of bedrooms per units; and that list has still not been provided.

Noreen Moran – also had an issue with the loft vs. bedroom records.

CLOSED TO PUBLIC COMMENTS

Council President asked for a motion to close the public portion of the meeting.

MOVED: Patrick Rizzuto

SECOND: Eddie Dunn

All Members present were in favor.

MAYOR’S REPORT

Mayor Marotta noted that he had nothing to report at this time.

CONSENT AGENDA - RESOLUTIONS #12-209 through #12-214

Council President Lynch gave a brief explanation of each resolution.

Mr. Lynch asked for a motion adopting Resolutions #12-209 through #12-214.

MOVED: Daniel Kadish

SECOND: Patrick Rizzuto

A roll call vote was taken:

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

NAYS: None

ABSTAIN: * Current check #38015, 38039, and 38040.

Resolutions #12-209 through #12-214 were adopted.

RESOLUTION 12-214

IN SUPPORT OF A-3393 AND S-2324, LEGISLATION TO PROTECT RESIDENTIAL PROPERTY TAXPAYERS FROM THE LOSS OF TELECOMMUNICATIONS TAX SUPPORT

WHEREAS, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

WHEREAS, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax (“BPPT”); and

WHEREAS, the statute defines local exchange companies as those telecommunications carriers “providing dial tone and access to 51% of a local telephone exchange”; and

WHEREAS, Verizon’s self-serving interpretation of the statutory definition has led it to claim exemption from the BPPT in any municipality where the corporation unilaterally

determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

WHEREAS, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

WHEREAS, Verizon's appeal of that determination to the Tax Court resulted in a June, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

WHEREAS, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

WHEREAS, remedial legislation (A-3393) has been introduced by Assemblyman Ralph Caputo, and (S-2324) has been introduced by Senator Bob Smith and Senator Linda Greenstein, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Vernon commends Assemblyman Caputo, Senator Smith, and Senator Greenstein and strongly supports A-3393 and S-2324, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

BE IT FURTHER RESOLVED, that we urge our State Senator and our representatives in the General Assembly to join as co-sponsors of A-3393 and its companion bill S-2324; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and Representatives in the General Assembly, and to the New Jersey State League of Municipalities.

**RESOLUTION #12-209
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	\$ 881,190.80	BD OF ED
#2	CURRENT	\$ 30.00	MUA
#3	CURRENT	\$ 1,175,057.60	BD OF ED
#4	CURRENT	\$ 1,602.97	
			ML
#5	CAPITAL	\$ 96,612.85	RUBERTON
#6	GRANT	\$ 163,185.52	EARTH TEC
#7	P & Z OUTSIDE	\$ 956.00	
#8	SERVICES	\$ 4,854.48	
#9	OTHER TRUST	\$ 2,500.00	
#10	OTHER TRUST DEVELOPER'S	\$ 150.00	
#11	BONDS	\$ 60.00	
#12	2 ND PAY - OCT	\$ 307,813.66	
		<hr/>	
		\$ 2,634,013.88	

RESOLUTION #12-210

**AUTHORIZING TAX SALE PREMIUMS TO ESCHEAT TO THE TOWNSHIP
PURSUANT TO N.J.S.A.54:5-33**

WHEREAS, the 2007 Tax Sale took place on June 25, 2007; and

WHEREAS, the Tax Sale Law requires that after five years if a redemption has not occurred, that the Premium be escheated to the Treasurer of the municipality; and

WHEREAS, the following tax sale certificates have not been redeemed:

1. Tax Sale Certificate #07/023 issued June 25, 2007 on Block 74.10 Lot 16 Premium in the amount of \$13,000.00.
2. Tax Sale Certificate #07/028 issued June 25, 2007 on Block 156.03 Lot 3.01 Premium in the amount of \$10,000.00.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Vernon, County of Sussex, State of New Jersey, that all premiums remaining on Tax Title Liens sold at or prior to the 2007 Tax Sale be hereby Escheated to the Township of Vernon Treasurer, in accordance with N.J.S.A. 54:5-33.

RESOLUTION # 12-211

**RESOLUTION AUTHORIZING FIREWORKS TO BE DISPLAYED ON
DECEMBER 5, 2012 WITHIN THE TOWNSHIP OF VERNON**

WHEREAS, N.J.S.A.21:3-1et seq. Explosive and Fireworks, provides that a Municipal Governing Body must authorize the display of fireworks within its boundaries as a pre-condition to such display in accordance with the New Jersey Fire Prevention Code; and

WHEREAS, Vernon Township Department of Recreation wishes to conduct a fireworks display on December 5, 2012 during the Annual Tree Lighting Ceremony; and

WHEREAS, the proposed fireworks display will take place within the vicinity of the Vernon Fire House on Rt 515 with prior permission from the property owner; and

WHEREAS, Garden State Fireworks, Inc., will be contracted to perform the public fireworks and special effects display and has provided the required certificate of liability insurance.

NOW THEREFORE BE IT RESOLVED, that the Council of the Township of Vernon, in the County of Sussex, hereby authorizes the fireworks display with special effects, performed by Garden State Fireworks, Inc. and sponsored by the Vernon Township Department of Recreation on December 5, 2012 upon satisfaction of all statutory and departmental requirements.

RESOLUTION #12-212

**AUTHORIZING AN EMERGENCY CONTRACT WITH MERIDIEN ASSOCIATES
FOR REPLACING THE MUNICIPAL BUILDING'S ACCESS SECURITY SYSTEM
THAT WAS DAMAGED BY A LIGHTNING STRIKE.**

WHEREAS, on, or around, September 5, 2012 lightning struck Vernon's municipal building causing severe damage to its access security system; and

WHEREAS, according to NJSA 40A:11-6 an emergency contract may be awarded when an emergency affecting the public health, safety or welfare requires the immediate delivery of a good or service; and

WHEREAS, the Township's Police Chief has certified that such an emergency existed with respect to the installation of a new access security system and the use of Meridien Associates; and

WHEREAS, the Purchasing Agent recommends that the Township Council award an emergency contract to install a new access security system to Meridien Associates, 20 Nina Place Randolph, New Jersey 07869; and

WHEREAS, the total cost for this contract is \$38,699.00 and the Chief Financial Officer of the Township of Vernon, has certified these funds are available.

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of Vernon, that the vendor, Meridien Associates, be awarded an emergency contract, in accordance with the attached invoice in the amount not to exceed \$38,699.00; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon adoption according to law.

RESOLUTION #12-213

RELEASE OF PERFORMANCE BOND AND ESCROW FUNDS FOR CINGULAR WIRELESS (LIN CELLULAR)

WHEREAS, Cingular Wireless (Lin Cellular) did post Liberty Mutual Insurance Company Bond #022017122 dated September 30, 2005, in the amount of \$39,540.00; and

WHEREAS, Cingular Wireless (Lin Cellular) has posted escrow funds in the amount of \$3,954.00 by check #14954 and in the amount of \$1,650.00 by check #14953; and

WHEREAS, the Cingular Wireless (Lin Cellular) project has been completed; and

WHEREAS, Cingular Wireless (Lin Cellular) has requested release of Bond #022017122 dated September 30, 2005, and release of escrow funds; and

WHEREAS, the Township Engineer, Cory Stoner, has no objection to the Township releasing the Bond and escrow funds.

NOW THEREFORE, BE IT RESOLVED by the Township Council that the clerk, treasurer or such other authorized person shall refund escrow funds totaling \$4,873.50 and return the Liberty Mutual Insurance Company Bond #022017122.

RESOLUTION 12-214

IN SUPPORT OF A-3393 AND S-2324, LEGISLATION TO PROTECT RESIDENTIAL PROPERTY TAXPAYERS FROM THE LOSS OF TELECOMMUNICATIONS TAX SUPPORT

WHEREAS, in 1997, at the request of incumbent utilities, the laws regarding State taxation of telecommunications corporations were amended in response to technological and market innovations, in order to increase competition; and

WHEREAS, the amendments sought to preserve revenues to local governments by providing that local exchange telephone companies subject to the New Jersey Franchise and Gross Receipts Tax on April 1, 1997 would continue to be subject, annually, to the Business Personal Property Tax ("BPPT"); and

WHEREAS, the statute defines local exchange companies as those telecommunications carriers "providing dial tone and access to 51% of a local telephone exchange"; and

WHEREAS, Verizon's self-serving interpretation of the statutory definition has led it to claim exemption from the BPPT in any municipality where the corporation unilaterally determines, in any given year, that it no longer supplies dial tone and access to at least 51% of the local telephone exchanges; and

WHEREAS, Hopewell Borough's challenge to that claim was upheld by the Mercer County Board of Taxation in 2009; and

WHEREAS, Verizon's appeal of that determination to the Tax Court resulted in a June, 2012 trial court decision accepting the corporation's self-serving interpretation of the law; and

WHEREAS, as things now stand, over 100 municipalities know that they enter 2013 without BPPT revenues that will cost property taxpayers well in excess of \$8 million and, unless matters change, more municipalities will lose more millions in the future; and

WHEREAS, remedial legislation (A-3393) has been introduced by Assemblyman Ralph Caputo, and (S-2324) has been introduced by Senator Bob Smith and Senator Linda Greenstein, which will clarify the perceived ambiguity of the statutory definition to further implement the original legislative intent to preserve revenues to local governments.

NOW, THEREFORE, BE IT RESOLVED, that the Township Council of the Township of Vernon commends Assemblyman Caputo, Senator Smith, and Senator Greenstein and strongly supports A-3393 and S-2324, which would clearly identify the telecommunications carriers subject to taxation on their business personal property and remove the budget uncertainty caused by Verizon's obfuscation; and

BE IT FURTHER RESOLVED, that we urge our State Senator and our representatives in the General Assembly to join as co-sponsors of A-3393 and its companion bill S-2324; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Honorable Governor Chris Christie, the Honorable Speaker of the General Assembly Sheila Oliver, the Honorable President of the State Senate Stephen M. Sweeney, the Honorable Assembly Republican Leader Jon Bramnick, the Honorable Senate Republican Leader Thomas H. Kean, Jr., and our own State Senator and Representatives in the General Assembly, and to the New Jersey State League of Municipalities.

ORDINANCES

Ordinance #12-17 – Introduction

Council President Lynch asked for a motion to approve Ordinance #12-17 on first reading.

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

Ordinance #12-17 was approved on first reading.

ORDINANCE #12-17

AN ORDINANCE GRANTING MUNICIPAL HISTORIC DESIGNATION TO CERTAIN PROPERTY IN THE TOWNSHIP OF VERNON

WHEREAS, the Historic Preservation Commission has studied the following property for inclusion in the Historic Element of the Master Plan pursuant to the Township Administrative Code §330-146 et seq and has recommended the property to the Land Use Board by Resolution as required:

WHEREAS, after public review and discussion, the Land Use Board, by resolution at the regular meeting of July 25, 2012, approved the recommendation to the Township Council that the above named property be added as a Historic Landmark within the Township of Vernon.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Vernon, County of Sussex and State of New Jersey as follows.

1. The property as designated above is hereby granted Municipal Historic Designation.
2. A copy of this Ordinance shall be served upon the owners of the property by certified mail return receipt requested and regular mail after the first reading and prior to final adoption.
3. The Township Clerk is hereby directed to give notice at least ten days prior to the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Sussex County Planning Board as required by N.J.S.A. 40:55D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Municipal Assessor as required by N.J.S.A. 40:49-2.1.
4. All ordinances or parts of ordinances or resolutions that are in conflict with the provisions of this Ordinance are repealed to the extent necessary.
5. If any article, section, subsection, term or condition of this Ordinance is declared invalid or illegal for any reason, the balance of the Ordinance shall be deemed severable and shall remain in full force and effect.
6. This Ordinance shall take effect after publication and passage according to law.

COUNCIL PRESIDENT

Council President Lynch asked the Mayor to thank the Police Department, Fire Departments, and EMS workers for their recent efforts during and after Hurricane Sandy. Mr. Lynch noted that at a meeting with JCP&L earlier in the year, he had questioned why they take longer than Sussex Rural Electric to restore power. He was told that upgrades were promised to be made (but on their whole system, not just in this area). The Council President noted JCP&L's recent lack of progress and poor communication with the Township administration as well as their customers. He feels that Vernon should speak to the Board of Public Utilities about these issues. Mr. Lynch pointed out all the devastation in other parts of the state and in other states, and that the Township rose to the occasion without anyone getting hurt.

COUNCIL COMMENTS

Council Member Wetzel agreed with the JCP&L issues, and suggested a letter writing campaign to the State and Legislature to put pressure on JCP&L to fix the problems. Mr. Wetzel commended the Historical Society for their recent auction – it was a nice event. He noted that Mr. Lynch was the cook and that the food was great. The Council Member praised the Police, Road, and Fire Departments, and EMS workers for the outstanding job they did during the storm.

Council President Lynch noted the DPW's efforts during and after Hurricane Sandy, as well as last night's snowstorm. (He apologized to Dave Pullis, DPW Director, for omitting his department in his earlier comments.)

Council Member Rizzuto pointed out that Mr. Gearry's problem with the railroad crossings resulted in their being re-graded. Mr. Rizzuto noted Gene Mulvahill's recent passing, citing that he had provided jobs and economic growth over the years. Mr.

Rizzuto added that Mr. Mulvahill was a visionary, and without his presence and the benefit of his work, the Township would be a poorer community. He asked if he could express his condolences to the Mulvahill family on behalf of the Council.

Council Member Kadish asked for a point of order, noting that the minutes of the October 22 Council meeting were not listed on the agenda for approval. He was advised that they were for review and approval at the next Council meeting (11/26/12).

Council Member Dunn noted that this Sunday was Veterans Day, and hoped all would see the New York City parade. He asked everyone to keep veterans in mind when hiring new employees.

ADJOURNMENT

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

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 8:15pm.

Respectfully submitted,

Susan S. Nelson, RMC
Municipal Clerk

Brian Lynch, Council President

Minutes approved: November 26, 2012