

**VERNON TOWNSHIP
LAND USE BOARD
REGULAR MEETING MINUTES
MAY 12, 2010**

Mr. Theobald, Chair, called the meeting to order at 7:12 p.m.

STATEMENT OF COMPLIANCE

Pursuant to the Open Public Meetings Act, adequate notice of this Regular Meeting has been provided to the public and the press on January 19, 2010, by delivering to the press such notice and posting same at the Municipal Building and filed with the office of the Township Clerk.

SALUTE TO FLAG

ROLL CALL

Andrew Borisuk	P
Andrea Cocula	P
David Gornstein	P
Jessi Paladini	P
Mayor Rinker	NP
Council Mbr Seufert	P
Vincent Zinno	P
Martin Theobald	P
Jean Murphy (#1 Alt)	P
Chris Hack (#2 Alt)	NP
Jack Smith (#3 Alt)	P

ALSO PRESENT

Michael Garofalo, Esq. - Board Attorney
Jessica Caldwell, Board Planner
Cynthia Davis, Recording Secretary

Note: Mr. Misciagna and Mr. Spoerl submitted letters of resignation.

PUBLIC HEARINGS

None.

OPENED THE MEETING TO THE PUBLIC FOR THOSE ITEMS OTHER THAN LISTED ON THE AGENDA

No one came forward.

CLOSED THE MEETING TO THE PUBLIC

LAND USE BOARD DISCUSSION ITEMS (Action may or may not be taken)

MASTER PLAN

Ms. Caldwell commented that the purpose of tonight's discussion was to give the various boards, commissions and neighborhood groups an opportunity to comment on the Master Plan so that any such comments may be incorporated into the Master Plan before presenting the final draft to the LUB at the June 9, 2010, meeting. She confirmed that all groups had received letters notifying them of this meeting. Council Member Seufert asked Ms. Caldwell if she had received any response from any of the groups. Ms. Caldwell advised that no, she had not received anything formal. However, Highland Lakes had commented previously and she said that the Environmental Commission ("EC") expressed an interest in reviewing the draft of the Master Plan.

David Gornstein, as the EC liaison, advised that the EC would like to request an

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extension of time in which to continue reviewing the draft and subsequently submit their recommendations. He further explained that the EC would need an extension to June or July.

Mr. Zinno made a motion to deny the EC request for an extension as he feels that there is a time limitation to complete the Master Plan and the EC recommendations could be incorporated later. Ms. Caldwell explained that the environmental element was not required to be updated and could be added to the Master Plan at any time. She agreed that it may cost additional money to do this later. Mr. Theobald reminded the LUB that the board voted with the recommendation of the Mayor to update only the required elements due to lack of funds.

Ms. Paladini advised that the EC's major concern is water supply and asked whether a water study will be undertaken. She said the MLUL 40:55D-28.2 states that the Land Use Element include a water supply study. Mr. Gornstein commented that the DEP is currently in the process of conducting a water budget and it doesn't make any sense to revise that portion of the Master Plan until this is completed. Ms. Caldwell stated that a water supply study will not be done as part of the Land Use Element and to request that would change the scope of the Master Plan drastically. She went on to comment that it is not done, typically, as part of the Land Use Element and it would be an expensive undertaking. A water supply study may be done under a Conservation Element.

Mr. Garofalo said that 40:55D-28 states that the Planning Board "*may*" prepare, and after a Public Hearing, adopt or amend a Master Plan. He went on to explain that the word "may" means it is a permissive statute meaning you don't have to do it. He explained that this board, if it wishes to, can adopt a Master Plan in the manner that they see fit. No one sub-element of 40:55D-28 becomes mandatory. The water supply "could be" in the Land Use Element but if practical considerations make that not wise, it doesn't have to be. He offered to the LUB that if the last revision of the Master Plan was done six years ago there would be a presumption that the zoning ordinance is no longer valid or could be attacked by an applicant who was denied and this alone is a strong argument for getting the revision of the Land Use Element done and to make any amendments to the Master Plan later on.

Public - Carol Gunn

Carol Gunn, member of the EC, came forward and commented that she would like the sole source aquifer mentioned and emphasized in the Master Plan, Land Use Element, along with the conditions required when there is a sole source aquifer. She suggested that language be included about the limestone valley which covers this aquifer. She also commented that she didn't understand why there is language under the infrastructure section about having truck routes and local and thru traffic, as she feels there is no practical way to separate the different types of traffic. A discussion ensued about certain open space and park properties being zoned as Commercial Recreation ("CR"). Ms. Caldwell agreed to look into the zoning map to ascertain whether certain properties may be inaccurately zoned as CR which could be changed to "Public Lands."

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Mr. Theobald suggested completing the Master Plan update within the time that the board originally agreed to and the EC may come back in 2 weeks, if they want, to give more testimony on their recommendations. Ms. Caldwell suggested that the EC make recommendations to the Goals and Objectives section of the Master Plan. She suggested that the EC do this within 2 weeks and then she would be able to incorporate the items, at her discretion, into the Master Plan and then present it to the LUB during the first meeting in June.

Motion

Mr. Zinno made a motion to not extend time to the EC to make recommendations for the Master Plan. Andrea Cocula seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, GORNSTEIN - N, PALADINI - N, SEUFERT - N, ZINNO - Y, THEOBALD - N, MURPHY - N, SMITH - N (Vote: No - 6, Yes - 3).

Mr. Gornstein made a motion that the EC is not given an official extension, however, the EC is provided time to submit a recommendation to Ms. Caldwell by Wednesday, June 19, 2010, - within ONE week. Council Member Seufert seconded the motion. ROLL CALL: BORISUK - N, COCULA - N, GORNSTEIN - Y, PALADINI - Y, SEUFERT - Y, ZINNO - N, THEOBALD - Y, MURPHY - Y, SMITH - Y (Vote: Yes - 6, No - 3)

HISTORICAL SOCIETY RECOMMENDATION

Ms. Paladini presented a list of the historic sites that should be included in the Historic Element of the Master Plan. The Historic Preservation Commission did not have their list completed.

The Land Use Board unanimously agreed to authorize Ms. Caldwell to include the historic sites in the historic element, as presented by Ms. Paladini, in the Master Plan update.

Charles Bates, Chair - Historic Preservation Commission ("HPC")

Mr. Bates reminded the members that he had indicated during a LUB meeting in February that the HPC has a list of approximately 250 sites they would like to review for memorialization. Ms. Caldwell recommended that the list be presented to the LUB to be included after the sites on the list are accurately reviewed as being historic. Mr. Gornstein suggested, and Ms. Caldwell will look into, incorporating the list in the Master Plan as an inventory of proposed historic sites with the proviso that some may or may not be designated after the memorialization process is complete.

Dan Kadish

Mr. Kadish came forward and directed his question to Mr. Theobald, Mr. Smith and Mr. Borisuk. He asked if the LUB should be introducing an agricultural zone for the properties that have been preserved. He feels since nothing can be done on this land, it would be appropriate to zone them as such. Mr. Borisuk stated that he didn't understand the advantage to doing this.

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Dennis Miranda, Chair - Environmental Commission

Mr. Miranda came forward and thanked the EC for working diligently on the work they have developed in trying to create and craft positions on policy regarding the Master Plan. He advised that by Monday, the EC will have a paper on the issues raised by Carol Gunn on behalf of the EC.

Agricultural Zone

Ms. Caldwell advised that if the LUB is interested in creating an agriculture zone, now is the time. Council Member Seufert asked if there would be additional cost to which Ms. Caldwell said it could be done within the scope. Mr. Garofalo advised that this would require an ordinance process. Mr. Theobald commented that it may be expensive and may hold up the process of completing the Master Plan update. All the LUB members approved of not creating this zone at this time.

LUB ENGINEER RFQ'S

Ms. Caldwell advised the LUB that on May 1, 2010, RFQ's were issued by the Township for a Township Engineer and Township Planner which are due back on May 24, 2010. The recommendation by the Town Council is that the LUB consider using the same Engineer as the Township. Mr. Garofalo confirmed that the hiring of a LUB engineer is completely up to the LUB and there is no legal jeopardy not having an engineer right now. There may be practical jeopardy, but not legal.

Motion

Ms. Paladini made a motion to send out RFQ's to prospective LUB engineers. Ms. Cocula seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, GORNSTEIN - Y, PALADINI - Y, SEUFERT - Y, ZINNO - Y, THEOBALD - Y, MURPHY - Y, SMITH - Y.

APPOINTMENT OF BOARD SECRETARY

Mr. Zinno advised that he had spoken with Mr. Roland who is the Township Manager's recommendation for Board Secretary, and M. Roland told him that he does not want to participate in the LUB meetings at night. It was agreed that the Board Secretary should be present at the meetings. The LUB members discussed that there is no one to appoint for Board Secretary due to a hiring freeze and all approved of postponing this decision until the Town Council makes a decision.

NJLM MEMO DATED 5/5/10 Re: Governor signs S-82/A-437, Eliminates Time of Decision

Mr. Garofalo explained that the Time of the Decision Rule is a judicially created legal doctrine that has been effect for years and means that when an applicant files an application, if the town realizes that the application triggers a zoning consideration that may have been missed, the Township would be permitted to change the zoning ordinance even in the middle of an application. The legislature has seen fit to get rid of this rule and as such, will go into effect in one year. Accordingly, Mr. Garofalo advised the LUB members that any loopholes in our zoning ordinance should be addressed now due to the change in this rule

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OPENED THE MEETING TO THE PUBLIC FOR ITEMS OTHER THAN LISTED ON THE AGENDA

Carol Giroux - Discussion

Ms. Giroux came forward and explained that she had previously come before the zoning board with an application for a variance for a deck, which was granted then. The approval gave her a year to apply for the building permit which she neglected to do. Ms. Giroux recently received a statement for a fine for \$141,000.00. She said she spoke with John Hanlon who told her to reapply for an extension. She was then told that she needed to start the application over and reapply. She is back before the LUB tonight to request that she be able to apply for an extension rather than to reapply.

Mr. Garofalo commented that a possible resolution would be to reapply but only be required to pay an escrow. He went on to advise that the LUB cannot waive fees, only the governing body can do that.

Motion

(Note: Council Member Seufert stepped down from this vote.)

Mr. Gornstein made a motion to recommend to the Town Council that if an application is filed by the Giroux family, the application fees will be waived. Mr. Zinno seconded the motion. **ROLL CALL: BORISUK - N, COCULA - N, GORNSTEIN - Y, PALADINI - Y, ZINNO - Y, THEOBALD-Y, MURPHY - Y, SMITH - Y.**
(Vote: Yes - 6, No - 2)

MINUTES

April 14, 2010 – Regular Session Minutes.

Motion:

Council Member Seufert made a motion to approve of the above minutes. Ms. Cocula seconded the motion. **ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - Y, SEUFERT - Y, ZINNO - Y, THEOBALD - Y, MURPHY - Y.**

RESOLUTIONS

Authorizing the award of contract for professional services to the law firm of Laddey, Clark & Ryan, LLP from April 14, 2010, through and including December 31, 2010.

Motion:

Council Member Seufert made a motion to approve the resolution with the minor change of extending the contract up to and including the date of the reorganization meeting in January 2011. Mr. Gornstein seconded the motion. **ROLL CALL: BORISUK - Y, PALADINI - Y, SEUFERT - Y, ZINNO - Y, MURPHY - Y.**

CLOSED SESSION

None.

escrows, board fees and bond reductions

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Escrows

Board Engineer - Louis M. Kneip, P.P, P.E., CME
Susan Kubie – PB#8-07-10 – Services through 4/13/10 – (\$333.00)
Woodmont Homes – PB#10-06-14 – Services through 5/07/10 – (\$277.50)

Board Attorney – Patrick McNamara, Scarinci & Hollenbeck
Christopher Merck – PB#11-08-9 – Services through 3/31/10 – (\$60.00)
NS Enterprises – LU#1-09-2 – Services through 3/31/10 – (30.00)
Regan Trust – LU#5-09-8 – Services through 3/31/10 – (240.00)
Vaughn – LU#1-10-1 – Services through 3/31/10 – (30.00)
United Water – LU#2-10-2 – Services through 3/31/10 – (75.00)
Market Square Management – LU#2-10-3 – Services through 3/31/10 – (315.00)
Mountain Creek Resort – PB#1-07-1 – Services through 3/31/10 – (45.00)

Township Planner – Jessica Caldwell, AICP - Harold E. Pellow & Associates
Market Square Management – LU#2-10-3 – Services through 4/1/10 – (226.00)
NS Enterprises – LU#1-09-2 – Services through 4/1/10 – (56.50)

B. Board Fees

Board Attorney
Land Use Board Business – Services through 3/31/10 – (\$1,920.00)

Township Planner – Jessica Caldwell, AICP – Harold E. Pellow & Associates
Land Use Board Business – Services through 4/1/10 – (\$678.00)

Cynthia Davis – Recording Secretary
DOS – 4/12/10-4/18/10 – (\$66.00)

C. Request for Bond to be closed

None submitted as of agenda distribution

Motion:

**Mr. Smith made a motion to approve the payment of the vouchers and board fees.
Ms. Zinno seconded the motion. All were in favor. None were opposed.**

D. Request for Escrows to be closed

Laura Noto – LU#4-09-6, Blk 100.07 Lot 13– (\$15.27)
A&P – LU#4-09-7, Blk 145 Lot 1.08 – (\$681.00)
Donald Weiss – LU#3-09-5, Blk 61 Lot 28 – (\$255.75)
Frank Urbaniak – ZB#4-06-8, Blk 22.02 Lot 7 – (\$23.20)

Motion:

Council Member Seufert made a motion to approve of the above escrows be closed. Mr. Zinno seconded the motion. All were in favor. None were opposed.

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ADJOURNMENT

Mr. Smith made a motion to adjourn the LUB meeting of May 12, 2010, at 9:24 p.m. Council Member Seufert seconded the motion. All were in favor.

Transcribed by Cynthia Davis on May 16, 2010.

CERTIFICATION

I, the Board Secretary, hereby certify that the above minutes were approved at the regularly scheduled Land Use Board meeting on May 26, 2010.

Respectfully submitted,

Cynthia Davis
Board Secretary
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