

**VERNON TOWNSHIP  
LAND USE BOARD  
REGULAR MEETING MINUTES  
July 28, 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 (7:30)
Andrea Cocula	P (7:07)
David Gornstein	P
Jessi Paladini	P
Mayor Rinker	P (7:17)
Council Mbr Seufert	NP
Jean Murphy	P
Martin Theobald	P
Joseph Tadrick	NP
Brian Lynch (#1 Alt)	NP
Chris Hack (#2 Alt)	P
Jack Smith (#3 Alt)	NP
Ed Rolando (#4 Alt)	P

**ALSO PRESENT**

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

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**PUBLIC HEARINGS**

**LU # 6-10-4 - Carol Shahin Giroux & James Giroux, Block 207.16, Lot 5, Side Yard C-Variance for a Deck.**

Ms. Giroux was sworn in and explained to the LUB that she had previously come before the LUB in May 2008, to apply for a variance, which was granted. The variance provided one year for the applicant to apply for a building permit, which she did never did. She is before the LUB tonight to request the same variance.

Mr. Garofalo agreed that she had gotten the variance previously but it expired, and that tonight she should tell the current LUB members the reasons why she is applying for a variance as the membership has changed since 2008.

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Ms. Giroux explained that she would have needed a variance unless the deck was constructed on the front of the house. When she built the deck she did not intend to encroach on the adjacent property and believed the adjacent lot, owned by Highland Lakes Country Club, was not a "buildable" lot which fact was confirmed by the Planner, Jessica Caldwell. After the deck was constructed she realized it required a 10 foot setback. According to the survey she had prepared by a surveyor, the deck did not encroach on the adjacent lot. She explained that the deck is small and modest and adds much needed space to the home.

Jessica Caldwell, LUB Planner, reviewed her report with the LUB on this application.

Mr. Garofalo advised that the LUB cannot resolve the title issue connected with this matter. It is a private dispute concerning who's survey is correct, and only a Judge can determine the outcome. He went on to say that the LUB may grant the variance only to have a Judge take it away later.

**Highland Lakes Country Club**

Eileen Born, Esq., came forward for Highland Lakes Country Club ("HLCC") and advised that they took title to the adjacent property in 2004 through an auction from Vernon Township by a Tax Sale Certificate for \$1,200.00. Ms. Giroux had an opportunity then to buy the property. The Club offered to sell the property to Ms. Giroux in 2008 when the issue first arose and she declined as she was not willing to wait the time it would take to get membership approval. Ms. Born advised that the lot has not been certified by an Engineer as "not buildable."

Mr. Jack McLaughlin came forward and testified that he received a report from the HLCC Board of Directors that a driveway and parking area had been expanded from the Giroux lot into the HLCC property which was why the HLCC commissioned a survey by Robert Jordan. Mr. Jordan's survey shows the deck encroaching on the HLCC property. Ms. Giroux then had the property surveyed by her own surveyor. The two surveys conflict by 4 feet.

Mr. Garofalo commented that this is the second time during his tenure that there have been expressions by these parties of wanting to work the issues out. He asked Ms. Giroux if she really wants to submit this application to the LUB before she's had a chance to hear what HLCC has to say and hopefully, relieve this board of having to make a call under these circumstances.

Ms. Cocula commented that if the applicant had gotten her building permit in a timely

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fashion, this would not be before the LUB tonight and the two parties would be settling this dispute elsewhere.

Mr. Garofalo advised that one of the ways this could be resolved is if HLCC sells a sliver of the lot to the applicant.

The applicant then advised the LUB that she would like to discuss the issues with HLCC first and then come back before the LUB later.

Attorney Born suggested that the application be carried for two meetings.

Mr. Garofalo commented that ALL the parties involved, HLCC, Vernon Township and the applicant could have all played a part in this matter to work things out.

**Motion:**

**Mr. Gornstein made a motion to carry this application to be heard again at the second August meeting. Ms. Murphy seconded the motion. ROLL CALL: BORISUK - abstained, COCULA - Y, GORNSTEIN - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, THEOBALD - Y, HACK - Y, ROLANDO - Y. Passed.**

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**LAND USE BOARD DISCUSSION ITEMS (Action may or may not be taken)  
Reexamination of the Master Plan and adoption of an updated Master Plan  
including a Land Use Element and Recycling Element.**

**(Note: Mr. Borisuk, Vice Chair, took over the meeting for the Chair, who left the meeting due to illness.)**

Ms. Jessica Caldwell, LUB Planner, came forward and reviewed the changes that were made to the proposed Master Plan. She advised that after some investigation, the land that is currently zoned as commercial recreation on the top of Hamburg Mountain was bought by the State and the area that is currently zoned as Public Open Space is used as the commercial area. Her recommendation is to make all the area Open Space.

Ms. Caldwell commented that she received notice that the Town Center boundary completely expired in July 2009, because it is located in the Highlands area and couldn't be extended as part of the Permit Extension Act as that Act excludes Highlands areas. At the request of Mayor Rinker, Ms. Caldwell explained the status of the Town Center designation. She said that currently Plan Endorsement is the way to receive Center designation, which is a 10-step process. Vernon received designation in 2003 which

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was granted for 6 years. At this time Plan Endorsement will need to be done. The process for Plan Endorsement includes all the municipality's plans meeting the criteria to be endorsed by the State Plan. She said that Vernon can get the town center back and the process to do so, is more than halfway complete. The next step is to do the "visioning" and then an Action Plan which is issued and contains actions to be completed within a 2 year period to be in compliance with the state plan. Then the town would enter into a Memorandum of Understanding ("MOU") with the State Planning Commission which essentially says the town intends to complete the Action Plan and is going for Plan Endorsement. Then Interim Center Designation would be given. Ms. Caldwell estimated that it may take approximately 4 months to get the MOU with Interim Center Designation.

**OPENED MEETING TO THE PUBLIC**

**Bill Miklovic** came forward and asked if the town has a sewer line in place between Route 515 and Route 94. If not, he said everything that is being discussed is a moot point. Mr. Miklovic said he felt that the people of Vernon were taken (town center) and he feels the citizens of Vernon allowed this incompetence to happen. He said without sewers nothing is going to happen.

**Jack McLaughlin** asked Ms. Caldwell about the recommendations to remove the subdistricts. Ms. Caldwell explained the cores to him.

**Mark Vizzini** came forward and asked Ms. Caldwell several questions regarding the Town Center designation.

**CLOSED MEETING TO THE PUBLIC**

**Motion:**

**Mr. Gornstein** made a motion to approve of this proposed Master Plan as written. **Ms. Cocula** seconded the motion. **ROLL CALL: BORISUK - Y, COCULA - Y, GORNSTEIN - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, HACK - Y, ROLANDO - Y. Passed.**

**LUB ENGINEER RFQ's**

Ms. Paladini asked if the members had gotten the summary of consultant RFQ's and the CD made by Mr. Gornstein. No one recalled having received either. Mayor Rinker commented that the Town Council has subsequently hired Harold Pellow & Associates to be the Township engineers. A discussion followed about the advantages connected with having the same engineer for the LUB as for the town.

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It was discussed and agreed that the RFQ process would start again in October 2010, so that the process for hiring the LUB engineer for the year 2011, would proceed in a more timely fashion.

**Motion:**

**Ms. Cocula made a motion to hire Pellow & Associates as the LUB engineer for the remainder of 2010. Mr. Gornstein seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, GORNSTEIN - Y, PALADINI - N, RINKER - Y, MURPHY - Y, HACK - Y, ROLANDO - Y. Passed.**

**LUB BONDS and TRAFFIC IMPACT FEES**

Mayor Rinker commented that she wanted to discuss this issue because the Town Council suggested that the policy for bonds and traffic impact fees be set by the LUB. She went on to say, as a LUB, we should be considering what we want to require for both safeguarding the Township for monies for fees and the responsibility for each project vs. accommodating development. Getting an engineer on board will help with this issue. Mayor Rinker asked that Ms. Caldwell give Mr. Stoner the message to start looking into this issue.

Regarding Bonds, Mayor Rinker gave a personal example that she had had where she was required to post a \$50k bond to develop a site that was 135 x 100 feet for a building renovation and parking lot. In her view, the requirement for bonds serves a good purpose - for projects to be finished. She feels that the best benefit of requiring bonds is for jobs when other people can potentially be affected such as with a major subdivision. She would like to see small isolated projects, where no other person could be affected by the project being stalled, not be included with projects where people would be affected. Ms. Cocula gave a couple of examples including a home in Vernon Valley Lake that has been under construction for 25 years where smaller jobs have affected other people.

Mr. Garofalo advised the LUB that this board could have a policy but the law gives you the discretion to do what you think you need to do on an application to application basis. Ms. Caldwell will also give Mr. Stoner the message to further research this issue.

Mayor Rinker suggested addressing the Land Development Permit as possibly being a repetitious requirement for developers.

**OPEN SPACE ORDINANCE DISCUSSION**

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Mr. Gornstein asked the LUB members if they would like to take a position on how to use the Open Space Funds and advise the Town Council of same. Mr. Gornstein said that the first reading of the ordinance (which gives use of Open Space funds for things other than Open Space) was approved by the Town Council. He said they are looking to put this on the ballot as a referendum.

Mayor Rinker explained that the original ordinance went to the voters and they voted for the Open Space Tax which has amassed \$900,000.00 in the fund. The new ordinance being introduced, #10-18, would expand the uses of the money in the fund to pay debt associated with the park and possibly build more fields and maintain them. She stated that she is against this new ordinance as she does not believe in a referendum to undo a referendum. She feels the voters have already spoken. She is also scared to think of what is going to happen to this money if it becomes a slush fund.

Mr. Garofalo explained that only 2 of the 6 uses allowed by state law were incorporated into Vernon's Open Space ordinance and now the new ordinance would expand the use of the money from 2 to 6 purposes. Mayor Rinker added that the new ordinance, as written, also asks to form a new Open Space and Recreation Committee thereby circumventing the duties of our current Recreation Board and Environmental Commission as stated in our code. She feels this would compromise eco-tourism in our town.

**Motion:**

**Ms. Paladini made a motion that the LUB adopt a resolution opposing Ordinance #10-18. Mr. Borisuk seconded the motion. ROLL CALL: BORISUK - Y, COCULA - N, GORNSTEIN - Y, PALADINI - Y, RINKER - Y, MURPHY - Y, HACK - Y, ROLANDO - Y. Passed.**

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

**Mr. Jim Schriener**

Mr. Jim Schriener, Architect and resident of Highland Lakes came forward. He explained that 2 weeks ago he had gone to the zoning office to confirm if he could build an addition within required setbacks which are within 75 feet of a stream. He explained that Vernon's setbacks are more restrictive than the State code which is 50 foot setback

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for an intermittent stream. Mr. Stoner advised him that he would not grant any waivers that had been given in the past and if his client wanted to do an addition that he would have to go for a variance which would cost between \$3-5,000.

Mr. Garofalo advised Mr. Schriener that because he chose to discuss this in the Public portion of this meeting, the LUB would not be able to grant any relief. Mr. Schriener advised that he just wanted direction.

Ms. Caldwell explained that the ordinance does not provide for the waivers that were being granted in the past. Mr. Schriener asked who could change the setback requirement in the ordinance. He was told either a private citizen or the LUB could request that change from the Town Council.

Mr. Garofalo suggested putting this issue on the LUB agenda for the next meeting.

**CLOSED THE MEETING TO THE PUBLIC**

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**RESOLUTION**

PB # 4-05-4 - Highland Lakes Real Estate, LLC, Block 195, Lots 34, 35, 35.01, 36, 36.01, 37 & 37.01, Extension of preliminary major subdivision approval.

**Motion:**

**Ms. Cocula made a motion to approve of the above resolution. Ms. Murphy seconded the motion. ROLL CALL: BORISUK - Y, COCULA - Y, PALADINI - Y, MURPHY - Y.**

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**CLOSED SESSION**

None.

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**escrows, board fees and bond reductions**

**Escrows None**

**B. Board Fees**

Board Attorney - Michael Garofalo, Laddey, Clark & Ryan, LLP

Land Use

Board Business - Services through 6/30/10 - (\$825.00) Highland Lakes Real Estate -

PB # 4-05-4 - Services through 6/30/10 - (\$75.00)

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Cynthia Davis – Recording Secretary  
DOS – 6/22/10-6/30/10 – (\$78.00)

**Motion:**

**Ms. Cocula made a motion to approve the payment of the board fees. Ms. Paladini seconded the motion. All were in favor. None were opposed.**

**C. Request for Bond to be closed**

None submitted as of agenda distribution

**D. Request for Escrows to be closed**

PB # 11-08-9 - Christopher Merck, Block 127.03, Lots 29 & 30,- Lot Line  
Adjustment - Requesting release of remaining escrow.

Ms. Caldwell recommended tabling the decision on closing the above escrow until the can be reviewed. All were in favor.

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**MINUTES**

**June 23, 2010.**

**Motion:**

**Ms. Cocula made a motion to approve the minutes of June 23, 2010. Ms. Murphy seconded the motion. All were in favor.**

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**ADJOURNMENT**

**Mr. Gornstein made a motion to adjourn the meeting at 10:10 p.m. Mayor Rinker seconded the motion. All were in favor. None were opposed.**

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Transcribed by Cynthia Davis on August 6, 2010.




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**CERTIFICATION**

I, the Board Secretary, hereby certify that the above minutes were approved at the regularly scheduled Land Use Board meeting on August 25, 2010.

Respectfully submitted,



Cynthia Davis  
Board Secretary  
Land Use Board Regular Meeting  
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