

**TOWNSHIP OF VERNON**  
**TOWNSHIP COUNCIL REGULAR MEETING**

**September 24, 2009**

The Regular Meeting of the Township Council of the Township of Vernon was convened at 6:04 p.m. on Thursday, September 24, 2009 in the Vernon Municipal Center, 21 Church Street, Vernon, New Jersey with Mayor Austin Carew presiding.

**STATEMENT OF COMPLIANCE**

Adequate notice of this meeting was provided to the public and the press on December 30, 2008 in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-7. Notice of this meeting was sent to the New Jersey Herald and was posted on the bulletin board in the Municipal Center and posted on the Township's Website.

**ROLL CALL OF MEMBERS**

Present were Council Members Richard Carson, Gary Grey, Valerie Seufert, and Mayor Austin Carew. Also present were Township Manager Melinda Carlton and Township Attorney Michael Witt.

**RESOLUTION TO GO INTO EXECUTIVE SESSION**

At 6:05 p.m. Council Member Richard Carson made a motion to close the meeting to the public and enter into executive session. Motion seconded by Council Member Gary Grey with all members voting in favor.

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

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public in certain circumstances; and

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

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

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matters to be discussed are:
  - a. Real Property/Contract matter regarding an Offer to Acquire Property for Open Space. Anticipated date of release of Executive Session Minutes will be made available upon final decision.
  - b. Attorney-Client matter regarding Main Street Associates. No anticipated date of release of Executive Session Minutes.
  - c. Attorney-Client matter regarding Old Homestead Road, Highland Lakes. No anticipated date of release of Executive Session Minutes.
  - d. Contract/Attorney-Client matter regarding the offer to purchase the Faline Building. No anticipated date of release of Executive Session Minutes.
  - e. Litigation/Attorney-Client matter regarding the SCUMA/Hole-in-the-Pipe litigation matter. Anticipated date of release of Executive Session Minutes will be made available upon final decision.
  - f. Contract/Attorney-Client matter regarding the status update of the Town Center Sewer System Project. No anticipated date of release of Executive Session Minutes.
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 6:07 p.m.

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The meeting was reopened to the public at 7:03 p.m. Present were Council Members Richard Carson, Gary Grey, Valerie Seufert, and Mayor Austin Carew. Also present were Township Manager Melinda Carlton and Township Attorney Michael Witt.

### **SALUTE TO THE FLAG**

The Mayor led the assemblage in the salute to the flag.

### **MAYOR'S OPENING COMMENTS**

Mayor Austin Carew read the following statement concerning his knowledge of events regarding the Town Center Project and his role in hiring a forensic auditor to fully investigate the Town Center matter, which culminated in the Forensic Accounting Investigation Report dated June 17, 2009:

“As myself being the only member of the governing body remaining that had any involvement or knowledge of any of the consequences that led to our Forensic Investigation of the Township, in particular our Town Center, I thought a summary of events to this point would be helpful to the public, my fellow Council Members, our Attorney, CFO and Clerk.

Fall 2006, a Vernon Township employee (Department Head) gave a sitting Council Member information that suggested our Manager and a fellow employee were and had acted improperly and may be guilty of misappropriation of funds.

That Council Member immediately shared this information with the entire Council, the Town Auditor, the Town Attorney, and County Prosecutor. The Council collectively shared our suspicions with the Manager.

The County Prosecutor investigation continued through until the following year of 2007.

In February 2007, the Manager resigned. He was arrested for domestic violence and later for theft.

The Council hired an Interim Manager who also helped us hire a new Manager, which we did in the fall of 2007. The Interim Manager, during an investigation of costs of our Town Center, had discovered over a million dollars in cost overruns for both the Town Center and Maple Grange Park. He then further discovered that this was not reported nor discussed with the Council or the DCA as is required under State statutes and our own ordinance.

In 2007, we asked the State Attorney General to fully investigate these cost overruns and all Township dealings as our previous Manager was arrested and awaiting trial.

The Attorney General denied our request and consequently we hired our own investigative auditing firm to fully investigate our Town Center and related issues. The report was submitted to the Council at our last meeting. After reviewing the report the Manager sent this report to the FBI, County Prosecutor and our Attorney General to further investigate for criminal activity and possible restitution.”

Austin Carew

### **PUBLIC COMMENTS**

Mayor Carew opened the meeting for Public Comment.

*Phyllis MacPeek, Vernon*, questioned how much it will cost the Township to give municipal employees Christmas Eve Day off as an additional holiday in the year.

*Gary Martinsen, Vernon*, commented about his request last November for a signage moratorium to help small retail businesses during holiday shopping. Mr. Martinsen advised this year several organizations will be planning a “Home for the Holidays” fundraising event and spoke about how this community event will help charities and promote togetherness. Mayor Carew invited Mr. Martinsen to present this program to the Economic Development Committee at their next meeting.

*Thomas McClachrie, Vernon Taxpayers Association*, questioned the cost for the recent hire of a Deputy Manager. Mr. McClachrie also questioned why he was denied the draft copy of the Forensic Audit under his OPRA Request. Mr. McClachrie thanked

Council Member Valerie Seufert for insisting that the Township's Bill List show dollar amount details. Mr. McClachrie also thanked Sally Rinker for having her HVAC professional inspect the Municipal Center's HVAC system, which if followed, will save the taxpayers a lot of money in replacement costs. Mr. McClachrie further questioned Resolution #09-159 which cancelled unspent funds for various capital projects and asked why this money was found after property taxes were increased.

*Mary Ellen Vischiconti, Nutley Avenue*, invited the Township Council and the public to attend Sunday's "Pow Wow" event, which will also have a small theatre tent this year for the showing of the short film, "Scarecrow." Ms. Vischiconti then questioned who is responsible to account for, and purchase, fire apparatus and equipment needed by the Township's Fire Departments.

*Pat Rizzuto, Glenwood resident*, questioned how the Township will be paying for the shortfall incurred by the Ameripay embezzlement, and questioned if the Township Council was aware of any problems with Ameripay prior to May 20, 2009. Mr. Rizzuto further questioned why the Township continued to forward payments to Ameripay after the Township learned of the fraud investigation by the Security and Exchange Commission and FBI. Lastly, Mr. Rizzuto urged the Council cut all spending for the remaining quarter of 2009.

*Jessi Paladini, Sunset Ridge*, commented that the mishandling of the Ameripay situation is a serious problem, and questioned if the Township properly followed state procurement requirements in contracting Ameripay as the Township's third-party payroll service provider. Ms. Paladini asserted that the Township did not have a contract in place with Ameripay and no authorizing resolution from the Council.

*Dan Borstad, McAfee*, commented that he is very concerned with the state of affairs in Vernon Township. Mr. Borstad did not believe the "Faulkner" form of governing was the best method and asked that a committee be formed to look into changing the form of government. Mr. Borstad further commented that Vernon's form of government has turned from a democracy to an "inside dictator" by the loss of control in the handling of Township business by the Council.

Seeing no one else from the public wishing to speak, Mayor Austin Carew closed the public portion of the meeting.

## **TOWNSHIP MANAGER'S REPORT**

### **Introduction of New Deputy Manager**

The Township Manager introduced new Deputy Manager Brian Palaia.

### **2010 Professional Service RFP's**

The Township Manager reported that RFP's are being developed for Professional Services in anticipation of the 2010 Reorganization.

### **Proposed Road Projects with Sussex County**

Lou Kneip reported on current and potential future joint projects between Sussex County and Vernon Township. The Projects include (i) improvements to the CR517 and Maple Grange Road intersection, (ii) Appalachian Trail parking lot, (iii) improvements to the Old Homestead Road and CR638 intersection, and, (iv) improvements to the intersection of CR565 and Glenwood Mountain Road.

### **SCUMA Recharge Facility Landscaping and Property Maintenance**

Mr. Kneip contacted the Sussex County Municipal Utility Authority's engineer for landscaping improvements and site maintenance at the SCMUA recharge facility site on Route 94.

### **Council on Affordable Housing Update**

Mr. Kneip reported that the Township's COAH Attorney advised that the Township should develop a parcel-based map showing which sections of the Township, or specific properties would be impacted if the Township elects to opt out of COAH. Mr. Kneip advised the Planner has presented a proposal for consideration to the Township Manager to go forward with this assignment. Mayor Carew requested that a map be

developed to identify the parcels. Council Member Valerie Seufert requested that the work be completed in-house to save money on consultant fees.

**Township Fee Schedules**

The Manager reported that Municipal Departments are preparing fee schedules for Council review. The issue is anticipated to be on the October 22<sup>nd</sup> Council Meeting for discussion.

**Great Gorge Condominium Association Small Cities Grant Pre-Application**

The Township Manager reported a September 22, 2009 letter was received from Great Gorge Terrace Condominium Association assuring that the Township has no financial obligation in co-signing the Small Cities Grant Pre Application.

The Township Manager questioned if the Township may be liable for monies under the Grant once pre-approval is given. The Township is not interested in participating in the Grant if a monetary contribution is required.

Motion to authorize the Township to act as a co-signer for the Great Gorge Condominium Association Small Cities Grant Pre-Application was moved by Council Member Richard Carson. Seconded by Council Member Gary Grey.

A roll call vote was taken:

AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew

NAYES: None

Motion passed. Mayor Carew will execute the Great Gorge Condominium Association Small Cities Grant Pre-Application documents on behalf of the Township.

**Property Maintenance Codes**

The Council requested a Work Session be scheduled for October 8<sup>th</sup> from 4:30 – 5:30 p.m. to discuss the updated International Code Council’s Property Maintenance Code and conformity to the Township’s Property Maintenance Code.

**2008 Annual Audit**

The 2008 Annual Audit Resolution is scheduled for the October 8<sup>th</sup> Council Meeting.

**APPROVAL OF MINUTES**

The July 9, 2009 Executive Session Minutes were tabled until the October 8, 2009 Regular Council Meeting.

The July 23, 2009 Executive Session Minutes were tabled until the October 8, 2009 Regular Council Meeting.

The August 13, 2009 Executive Session Minutes were tabled until the October 8, 2009 Regular Council Meeting

**CONSENT AGENDA**

**RESOLUTION # 09-157**

**AUTHORIZING THE APPROVAL OF BILLS LIST**

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

<b>Disbursement Journal</b>	<b>Fund</b>	<b>Amount</b>	<b>Major Vendor</b>
#1	Current	\$ 77,194.13	
#2	Current	\$ 817,004.25	Vernon BOE
#3	Current	\$1,732,904.21	Bond pmt. prin & int
#4	Capital	\$ 4,087.00	
#5	P & Z	\$ 6,274.28	
#6	Recreation Trust	\$ 30.00	
#7	Other Trust	\$ 53,078.70	

#8	Other Trust	\$	121.50
#9	Outside Services	\$	1,619.28
#10	Outside Services	\$	5,100.29
#11	Sewer Operating	\$	465.84
	Payroll	\$	315,066.70
	TOTAL		<u>\$3,012,946.18</u>

Council Member Valerie Seufert moved to approve the Consent Agenda, seconded by Council Member Richard Carson.

A roll call vote was taken:

AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew

NAYES: None

## RESOLUTIONS REQUIRING SEPARATE ACTION

### RESOLUTION # 09-150

RESOLUTION APPROVING AN AGREEMENT FOR THE PROVISION OF PAYROLL SERVICES BETWEEN THE TOWNSHIP OF VERNON AND ACTION DATA SERVICES FOR AN AMOUNT NOT TO EXCEED \$19,000.00

**WHEREAS**, the Township of Vernon ("Township") has a need to acquire payroll services for the processing of employee payroll; and

**WHEREAS**, Action Data Services has submitted a 16 month proposal (annexed) for the provision of said services; and

**WHEREAS**, pursuant to N.J.S.A. 19:44A-20.5, the subject Contract has an anticipated value in excess of \$17,500.00, and therefore is subject to the provisions of N.J.S.A. 19:44A-20.4 et. seq. (New Jersey Local Unit Pay-to-Play); and

**WHEREAS**, pursuant to N.J.S.A. 19:44A-20.5 the New Jersey Local Pay-to-Play Law and pursuant to N.J.S.A. 40A:11-3 of the New Jersey Local Public Contracts Law, the Township may enter into said payroll services agreement without public bidding provided all reporting requirements have been met; and

**WHEREAS**, the Township received competitive quotes for said payroll services; and

**WHEREAS**, the Township Chief Financial Officer has certified that Account #10570591 and the payroll processing funds provided by Lakeland Bank contain funds sufficient for the purpose stated in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the Township of Vernon, County of Sussex, State of New Jersey as follows:

1. Upon satisfactory presentation of all materials required under the New Jersey Local Pay-to-Play Law and the Local Public Contracts Law, the Township Manager of the Township of Vernon is hereby authorized to enter into the within Professional Services Agreement with Action Data Services substantially in the form annexed hereto, and subject to the review and approval as to form by the Township Attorney.
2. Notice of the award of the within Contract shall be published in accordance with law.
3. The within Resolution and subject Contract shall be on file and available for public inspection in the office of the Municipal Clerk.
4. This Resolution shall take effect immediately upon passage and publication in accordance with law, if required.

Resolution #09-150 was removed from the agenda.

**RESOLUTION #09-151**

**AUTHORIZING THE RELEASE OF EXECUTIVE SESSION MINUTES  
FROM TOWNSHIP OF VERNON PUBLIC COUNCIL MEETINGS**

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon that the Executive Session Minutes of Township Council Meetings held on July 9, 2009, are hereby approved for release to the public, subject to redaction where appropriate.

**BE IT FURTHER RESOLVED**, that the release of any minutes shall not constitute any waiver of confidentiality where such release was made in error.

Resolution #09-151 was removed from the agenda.

**RESOLUTION #09-152**

**AUTHORIZING THE RELEASE OF EXECUTIVE SESSION MINUTES  
FROM TOWNSHIP OF VERNON PUBLIC COUNCIL MEETINGS**

**NOW THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon that the Executive Session Minutes of Township Council Meetings held on July 23, 2009, are hereby approved for release to the public, subject to redaction where appropriate.

**BE IT FURTHER RESOLVED**, that the release of any minutes shall not constitute any waiver of confidentiality where such release was made in error.

Resolution #09-152 was removed from the agenda.

**RESOLUTION #09-154**

**CHAPTER 159 RESOLUTION - CLICK IT OR TICKET GRANT  
AMENDING THE 2009 BUDGET AS A REVENUE OF \$4,000.00**

**WHEREAS**, N.J.S.A. 40A:4-87 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 received \$4,000.00 from the State of New Jersey Click It or Ticket Grant and wishes to amend its 2009 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 2009 in the sum of \$4,000.00 which is now available as a revenue from the Division of Highway Traffic Safety; and

**BE IT FURTHER RESOLVED** that a like sum of \$4,000.00 is hereby appropriated under the caption Click It or Ticket.

Council Member Valerie Seufert moved to approve Resolution #09-154, seconded by Council Member Richard Carson.

A roll call vote was taken:  
 AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew  
 NAYES: None  
 Resolution #09-154 was approved.

**RESOLUTION #09-155**

CHAPTER 159 RESOLUTION - OVER THE LIMIT UNDER ARREST  
 AMENDING THE 2009 BUDGET AS A REVENUE FOR \$6,000.00

**WHEREAS**, N.J.S.A. 40A:4-87 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 received \$6,000.00 from the State of New Jersey Division of Highway Traffic Safety and wishes to amend its 2009 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 2009 in the sum of \$6,000.00 which is now available as a revenue from the Division of Highway Traffic Safety; and

**BE IT FURTHER RESOLVED** that a like sum of \$6,000.00 is hereby appropriated under the caption Over the Limit Under Arrest; and

Council Member Valerie Seufert moved to approve Resolution #09-155, seconded by Council Member Richard Carson.

A roll call vote was taken:  
 AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew  
 NAYES: None  
 Resolution #09-155 was approved.

**RESOLUTION # 09-159**

AUTHORIZING THE CANCELLATION OF CAPITAL APPROPRIATION BALANCES

**WHEREAS**, certain General Capital Improvement appropriation balances remain dedicated to projects now completed: and

**WHEREAS**, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Capital Surplus, and unused debt authorizations may be canceled:

**NOW THEREFORE, BE IT RESOLVED**, BY THE Council of the Township of Vernon, that the following unexpended and dedicated balances of the General Capital Appropriations be cancelled:

ORDINANCE NUMBER	DATE ORDINANCE WAS ADOPTED	DESCRIPTION	AMOUNT CANCELLED
99-24	11-22-99	Various Improvements	\$ 5.52
00-19	05-22-00	Various Improvements	\$ 1,920.00
04-26	08-09-04	Various Improvements	\$ 19,777.62
05-07	03-28-05	Rehab Low & Mod Housing	\$ 12,200.00
05-09	03-28-05	Improvements, Town Center	\$ 10,690.33
05-14	04-25-05	Various Capital Improvements	\$ 17,287.23

05-31	01-09-06	Acquisition of Lands	\$ 11,026.50
06-06	02-27-06	Affordable Housing	\$ 20,004.88
06-19	06-26-06	Various Capital Improvements	\$ 708,648.51
07-24	05-31-07	Improvements, Maple Grange Park	237,427.20
07-36	08-31-07	Various Capital Improvements	\$ 128,833.59
<b>TOTAL</b>			<b><u>\$1,167,821.38</u></b>

Council Member Richard Carson moved to approve Resolution #09-159, seconded by Council Member Gary Gray.

The Township Manager briefly explained this resolution authorizes the Council to cancel the balances in Capital Ordinances that have not been spent. The funds will be returned to Capital Surplus and can be used for future capital improvement projects. The amount cancelled and returned to Capital Surplus is \$1,167,821.38.

Council Member Valerie Seufert urged that the \$1,167,821.38 be placed in Capital Surplus and not be spent so that the monies are available for emergencies if needed.

A roll call vote was taken:

AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew

NAYES: None

Resolution #09-159 was approved.

#### **RESOLUTION #09-160**

AUTHORIZING AND DIRECTING THE MAYOR AND TOWNSHIP CLERK TO SIGN A REIMBURSEMENT AGREEMENT FOR THE TOTAL AMOUNT OF \$175,863.80 WITH STONEHILL PROPERTY OWNERS ASSOCIATION FOR THE YEARS 2004, 2005, & 2006, A QUALIFIED PRIVATE COMMUNITY AS DEFINED BY N.J.S.A. 40:67-23.2.

**WHEREAS**, the Community is a qualified community pursuant to the definitions established in N.J.S.A. 40:67-23.2 (e), in which there exists private roads; and

**WHEREAS**, N.J.S.A. 40:67-23.3 requires the Township to provide for or reimburse the Community for certain services as the Township provides on public streets and roads; and

**WHEREAS**, said services include the removal of snow and ice, which service is the only service provided by the Township pursuant to N.J.S.A. 40:67-23.3; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Vernon, County of Sussex and State of New Jersey that the Mayor and Clerk are hereby authorized to execute the Agreement between the Township of Vernon and Stonehill Property Owners Association for the years 2004, 2005, & 2006; and

**BE IT FURTHER RESOLVED** that the Chief Financial Officer has certified the availability of funds for the total amount of \$175,836.80; and

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

Council Member Gary Gray moved to approve Resolution #09-160, seconded by Council Member Valerie Seufert.

Council Member Valerie Seufert requested that the Council be informed of the number of qualified private communities in Vernon Township in order to better estimate the amount of reimbursable costs under the Kelly Municipal Services Act for the municipal budget.



A roll call vote was taken:  
AYES: Richard Carson, Gary Grey, Valerie Seufert, Austin Carew  
NAYES: None  
Resolution #09-160 was approved.

**COUNCIL BUSINESS**

Council Member Richard Carson questioned whether or not the Township had a contract with Ameripay for payroll and why services were retained without a contract. The Township Attorney responded the procurement process for payroll services was not followed. The Township is addressing this matter.

Council Member Valerie Seufert insisted that the Township retain a payroll company that is fully-bonded and referred to a September 23<sup>rd</sup> article in the New Jersey Herald.

Council Member Richard Carson questioned why the Township did not seek collaboration with the Vernon Township Board of Education in retaining payroll services. The Township Manager responded that there was no offer of assistance and the Township felt that it had a good handle on what was going on.

Council Member Valerie Seufert questioned how many grants the grant writer has submitted since the firm was retained. Council Member Seufert also questioned the progress of the New Jersey Land Conservancy in the acquisition of Open Space lands for the Township.

Council Member Valerie Seufert further questioned the status of negotiations with United Water and Mountain Creek regarding the Town Center Sewer System. The Township Attorney reported an October 1<sup>st</sup> 2009 meeting is scheduled to continue discussions.

**RESOLUTION TO GO INTO EXECUTIVE SESSION**

At 8:53 p.m. Council Member Richard Carson made a motion to close the meeting to the public and enter into executive session. Motion seconded by Council Member Valerie Seufert with all members voting in favor.

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

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975 permits the exclusion of the public in certain circumstances; and

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

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

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.
2. The general nature of the subject matters to be discussed is:  
Continuation of the 6:00 p.m. Executive Session.
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 8:56 p.m.

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The meeting was reopened to the public at 9:15 p.m. Present were Council Members Richard Carson, Gary Grey, Valerie Seufert, and Mayor Austin Carew. Also present were Township Manager Melinda Carlton and Township Attorney Michael Witt.

**ADJOURNMENT**

There being no further items of business to be conducted on the Regular Meeting agenda, a motion for Adjournment was made by Council Member Valerie Seufert. Motion seconded by Council Member Gary Grey with all members voting in favor.

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 9:15 p.m.

Respectfully submitted,

*Robin R. Kline*

Robin R. Kline, MAS, RMC  
Municipal Clerk  
Township of Vernon

Minutes approved: November 12, 2009