

**Township of Vernon**

**TOWNSHIP COUNCIL MEETING**

**September 25, 2017**

The Meeting of the Township Council of the Township of Vernon was convened at 7:30 p.m. on Monday September 25, 2017 in the Vernon Municipal Center, 21 Church Street, Vernon, New Jersey with Council President Jean Murphy presiding.

**STATEMENT OF COMPLIANCE**

Adequate notice of this meeting has been provided to the public and the press on January 5, 2017 and was posted on the bulletin board in the Municipal Building in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-7.

**ROLL CALL OF MEMBERS**

Present were Council Members Dan Kadish, Sandra Ooms, Patrick Rizzuto, Dick Wetzel and Council President Jean Murphy. Also present were CFO Elke Yetter, Administrator Charles Voelker and Township Attorney Marlin Townes.

**SALUTE TO THE FLAG**

Council Member Murphy led the assemblage in the salute of the flag.

**PRESENTATIONS**

Vernon Police Chief Randy Mills and Captain Dan Young brought forward the graduating class of the 2017 Vernon Junior Police Academy and presented a slideshow of their accomplishments.

The following Recruits graduated the academy: Recruit Mele, Recruit Aumick, Recruit Ezzo, Recruit Malolepszy, Recruit Cielo, Recruit Okken, Recruit Abraham, Recruit Reed, Recruit Lawley, Recruit Ortiz, Recruit Rivera, Recruit Cruz, Recruit Flores, Recruit Schmick, and Recruit Fischer.

The Council congratulated the class for their hard work and expressed appreciation to the Police for working with the youth of the community.

**PROCLAMATIONS:**

Bells Across America

Council Member Kadish requested that Bob Winters and Harold MacPeek come forward. Mr. Winters and Mr. MacPeek explained there were four NJ firemen, in 2017, that lost their lives in the line of duty:

- Joseph J. Bichler, Age 66, volunteer with Evesham Fire-Rescue,
  - Stephen Anthony Chervenyak Jr., Age 38, Volunteer Fire Chief with East Whitehouse Fire company
  - Louis Kelly, Age 70, paid Deputy Fire Coordinator with Union County Fire Office of Emergency Management
  - Daniel Patrick McCann III, Age 51, volunteer with Manasquan Hook & Ladder Company
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Mr. Winters, a volunteer for fire and rescue in Allendale during the daytime and in Vernon on nights and weekends noted that 99 % of New Jersey firefighters are volunteers. Mr. MacPeek added he has volunteered with Vernon Fire Department since 1959.

***Recognizing Bells Across America***

**WHEREAS**, being a firefighter is a very satisfying profession that is highly respected by children and adults alike; and

**WHEREAS**, firefighters stand for all that is good in our society which is why they are one of the few occupations to be welcomed into your homes without an appointment; and

**WHEREAS**, communities rely on their firefighters to solve many types of problems ranging from fires, floods, traffic accidents, and hazardous materials incidents, and more; and

**WHEREAS**, firefighters go through a rigorous training program so they can follow their dreams to serve their communities with the knowledge that the other members of their team have been equally trained and will look out for each other; and

**WHEREAS**, despite human instinct to run away from a fire for fear of being injured, firefighters are the only ones who run towards a burning building as they are willing to risk their lives for complete strangers regardless of race, creed, color, or socioeconomic status; and

**WHEREAS**, Bells Across America will be held during National Fallen Firefighters Memorial Weekend held on October 7 and 8 to honor those fallen heroes who have made the ultimate sacrifice; and

**WHEREAS**, Vernon Township has been fortunate to not lose any firefighters in the line of duty while serving with our fire departments: Highland Lakes, McAfee, Pochuck Valley, and Vernon.

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of the Township of Vernon that it does hereby recognize all Fallen Firefighters.

### **PUBLIC COMMENTS**

Council President Murphy asked for a motion to open the meeting to Public Comments.

MOVED: Dan Kadish

SECOND: Sandra Ooms

All members voted in favor.

Sally Rinker, expressed shock over proposed Resolution #17-184, which she stated, if approved, will increase legal fees by \$141,794 bringing 2017 total budget to \$453,400 compared to \$179,000 in 2015 and \$229,500 in 2016. Ms. Rinker commented the legal fees are a 100 % increase from 2016. Ms. Rinker claimed the surplus has dwindled to \$600,000. Ms. Rinker questioned if the administration is reviewing monthly invoices. Ms. Rinker asked the Council to verify these expenditures. Ms. Rinker opined that Vernon cannot sustain these increases and have taxes increase again and implores Council to review these expenses.

Jessi Paladini, [REDACTED], stated that she wanted to commend Mayor Shortway and expressed disappointment that she couldn't commend him in person. She explained the Vernon Historical Society nominated and created the Vernon Western Highlands Scenic Byway. She noted the Mayor stated on June 26, 2017 that he did not support the Byway but at a meeting of the Northern Transportation Authority he supported the plan and created it. Ms. Paladini read a passage from the Township website:

“In addition to highlighting the benefits of smart growth to capitalize on tourism, Mayor Shortway based his plan on the importance of serving the needs of local residents and existing businesses. His plan targets the necessity to provide housing for seniors, promote historic and cultural resources including efforts like the ongoing development of the Western Highlands Scenic Byway and the community volunteer-led completion of a portion of the greenway.”

Ms. Paladini commented that the Mayor refused to attend any meetings of the Scenic Byway despite her requests for him to attend.

Ms. Paladini opined that on September 6, 2017, Mayor Shortway violated confidentiality of the Council executive session when he publicly posted a confidential letter to the Mayor & Council regarding negotiations of litigation on his Facebook page. She added that it has since been deleted but she took a screenshot which was forwarded to the Prosecutor and New Jersey Attorney General. Ms. Paladini commented that the Mayor should be censured for his lawlessness. Ms. Paladini stated she was not suing the Township, she was requesting a declaratory judgement from a judge regarding her appointment. She added that the Mayor was a police officer and has mislead and deceived the public about her request for a declaratory statement from a judge. Ms. Paladini commented that the Mayor lied and removed her illegally and denied that she ever demanded her reappointment to the Land Use Board.

She re-stated the Mayor violated executive session rules by posting confidential material and continues to defame and bully her on his Facebook page and has blocked her so she cannot respond. Ms. Paladini read various comments from the mayor's personal Facebook page by Jeff Howell, John Doyle and Tony Cilli. She added that she brought \$1.7 million to Vernon to build Maple Grange park and requests Council to censure Mayor Shortway from defaming and bullying her.

Christa Gerry, expressed thanks to the Mayor and Council for their service to the community as it is difficult to please all the constituents. She commented that all people have flaws but the willingness to do better and forgive will be beneficial. Ms. Gerry opined that hatred should not be condoned as evil will bring down a

society as vandals recently did to the Wantage Diner. She added that love is stronger than hate and to remember that all people are equal and need to work together.

Council President Murphy asked for a motion to close the meeting to Public Comments.

MOVED: Dan Kadish

SECOND: Sandra Ooms

All members voted in favor.

Council Member Murphy asked Ms. Yetter for backup to clarify the amount of legal fees. Ms. Yetter stated a memo was given to all members of Council summarizing the legal fees of the Township through July 2017. She noted the breakdown: Mountain Creek Bankruptcy \$48,328; 2006 IRS audit \$23,000; Tax Appeals \$60,377 and Litigation \$77,012. Ms. Yetter noted that the Township could not have known about the bankruptcy, IRS audit or other matters when the budget was prepared. Ms. Yetter noted that some cases are still in litigation and not settled at this time.

Council Member Wetzel expressed much disappointment with Mayor Shortway posting confidential material on his personal Facebook page. Mr. Townes counseled Mr. Wetzel to abstain from discussing any matters subject to litigation. Council Member Wetzel added that the Mayor's actions were poor judgment and poor leadership and is a cause of action by the Council. Council Member Wetzel made a Motion for the Council to approve a Vote of No Confidence of Mayor Shortway and his actions.

MOTION: Dick Wetzel

SECOND: Sandra Ooms

Council Member Ooms questioned the Attorney is the Mayor's personal Facebook page is personal or of the Town. Attorney Townes stated he has not seen the post in question and would need more details to properly classify. Council Member Ooms commented that we need to know the determination as this is a terrible face for the resident and business community and needs to get under control. She added that any legal action resulting from this action should not be paid by the taxpayers but of the Mayor personally. Council Member Kadish stated he has not seen the post in question on Facebook.

There was commenting from the Audience.

Attorney Townes asks the public to refrain from speaking out of order during the meeting.

Council President Murphy stated she does use Facebook but noted that she has continually been the topic of subject matter on the page which was very personally damaging. Council President Murphy expressed disappointment that other Council members would bring this matter up at a Council meeting without providing her with a copy of any of the information. Council Member Ooms commented that we cannot control the public but can control elected officials.

A roll call vote was taken:

AYES: Sandra Ooms, Patrick Rizzuto, Dick Wetzel

NAYES: Dan Kadish, Jean Murphy

ABSTAIN: None

ABSENT: None

Motion Carried.

Council Member Rizzuto commented that the motion passed with a vote of 3-2. Council Member Rizzuto stated that all Council sat in the session with the understanding that what is said is in confidence but to have it placed on social media is a terrible lack of judgment and lack of respect of the Council. Council Member Rizzuto expressed his disbelief that Council President Murphy voted not to enforce a punitive measure against the Mayor for the serious violation and breach of trust. Council Member Rizzuto explained that the Mayor is a guest of the Council in executive sessions and expresses discontent of the Council President's vote. Council President Murphy again noted that she is not on Facebook and had not seen the post for herself as it was not provided.

Attorney Townes requested a Point of Order cautioning the Council about potentially discussing executive session material.

Council Member Ooms asked how to proceed to prevent this issue from happening again and questioned the legal ramifications.

## **MAYOR'S REPORT**

None

## MINUTES

Council President Murphy asked for a motion to approve the Regular Meeting Minutes of August 14, 2017, Executive Session Minutes of August 28, 2017, and the Regular Meeting Minutes of August 28, 2017.

MOVED: Dan Kadish  
SECOND: Dick Wetzel

A roll call vote was taken:

AYES: Dan Kadish, Sandra Ooms \*(August 14, 2017 only), Patrick Rizzuto, Dick Wetzel, Jean Murphy

NAYES: None

ABSTAIN: Sandra Ooms\* (August 28, 2017 Regular and Executive Minutes only)

ABSENT: None

Council Member Ooms asked Mr. Voelker what is status of request to have all Boards and Committees present a report to the Council. Council President Murphy noted that the Beautification Committee has ordered holiday lighting for the Town Center, added fall decorations to the Vernon welcome signs and the telephone pole that was situated in the Church Street sidewalk has been removed and the walk repaired.

Council Member Ooms asked if the minutes from the committees who utilize township funds could be posted for the public. Mr. Voelker agreed to schedule presentations on future meetings of the various committees. Council Member Ooms questioned the entry on the bills list for an appraisal of the Faline Building and Mr. Voelker will research and reply to council via email.

## CONSENT AGENDA

Council President Murphy gave a brief explanation of Resolutions #17-177 through #17-182.

Council President Murphy asked for a motion to approve Resolutions #17-177 through #17-182.

Resolution #17-183 was removed from Consent Agenda.

MOVED: Sandra Ooms  
SECOND: Patrick Rizzuto

A roll call vote was taken:

AYES: Dan Kadish, Sandra Ooms, Patrick Rizzuto, Dick Wetzel, Jean Murphy

NAYES: None

ABSTAIN: None

ABSENT: None

Motion carried to approve Resolutions #17-177 through #17-182.

## TOWNSHIP OF VERNON

### RESOLUTION 17-177

#### **RESOLUTION AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$2,423,542 BOND ANTICIPATION NOTES OF THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY**

BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF VERNON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:

Pursuant to a bond ordinance of the Township of Vernon, in the County of Sussex (the "Township") entitled: "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", finally adopted on November 14, 2011 (#11-23), bond anticipation notes of the Township in a principal amount not exceeding \$2,423,542 shall be issued for the purpose of temporarily financing the improvement or purpose described in Section 3 of said bond ordinance, including (to any extent necessary) the renewal of any bond anticipation notes heretofore issued therefor.

All bond anticipation notes (the "notes") issued hereunder shall mature at such times as may be determined by the treasurer, the chief financial officer or the acting chief financial officer of the Township (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 and shall be signed and sealed by officials and officers of the Township in any manner permitted by N.J.S.A. §40A:2-25. The Chief Financial Officer shall determine all matters in connection with the notes issued hereunder, 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 at not less than par 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. 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 hereunder 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.

Any note issued pursuant to this resolution shall be a general obligation of the Township, and the Township's faith and credit are hereby pledged to the punctual payment of the principal of and interest on the notes and, unless otherwise paid or payment provided for, an amount sufficient for such payment shall be inserted in the budget and a tax sufficient to provide for the payment thereof shall be levied and collected.

The Chief Financial Officer is hereby authorized and directed to do all other matters necessary, useful, convenient or desirable to accomplish the delivery of the notes to the purchasers thereof as promptly as possible, including (i) the preparation, execution and dissemination of a Preliminary Official Statement and Final Official Statement with respect to the notes, (ii) preparation, distribution and publication, if necessary, of a Notice of Sale with respect to the notes, (iii) execution of a Continuing Disclosure Undertaking, with respect to the notes in accordance with Rule 15c2-12 promulgated by the Securities and Exchange Commission and (iv) execution of an arbitrage and use of proceeds certificate certifying that, among other things, the Township, to the extent it is empowered and allowed under applicable law, will do and perform all acts and things necessary or desirable to assure that interest paid on the notes is not included in gross income under Section 103 of the Internal Revenue Code of 1986, as amended.

All action heretofore taken by Township officials and professionals with regard to the sale and award of the notes is hereby ratified, confirmed, adopted and approved.

This resolution shall take effect immediately.

#### **RESOLUTION #17-178**

#### **RESOLUTION TO AWARD A CONTRACT TO H AND H AUTO PARTS USING THE US COMMUNITIES CONTRACT #2017000280**

**WHEREAS**, the Township of Vernon has a need to purchase auto and truck parts and;

**WHEREAS**, N.J.S.A. 52:34-6.2 et seq., allows local contracting units to utilize National Cooperative Contracts as a method of procurement when cost effective; and

**WHEREAS**, H and H Auto Parts, 287 Route 94, Vernon NJ 07462 is a recognized retailer of Advance Auto Parts; and

**WHEREAS**, the Qualified Purchasing Agent has determined that using the US Communities contract to purchase auto and truck parts may, in some instances, be more cost effective than utilizing the state contract or a competitively bid contract; and

**WHEREAS**, the Qualified Purchasing Agent has also determined that the US Communities contract #2017000280 was awarded in a fair and open process; and

**WHEREAS**, this contract expires on December 31, 2019, with an option to renew for two (2) additional two (2) year periods, at the discretion of US Communities; and

**NOW THEREFORE BE IT FURTHER RESOLVED**, by the Township Council of the Township of Vernon, County of Sussex and State of New Jersey, the Mayor is authorized to execute a contract with H and H Auto Parts, 287 Route 94, Vernon, New Jersey 07462 using the US Communities contract # 2017000280.

#### **RESOLUTION #17-179**

#### **AUTHORIZING THE RELEASE OF PERFORMANCE BOND FROM J. FLETCHER CREAMER & SON FOR WATERMAIN IMPROVEMENT PROJECT IN THE ASPEN WOODS SECTION OF VERNON TOWNSHIP**

**WHEREAS**, United Water New Jersey, (SUEZ), along with J. Fletcher Creamer & Son posted a Performance Bond for a Watermain Improvement Project in the Aspen Woods section of Vernon Township per Resolution #15-105 in the amount of \$136,592.04; and

WHEREAS, United Water New Jersey and J. Fletcher Creamer & Son have completed all of the water main replacement work in said project and have made a request for the bond to be released; and

WHEREAS, the Township Engineer, per letter dated September 14, 2017, has conducted a final inspection of project and found roadway in satisfactory condition and hereby recommends that the Township accept the roadway repairs of Watermain project at Aspen Woods as complete and release the bond.

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of Vernon, County of Sussex that it hereby approves and authorizes that the performance bond posted by J. Fletcher Creamer & Son for Watermain Improvement project in Aspen Woods in the amounts of \$136,592.04 be released and returned to J. Fletcher Creamer & Son; and

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to United Water New Jersey, (SUEZ), J. Fletcher Creamer & Son and the Township Engineer.

**RESOLUTION #17-180**

**AUTHORIZING THE USE OF MORRIS COUNTY COOPERATIVE PRICING COUNCIL FOR PROPOSED IMPROVEMENTS TO BARRY DRIVE NORTH – PHASE I**

**WHEREAS**, the Township of Vernon has a need for contracting services for Proposed Improvements to Barry Drive North – Phase I; and

**WHEREAS**, the Morris County Cooperative Pricing Council advertised and received bids for roadway milling, paving, and traffic striping; and

**WHEREAS**, the bids received allowed for vendors to extend their pricing to municipalities who are a member of the Morris County Cooperative Pricing Council, a State regulated County Contract Purchasing System;

**WHEREAS**, the Vernon Township Engineer recommends the Township Council award contracts for milling, paving, and traffic striping for the northern section of Barry Drive North through the use of the Morris County Cooperative Pricing Council to the following contractors:

- 1) Milling & Paving: Tilcon New York, Inc. (Contract #6) in an amount of **\$169,899.20**; and
- 2) Traffic Striping: Denville Line Painting, Inc. (Contract #36) in an amount of **\$5,530.50**.

**WHEREAS**, the Chief Financial Officer of the Township of Vernon has certified that the funds for these contracts are available in Account #3095984.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Vernon that the vendors, Tilcon New York, Inc. and Denville Line Painting, Inc. be utilized for the Improvements to Barry Drive North – Phase I through the respective Morris County Cooperative Pricing Council contracts at the amounts not to exceed listed herewith.

This Resolution shall take effect immediately according to law.

**RESOLUTION #17-181**

**AUTHORIZING THE USE OF MORRIS COUNTY COOPERATIVE PRICING COUNCIL FOR PROPOSED IMPROVEMENTS TO MAPLE GRANGE ROAD**

**WHEREAS**, the Township of Vernon has a need for contracting services for Proposed Improvements to Maple Grange Road; and

**WHEREAS**, the Morris County Cooperative Pricing Council advertised and received bids for roadway milling, paving, traffic striping, and guide rail; and

**WHEREAS**, the bids received allowed for vendors to extend their pricing to municipalities who are a member of the Morris County Cooperative Pricing Council, a State regulated County Contract Purchasing System;

**WHEREAS**, the Vernon Township Engineer recommends the Township Council award contracts for milling and paving, traffic striping and guide rail installation (subject to final approvals from the New Jersey Department of Transportation) through the use of the Morris County Cooperative Pricing Council to the following contractors:

- 1) Milling & Paving: Tilcon New York, Inc. (Contract #6) in an amount of **\$260,677.80**; and
- 2) Traffic Striping: Denville Line Painting, Inc. (Contract #36) in an amount of **\$11,838.90**; and
- 3) Guide Rail: J. Fletcher Creamer & Son, Inc. (Contract #26) in an amount of **\$43,198.70**.

**WHEREAS**, the Chief Financial Officer of the Township of Vernon has certified that the funds for these contracts are available in Account #3095984

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of Vernon that the vendors, Tilcon New York, Inc, Denville Line Painting, Inc. and J. Fletcher Creamer & Son, Inc., be utilized for the Improvements to Maple Grange Road through the respective Morris County Cooperative Pricing Council contracts at the amounts not to exceed listed herewith, subject to the final approval from the New Jersey Department of Transportation.

This Resolution shall take effect immediately according to law.

### **RESOLUTION #17-182**

#### **AUTHORIZING THE COMBINING OF LOTS FOR TOWNSHIP OWNED PROPERTIES**

**WHEREAS**, the Township of Vernon (“Township”) owns various properties acquired in connection with delinquent taxes; and

**WHEREAS**, some of these properties that are vacant land are non-conforming as per the Land Development Schedule B for Bulk and Yard Requirements as incorporated by § 330-161 of the Township Zoning Code; and

**WHEREAS**, when two or more contiguous lots of substandard size are held in common ownership they are generally considered “merged”; and

**WHEREAS**, several of the vacant and non-conforming properties are contiguous and have been merged through common ownership by the Township; and

**WHEREAS**, the following vacant and non-conforming properties are contiguous and have been merged through common ownership by the Township:

<u>Block</u>	<u>Lot</u>		<u>Block</u>	<u>Lot</u>
42.11	10	with	42.11	11
44.01	11	with	44.01	12
102.06	6	with	102.06	8
102.07	2	with	102.07	3
102.12	31	with	102.12	32
102.14	1	with	102.14	2
102.18	7	with	102.18	13
102.18	7	with	102.18	14
102.19	5	with	102.19	7
103.01	1	with	103.01	2
104.03	18	with	104.03	19
104.03	18	with	104.03	20
268.05	9	with	268.05	14

**WHEREAS**, pursuant to N.J.A.C. 18:23A-1.10 (f), where adjacent lots are combined into one holding for the purpose of assessment, they may be shown on the tax map as either one lot or several lots; and

**WHEREAS**, it has been determined that it would be beneficial to reflect the mergers of the aforementioned properties on the Township tax map because the combined size of the aforementioned merged properties meets the Minimum Lot Area and Minimum Lot Width under the Township Zoning Code and therefore would be of greater value on the market to be sold; and

**NOW, THEREFORE BE IT RESOLVED** by the Council of the Township of Vernon that the Tax Assessor is authorized to combine the above listed merged properties on the Township tax map.

**RESOLUTIONS REQUIRING SEPARATE ACTION:**

**Resolution #17-183:** Authorizing the Expansion of the Western Highlands Scenic Byway For Vernon Township

Council President Murphy gave a brief explanation of Resolution #17-183. Council President Murphy questioned that the resolution before Council did not make mention of McPeek Road and County Routes 517. Council President Murphy noted that the resolution made no mention of County Route 517 or County Route 644 as to whether County Freeholder approval had been received for these roads. Council President Murphy stated she was not necessarily against having the loop but expressed concern for Vernon Crossing Road due to traffic.

Council President Murphy noted that Council Member Wetzel was on the Historic Society which has presented the Byway. Council Member Wetzel noted he is a Historical Society member but not involved in the Scenic Byway. Council President Murphy noted that the description was incomplete in the resolution. Council President Murphy stated she would like to see what the Freeholders had to say about this, specifically Route 644 which is Vernon Crossing Road and has all the ballfields. Council President Murphy expressed concern about working on this until the Freeholders had a chance to review this and approve. Council President Murphy stated she would like to see this resolution go back for revisions and approval by the Freeholders before the Township made any commitment. Council President Murphy noted this resolution did not even mention McPeek Road or Route 517. Council President Murphy read a portion of the State Byway description and stated again the resolution did not include McPeek Road and County Routes 517 & 644. Council President Kadish asked if an impact study for Vernon Crossing Road had been performed. Council President Murphy reiterated that the resolution should go to the County first for approval and Vernon Police should also review the matter. Council Member Ooms questioned if the Township could approve it and then send it to the Freeholders. Council Member Ooms stated she had spoken to the Freeholders. Council President Murphy noted that the resolution needs to be corrected. Council President Murphy reiterated the Freeholders should approve this first and the Police department should have input on this.

Council Member Ooms questioned if an amendment to the resolution can be made. Council Member Ooms asked Jessi Paladini in the audience stated there was a study and the Freeholders did not have to approve the Resolution because of "Home Rule." Council Member Rizzuto made a motion to amend the resolution to include McPeek Road and County Routes 517 & 644. Council President Murphy questioned whether Council Member Rizzuto was able to vote on this resolution because he is a member of the Western Scenic Byway Committee which he joined voluntarily not by Council action or appointment. Attorney Townes explained that to the extent that a member of the governing body is a member of the organization which sponsors a resolution it would be a conflict of interest for that council member who is a member to vote on it. Attorney Townes stated that a council member who is a member of the underlying organization should not vote on it. Attorney Townes again reminded the public to refrain from speaking out as the public comment session is over. Council President Murphy stated that Mr. Townes is the Municipal Attorney and clarified that the Vernon Historical Society is sponsoring Resolution #17-183 and the Council Member Wetzel is on the Historic Society. Attorney Townes stated that a member of the by-way commission or its underlying group, the Vernon Historical Society should not vote on this matter. Attorney Townes states it is his legal opinion and in the best interest of the Governing Body to protect the Township. Attorney Townes stated that any member of the sponsored group should not vote on this.

Council President Murphy stated the resolution should be revised and correct and to see County Freeholder approval to be sought first as well as for the Council to receive Vernon Police input as far as Vernon Crossing. Council Member Ooms objected indicating this has gone on for a long time. Council Members Ooms stated this has been voted on before for Route 94. Council Member Murphy indicated this has not been voted on before, the loop was not approved. Council Member Ooms stated she wanted to add the loop and amend the resolution. Council Member Ooms stated that is what the study is for and asked Ms. Paladini if that is corrected. Ms. Paladini said that was correct; the state said the Council must vote on it and there is no such thing as a conflict of interest, there is no such thing as being in conflict. Council President Murphy indicated the Township Attorney had given a legal opinion. Council Member Ooms stated that she had asked Ms. Paladini and Mr. Townes does not know what the grant money pays for. Council Member Ooms stated she would like to put in the change of the roads and vote on it.

Council President Murphy made a motion to table Resolution #17-183 until the Township heard from the County Freeholders on the matter as well as for the Council to receive Vernon Police input as far as Vernon Crossing.

MOVED: Jean Murphy



SECOND: Dan Kadish

A roll call vote was taken:

AYES: Dan Kadish, Jean Murphy

NAYES: Sandra Ooms

ABSTAIN: Patrick Rizzuto w/comment, Dick Wetzel

ABSENT: None

Motion carried to table Resolution #17-183.

Council Member Rizzuto questioned the Township Attorney that to have a conflict of interest, the member must personally benefit from the affirmative vote which in this case benefits the entire community and not him individually. Attorney Townes stated that Mr. Rizzuto is a member of the By-way. Attorney Townes advised Council Member Rizzuto that there is a benefit to an organization that Council Member Rizzuto is a member of and therefore since he sits on the By-Way under the Local Government Ethics law that is a conflict. Attorney Townes reiterated that it is a conflict for the Historic Society. Council Member Ooms questioned why this was brought forward as it appears no one is on the same page anymore. Council President Murphy indicated she was seeking approval from the Freeholders for their road and input from the police department. Council Member Ooms expressed frustration that she had spoken to the State and the Freeholders and now the time had come to vote and the brake was being pulled.

Attorney Townes again requested members of the public to refrain from interrupting the Council meeting by speaking out of order.

**Resolution #17-184:** Emergency Resolution – N.J.S.A. 40A:4-48;  
Council President Murphy gave a brief explanation of Resolution #17-184

Council President Murphy asked for a motion to approve Resolution #17-184

MOVED: Dan Kadish

SECOND: Sandra Ooms

Council Member Ooms questioned Ms. Yetter where the funds for this resolution are coming from. Ms. Yetter explained it is an emergency appropriation and raised by funds in next year's budget but also can also be offset by transfers in November from available unused funds in the 2017 budget. Council Member Rizzuto asked how did Ms. Yetter decide \$141,794.31 was needed. Ms. Yetter explained that based on current invoices through July in the information provided to the Council, a percent was calculated for remainder of year.

A roll call vote was taken:

AYES: Dan Kadish, Sandra Ooms, Patrick Rizzuto, Dick Wetzel, Jean Murphy

NAYES: None

ABSTAIN: None

ABSENT: None

Motion carried to approve Resolution #17-184

#### **Resolution # 17-184**

#### **EMERGENCY APPROPRIATION RESOLUTION – N.J.S.A. 40A:4-48** *(Under 3% limitation)*

**WHEREAS**, an emergency has arisen with respect to Legal Fees as a result of 1) defense of township's claim for Mountain Creek bankruptcy, 2) defense of litigation of various lawsuits, 3) drafting of response to inquiries for random IRS examination of 2006 Bonds by bond council and IRS tax attorney and 4) additional tax appeal defense, no adequate provision was made in the 2017 current budget for the aforesaid purposes, and N.J.S.A. 40A:4-46 provides for the creation of an emergency appropriation for the purposes mentioned above, and

**WHEREAS**, the total amount of the emergency appropriations created, including the appropriation to be created by this resolution is \$141,794.31 and three (3) percent of the total operating appropriations in the current fund budget for 2017 is \$569,169.15 and

**WHEREAS**, the foregoing appropriation together with prior appropriations does not exceed three (3) percent of the total operating appropriations in the current fund budget for 2017,

**NOW, THEREFORE, BE IT RESOLVED**, (by not less than 2/3 of all governing body members affirmatively concurring) that in accordance with N.J.S.A. 40A:4-48:

1. An emergency appropriation is hereby made for Appropriation- Current – Other Expenses- Legal Fees in the amount of \$141,794.31.
2. That said emergency appropriation shall be provided for in full in the 2018 budget.
3. That the Chief Financial Officer has certified that the expenditures to be financed through this resolution are related to the aforementioned emergency.
4. That two (2) certified copies of this resolution be filed with the Director of the Division of Local Government Services.

**Resolution #17-185:** Establishing The Policy Regarding Maintenance Of Vernon Township's Sewer System

Council President Murphy noted that when she received this resolution she forwarded it to the Municipal Attorney. Council Member Rizzuto

Council President Murphy asked for a motion to place the motion on the floor for discussion and approval of Resolution #17-185.

MOVED: Patrick Rizzuto  
SECOND: Sandra Ooms

Council President Murphy provided this resolution to the Township Attorney for a legal opinion. Mr. Townes explained that the proposed Resolution #17-185 is a directive to the Mayor to enter into a specific contract term and is not legal. Under the Faulkner Act, the Mayor negotiates all contracts and the council then can approve or disapprove of the contract. Mr. Townes added that Council passing this resolution can open itself up to potential legal liability as it is a clear violation of rights of the Mayor. The Council asked what does "potential" mean. Attorney Townes explained that is dependent upon what the Mayor wanted to do as this is a clear violation of his statutory rights or authority and the Mayor would have the option to sue the council.

Council Member Rizzuto states that Council must approve salary ordinances placing constraints on what the Mayor can pay an employee and questions what the difference is setting a range of terms of an agreement. Council Member Rizzuto asked why can't the council set terms that the Township assets can only be serviced by DPW employees before any third-party contractors are considered. Attorney Townes respectfully explained that a salary ordinance is under the power of the Council however, per state law the Mayor is the executive officer of the municipality with the power to direct the day to day operation and the Council cannot dictate the day to day policies of personnel to the Mayor. Council Member Ooms questioned if a shared service contract with a vendor can be a policy set by the Council. Council Member Ooms questioned if the Council sets the policy why can't the Mayor negotiate within the terms of the Council policy. Attorney Townes explained the Council cannot dictate the negotiations as it is within the Mayor's purview and once there is a contract the Council can only vote it up or down. Attorney Townes stated that this Resolution is setting a specific time period which is a clear infringement of statutory powers of Mayor.

Council President Murphy asked Council Member Rizzuto if he wrote the Resolution to which he said stated that he wrote the resolution. Council President Murphy again questioned if he wrote the resolution and asked Council Member Rizzuto that if she made an OPRA request for your email they will see where it came from. Council Member Rizzuto indicated Council President Murphy can OPRA the record. Council President Murphy stated that she had indication that Council Member Rizzuto in fact did not write the document. Council President Murphy asked if it was not true that Council Member Rizzuto received the document from Sally Rinker. Council Member Rizzuto stated he received ideas from her. Council President Murphy reiterated that Council Member Rizzuto would have no problem if she filed an OPRA for his emails to show where this document actually came from.

Council Member Ooms questioned the Attorney for a definition of a Policy. Council Member Ooms questioned why not having a policy that said the Township would not have a shared service with a vendor was valid. Attorney Townes stated that this is an infringement on the power of the Mayor, respectfully that touches on contract negotiations and is the purvey of the Mayor. Attorney Townes cautioned the Council regarding voting on this resolution as it was not legal.

Council President Murphy questioned if the other Council Members had reviewed their mailboxes as the Town received another lawsuit from Great Gorge Village based on unfair rates and this agreement noted in the resolution could directly relate to the MUA rates and may be part of a judgment and be scrutinized. Council Member Rizzuto that the Council should go forward on this resolution policy. Council Member

Rizzuto indicated that that this Council should seek outside Counsel as to determining whether this resolution is indeed valid. Council President Murphy noted that the attorney is here to advise the Council. Council Member Rizzuto opined that the Attorney is here it seems to serve the best interest of the Mayor. Attorney Townes respectfully responded that that is not the case and that he is here to protect this body and the city as a whole. Attorney Townes stated that Council Member Rizzuto may not like his advice but it is his legal opinion, it is a solid opinion that will hold up and the only interest is what is best for the Township.

Council Member Rizzuto made a motion to table the Resolution and to have a separate outside counsel, chosen by the Council, review the resolution to determine its legality. Council Member Murphy questioned should the Township add more money to the line item. Discussion ensued among the Council about the lawsuits and RFP's for the MUA. Council Member Rizzuto stated that the Township has no business getting involved in the business of the Vernon Township MUA. Council President Murphy questioned why Council Member Rizzuto was getting involved then. Council Member Rizzuto indicated that he is not and added that the Mayor should not be involved in the MUA's negotiations and their considerations. Council Member Rizzuto indicated that he did not believe the contract is not in the best interest of the entire Township.

MOTION: Patrick Rizzuto to table  
SECOND: Dick Wetzel

A roll call vote was taken:

AYES: Sandra Ooms, Patrick Rizzuto, Dick Wetzel, Jean Murphy

NAYES: Dan Kadish

ABSTAIN: None

ABSENT: None

Motion carried to table Resolution #17-185.

#### **INTRODUCTION/1<sup>ST</sup> READING OF PROPOSED ORDINANCES**

Council President Murphy read Ordinance #17-15 by title only.

**Ordinance #17-15:** An Ordinance Amending Chapter 99 Vehicles And Traffic Of The Revised Ordinances Of The Township Of Vernon By Adding New Article Entitled "Traffic Control Standards; Requirements For Construction And Maintenance"

Council President Murphy asked for a motion to Introduce Ordinance #17-15 with a public hearing to be held on October 23, 2017.

MOVED: Dan Kadish  
SECOND: Sandra Ooms

A roll call vote was taken:

AYES: Dan Kadish, Sandra Ooms, Patrick Rizzuto, Dick Wetzel, Jean Murphy

NAYES: None

ABSTAIN: None

ABSENT: None

Motion carried to Introduce Ordinance #17-15 with a public hearing to be held on October 23, 2017.

#### **COUNCIL COMMENTS**

Council Member Wetzel said there was good dialogue among Council.

Council Member Rizzuto questioned Mr. Voelker if he had met with Mr. Ross as directed at previous Council meeting. Mr. Voelker said he did meet with him and there was a total misunderstanding, Mr. Ross claimed he was misled to attend council meeting in hopes to help his chance of obtaining one of the Board of Education buildings or Faline buildings. Council Member Rizzuto asked for a point of clarification that there was never an offer of \$90,000 for the Faline Building but it was a reserve price pending an appraisal. Council Member Rizzuto noted there are two elections in Vernon, the Board of Education and the Mayor and Council. Council Member Rizzuto opined there is a good positive relationship between the two and notes that each does not get involved in the other's business.

Council Member Rizzuto asked Council President Murphy if she is sitting on a committee to discuss the Board of Education Building. Council President Murphy stated she was asked along with Council Member Ooms, as Council Liaison to meet with Board of Education, President David Zweier, Bruce Zaretsky and John Bosma from Main Street Associates, and Mayor Shortway to discuss the sale of the Board of Education building. Council Member Rizzuto reminded all of the responsibility to the community of getting involved to work toward a decision but feels the Board of Education should do their job by following laws and statutes in disposing of their building. Council Member Rizzuto added that Mayor Shortway and his wife make their voices clear on social media which cause polarization of the community.

Council Member Ooms suggested to schedule a worksession to discuss the Ambulance Squad coverage issues with the membership to address any concerns or questions they have. Possible dates for the worksession are October 17 & 25 but will need to determine availability of all. Mr. Voelker added the Police Chief and Captain are meeting tomorrow with squad members and dispatchers to discuss some coverage issues. Council Member Ooms requested a legal determination from the Township Attorney if post on a personal Facebook page is considered personal or government.

Council Member Kadish expressed disappointment that Resolution#17-185 was added to the agenda and opined that the Council has no business voting on terms of agreement and is against the action.

#### **COUNCIL PRESIDENT COMMENTS**

Council President Murphy commented that a property on Vernon Crossing across from Tracks Deli which was one acre and 3401 sq. ft. just sold for \$170,634 which is an encouraging sign for other vacant eyesores in the Township.

#### **ADJOURNMENT**

There being no further items of business to be conducted on the agenda, a motion for Adjournment was made by Council Member Kadish, seconded by Council Member Ooms with all members voting in favor.

The Regular Meeting of the Township Council of the Township of Vernon was adjourned at 9:25 p.m.

Respectfully submitted,

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Lauren Kirkman, RMC, CMR  
Municipal Clerk

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Jean Murphy,  
Council President

Minutes approved: October 23, 2017