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MINUTES
VERNON TOWN COUNCIL REGULAR MEETING
TOWN HALL - 14 PARK PLACE - 3rd Floor
VERNON, CONNECTICUT

November 15, 2011 – 7:00 PM

Mayor George Apel called the meeting to order at 7:00 PM

A) PLEDGE OF ALLEGIANCE:

INVOCATION - Associate Pastor Cindy Carr, First Congregational Church.

B) ROLL CALL:
Present: Council Members Bill Campbell, Thomas DiDio, Virginia Gingras, Judy Hany, Marie Herbst, John Kopec, Brian Motola, Steven Peterson, Thomasina Russell, Daniel Sullivan, Adam Weissberger, and Michael Winkler
Absent:
Entered During Meeting:
Also Present: Mayor George Apel, Town Administrator John Ward, Recording Secretary Jill Kentfield

ADOPTION OF TOWN COUNCIL SCHEDULE 2012-2013

Council Member Herbst, seconded by Council Member Russell made a motion to adopt the Town Council Schedule for 2012-2013. Discussion took place. Motion carried unanimously.

ADOPTION OF TOWN COUNCIL RULES

Council Member Motola, seconded by Council Member Campbell made a motion to accept the rules as presented. Discussion took place.

Council Member Winkler, seconded by Council Member Herbst made a motion to reinstate rule #7 as written originally. Motion failed, Council Members Campbell, Hany, Kopec, Motola, Peterson, Russell, Sullivan, and Weissberger opposed.

Council Member Herbst, seconded by Council Member DiDio made a motion to amend rule 1, paragraph B to include a 2/3 vote instead of majority vote. Discussion took place.

7:22 PM Recess
7:30 PM Reconvene

Discussion continued. Motion to amend rule 1, paragraph B to include 2/3 vote passed unanimously. Rule 1, paragraph B is amended to read as follows:

B. The Town Council, by two thirds vote of the members present, may act upon or consider a matter if that matter is submitted by the Mayor's Administration which includes all departments, any Boards or Commissions, or a member of the Town Council in writing to the Town Council after one o'clock (1:00 PM) on the Monday of the week before the next Town Council Meeting.

Council Member DiDio, seconded by Council Member Winkler made a motion to change Rule 7 as written originally and include a 2/3 vote instead of majority. Motion carried, Council Member Campbell opposed. Rule 7 is amended to read as follows:

7. Any of the rules of the Council may be temporarily suspended by two thirds of the members present and voting in the affirmative, except that in accordance with rule 1, two thirds consent of

all members present shall be required for consideration of any matter which is not filed with the Town Administrator by one o'clock (1:00 PM) on the Monday of the week before the next Town Council meeting.

Council Member Gingras, seconded by Council Member Herbst made a motion to add the following language as rule #12:

12. Any Council Member may request an item be removed from the consent agenda.

Motion carried unanimously.

Motion to approve the amended Rules of Procedure passed unanimously.

NOMINATION AND ELECTION OF MAYOR PRO TEMPORE

Council Member Campbell, seconded by Council Member Hany made a motion to nominate Council Member Motola as Mayor Pro Tempore. Motion carried unanimously.

C) CITIZEN'S FORUM

Lance Chernack, 50 Cubles Drive – congratulated new members of the Council, spoke about his concerns with the cancellation of the school board meeting and the 2 Planning and Zoning Commission nominations.

James Krupienski, 50 Deerfield Drive – congratulated new members of the Council, spoke about the adopted meeting schedule, He requested ordinance items be addressed separately. He also requested Town Council Members continue the discussion regarding a safety issue at 200 West Main Street.

Citizen's forum closed at 7:38 PM

D) PUBLIC HEARINGS
None

E) PRESENTATIONS BY MAYOR GEORGE F. APEL

Mayor Apel congratulated Town Council members and provided information regarding the clean-up of storm Alfred. He stated that debris collection will take place on 11/20/2011, he requested citizens place debris and leaves curbside by 11/19/2011.

F) ACTION ON CONSENT AGENDA
Council Member Motola, seconded by Council Member Weissberger made a motion to approve the consent agenda items as presented. Council Member Winkler pulled consent item #4 and Council Member DiDio pulled item #8 for discussion. Motion carried unanimously to approve the consent agenda items 1, 2, 3, 5, 6, 7, 9, and 10 as presented.

C 1. **Request for Tax Refunds for the Current Year.** (A copy of a memorandum from Terry Hjarne, Collector of Revenue, to John D. Ward, Town Administrator dated November 7, 2011 is included in the Council packet.)

PROPOSED MOTION:

THE TOWN COUNCIL HEREBY APPROVES TWENTY THREE (23) OVERPAYMENTS FOR THE CURRENT YEAR TOTALLING $3,489.64 AS OUTLINED IN THE

MEMORANDUM FROM TERRY HJARNE, COLLECTOR OF REVENUE TO JOHN D. WARD, TOWN ADMINISTRATOR DATED NOVEMBER 7, 2011.

Council Member Motola, seconded by Council Member Weissberger made the above motion to approve the tax refunds for the current year. Motion carried unanimously.

C 2. **Request the Town Council endorse the appointment of William Nicholson, (R), 86 Huntington Drive, Vernon, Connecticut, to the Board of Education said appointment requested to fill the vacancy created by the resignation of George F. Apel.** (A copy of a memorandum from Harold R. Cummings, Chairman of the Republican Town Committee to Mayor George F. Apel and the Vernon Town Council as well as a copy of Mr. Nicholson's resume are included for Council review.) Mr. Nicholson will attend the meeting to answer any questions you might have.

PROPOSED MOTION:

PURSUANT TO THE VERNON TOWN CHARTER, CHAPTER IV, SECTION 9 "FILLING VACANCIES," THE TOWN COUNCIL HEREBY APPOINTS WILLIAM NICHOLSON, (R), 86 HUNTINGTON DRIVE, VERNON, CONNECTICUT TO FILL THE VACATED SEAT ON THE VERNON BOARD OF EDUCATION BY THE RESIGNATION OF GEORGE F. APEL, SAID APPOINTMENT COMMENCES ON 11-16-2011 AND EXPIRES 11-10-2013.

Council Member Motola, seconded by Council Member Weissberger made the above motion to endorse the appointment of William Nicholson to the Board of Education for a term of 11/16/2011 through 11/10/2013. Motion carried unanimously.

C 3. **Request the Town Council approve the redesignation of Board of Education surplus funds in the amount $53,306.22 and transfer same to the Education Reserve for Capital and Non-Recurring Expenditure Account.** (A copy of a memorandum from John D.Ward, Town Administrator to the Mayor Jason L. McCoy and Town Council dated November 10, 2011 is included for Council review.)

PROPOSED MOTION:

THE TOWN COUNCIL APPROVES THE TRANSFER OF $ 53,306.22 FROM THE BOARD OF EDUCATION OPERATING BUDGET SURPLUS INTO THE BOARD OF EDUCATION RESERVE FUND FOR CAPITAL AND NON-RECURRING EXPENDITURES.

Council Member Motola, seconded by Council Member Weissberger made the above motion to approve the re-designation of Board of Education surplus funds in the amount of $53,306.22 and transfer those funds to the Education for Capital and Non-Recurring Expenditure account. Motion carried unanimously.

C 5. **Request the Town Council affirm Mayor George F. Apel's appointment of Susan Boyan as Assistant Town Attorney.**

PROPOSED MOTION:

THE TOWN COUNCIL, CONSISTENT WITH CHAPTER XI, SECTION 5, ENTITLED "OTHER OFFICERS", HEREBY AFFIRMS THE MAYOR'S APPOINTMENT OF SUSAN BOYAN, AS ASSISTANT TOWN ATTORNEY.

Council Member Motola, seconded by Council Member Weissberger made the above motion to affirm the Mayor's appointment of Susan Boyan as assistant town attorney. Motion carried unanimously.

C 6. **Request the Town Council affirm Mayor George F. Apel's appointment of Martin Burke as Assistant Town Attorney.**

PROPOSED MOTION:

THE TOWN COUNCIL, CONSISTENT WITH CHAPTER XI, SECTION 5, ENTITLED "OTHER OFFICERS", HEREBY AFFIRMS THE MAYOR'S APPOINTMENT OF MARTIN BURKE AS ASSISTANT TOWN ATTORNEY.

Council Member Motola, seconded by Council Member Weissberger made the above motion to affirm the Mayor's appointment of Martin Burke as assistant town attorney. Motion carried unanimously.

C 7. **Request the Town Council approve Mayor George F. Apel's appointment of William E. Roch, (R), 14 Lantern Lane, Vernon, Connecticut as a regular member of the Planning and Zoning Commission, said term to commence on November 16, 2011 and expires on December 31, 2011.** (A copy of Mr. Roch's resume is included for Council review.)

PROPOSED MOTION:

PURSUANT TO CHARTER CHAPTER VIII, SEC. 1,6 & 11 DATED JANUARY 1, 1985; C.G.S. §8-4A&B, THE TOWN COUNCIL HEREBY APPROVES MAYOR GEORGE F. APEL'S APPOINTMENT OF WILLIAM E. ROCH, (R), 14 LANTERN LANE, VERNON, CONNECTICUT AS A REGULAR MEMBER OF THE PLANNING AND ZONING COMMISSION FOR A TERM TO COMMENCE ON NOVEMBER 16, 2011 AND EXPIRES ON DECEMBER 31, 2011.

Council Member Motola, seconded by Council Member Weissberger made the above motion to approve the Mayor's appointment of William Roch as a regular member of the Planning and Zoning Commission for a term of 11/16/2011 through 12/31/2011. Motion carried unanimously.

C 9. **Request the Town Council approve Mayor George F. Apel's appointment of John K. Anderson, (R), 20 Hemlock Drive, Vernon, Connecticut as a regular member of the Water Pollution Control Authority, said term to commence on January 1, 2012 and ends December 31, 2013.** (A copy of Mr. Anderson's resume is included for Council review.)

PROPOSED MOTION:

PURSUANT TO CHARTER CHAPTER VIII, SEC. 3; AND CHARTER CHAPTER XII, SEC. 4, THE TOWN COUNCIL HEREBY APPROVES MAYOR GEORGE F. APEL'S APPOINTMENT OF JOHN K. ANDERSON, (R), 20 HEMLOCK DRIVE, VERNON, CONNECTICUT, AS A REGULAR MEMBER OF THE WATER POLLUTION CONTROL AUTHORITY, SAID APPOINTMENT TO COMMENCE ON JANUARY 1, 2012 AND ENDS DECEMBER 31, 2013.

Council Member Motola, seconded by Council Member Weissberger made the above motion to approve the Mayor's appointment of John Anderson as a regular member of

the Water Pollution Control Authority for a term of 1/1/2012 through 12/31/2013. Motion carried unanimously.

C 10. Request the Town Council waive collection of the Open Burn Fee – Vernon Code 5-17(4), as requested by Fire Marshal Ray Walker. (See Attachment "A" for Mr. Walker's proposal.)

PROPOSED RESOLUTION:

WHEREAS, A DECLARATION OF CIVIL PREPAREDNESS EMERGENCY WAS ISSUED BY THE GOVERNOR ON OCTOBER 29, 2011 DUE TO THE SEVERE WEATHER CONDITIONS BROUGHT ON BY STORM ALFRED; AND

WHEREAS, MAYOR JASON L. MCCOY DECLARED A STATE OF EMERGENCY FOR THE TOWN OF VERNON IN ANTICIPATION OF STORM ALFRED IMPACT ON OCTOBER 29, 2011;

BE IT RESOLVED THAT THE VERNON TOWN COUNCIL HEREBY WAIVES COLLECTION OF THE OPEN BURN PERMIT FEE PURSUANT TO VERNON CODE 5-17(4), FOR THE TIME PERIOD NOVEMBER 15, 2011 THROUGH DECEMBER 4, 2011.

Council Member Motola, seconded by Council Member Weissberger made a motion to approve the above resolution to waive the collection of the Open Burn Fees. Motion carried unanimously.

G.) IDENTIFICATION AND ADOPTION OF ADDITIONAL AGENDA ITEMS

Council Member Winkler, seconded by Council Member Herbst made a motion to add an additional agenda item regarding appropriations for winter storm Alfred. Motion carried unanimously.

H.) PENDING BUSINESS
None

I.) NEW BUSINESS
None

J.) INTRODUCTION OF ORDINANCES

Request the Town Council schedule a Public Hearing regarding an ordinance entitled "ORDINANCE NO., AN ORDINANCE ADOPTING REIMBURSEMENT FOR COSTS OF FIRE HYDRANTS AND STREET LIGHTS WITHIN TOWN'S RESIDENTIAL CONDOMINIUM COMPLEXES AND PLANNED UNIT DEVELOPMENTS".(A copy of said ordinance is included for Council review.)

PROPOSED MOTION:

THE TOWN COUNCIL, CONSISTENT WITH CHAPTER V, SECTIONS FIVE AND SIX OF THE VERNON TOWN CHARTER, ENTITLED "PUBLIC HEARING ON AND PUBLICATION OF ORDINANCES," HEREBY SCHEDULES A PUBLIC HEARING REGARDING AN ORDINANCE ENTITLED ***"ORDINANCE NO. , AN ORDINANCE ADOPTING REIMBURSEMENT FOR COSTS OF FIRE HYDRANTS AND STREET LIGHTS WITHIN TOWN'S RESIDENTIAL CONDOMINIUM COMPLEXES AND PLANNED UNIT DEVELOPMENTS",*** SAID PUBLIC HEARING TO BEGIN AT 7:05 PM ON TUESDAY, DECEMBER 6, 2011 LOCATED AT THE TOWN COUNCIL CHAMBERS, THIRD FLOOR, 14 PARK PLACE, VERNON, CONNECTICUT

TO HEAR COMMENTS AND TAKE NECESSARY ACTION RELATIVE TO THE PROPOSED ORDINANCE.

Council Member Motola, seconded by Council Member Campbell made the above motion to approve the public hearing regarding an ordinance entitled "ordinance no., an ordinance adopting reimbursement for costs of fire hydrants and street lights within town's residential condominium complexes and planned unit developments" to take place on Tuesday, December 6, 2011 at 7:05 PM at the Town Council Chambers. Discussion took place. Mayor Apel will have Mr. Burke review the language in the ordinance. Motion carried unanimously.

K.) ACTION ON ORDINANCE(S) PREVIOUSLY PRESENTED
None

L.) DISCUSSION OF ADDITIONAL AGENDA ITEMS, PULLED CONSENT ITEMS FROM F) AND PULLED ITEMS FROM O) INFORMATIONAL ITEMS, ETC

C 4. Request the Town Council affirm Mayor George F. Apel's appointment of Harold Cummings as Town Attorney.

PROPOSED MOTION:

THE TOWN COUNCIL, CONSISTENT WITH CHAPTER XI, SECTION 5, ENTITLED "OTHER OFFICERS", HEREBY AFFIRMS THE MAYOR'S APPOINTMENT OF HAROLD CUMMINGS AS TOWN ATTORNEY.

Council Member Motola, seconded by Council Member Campbell made the above motion to affirm the Mayor's appointment of Harold Cummings as Town Attorney. Discussion took place. Motion carried, Council Members Winkler, Herbst, Russell, DiDio, and Gingras opposed.

C 8. Request the Town Council approve Mayor George F. Apel's appointment of Harry Derwent Thomas, (R), 125 Dockerel Road, Vernon, Connecticut as a regular member of the Planning and Zoning Commission, said term to commence on November 16, 2011 and expires on December 31, 2011. (A copy of Mr. Thomas' resume is included for Council review.)

PROPOSED MOTION:

PURSUANT TO CHARTER CHAPTER VIII, SEC. 1,6 & 11 DATED JANUARY 1, 1985; C.G.S. §8-4A&B, THE TOWN COUNCIL HEREBY APPROVES MAYOR GEORGE F. APEL'S APPOINTMENT OF HARRY DERWENT THOMAS, (R), 125 DOCKEREL ROAD, VERNON, CONNECTICUT AS A REGULAR MEMBER OF THE PLANNING AND ZONING COMMISSION FOR A TERM TO COMMENCE ON NOVEMBER 16, 2011 AND EXPIRES ON DECEMBER 31, 2011.

Council Member Motola, seconded by Council Member Campbell made the above motion to approve the Mayor's appointment of Harry Derwent Thomas as a regular member of the Planning and Zoning Commission for a term of 11/16/2011 through 12/31/2011. Discussion took place. Motion carried unanimously.

Additional Agenda Item #1:

Council Member Motola, seconded by Council Member Herbst made a motion to approve resolution #1 as follows:

WHEAREAS, IN ACCORDANCE WITH CHAPTER XII, SECTION 8 OF THE TOWN CHARTER, THE TOWN COUNCIL RESOLVES THAT A DELAY IN MAKING AN EMERGENCY APPROPRIATION PERTAINING TO STORM ALFRED MAY JEOPARDIZE THE LIVES, HEALTH OR PROPERTY OF THE CITIZENS OF VERNON;

NOW, THEREFORE BE IT RESOLVED THAT THE TOWN COUNCIL, PURSUANT TO SAID EMERGENCY, HEREBY WAIVES THE REQUIREMENT OF A PUBLIC HEARING, AS OTHERWISE REQUIRED BY CHAPTER XII, SECTION 8 OF THE TOWN CHARTER

Discussion took place. Motion carried unanimously.

Council Member Motola, seconded by Council Member Herbst made a motion to approve Resolution #2 as follows:

WHEREAS, AT ITS SPECIAL EMERGENCY MEETING ON NOVEMBER 3, 2011, THE TOWN COUNCIL FOUND THAT A DELAY IN APPROPRIATING ADDITIONAL FUNDS TO THE EMERGENCY MANAGEMENT ACCOUNT PERTAINING TO COSTS INVOLVING THE PREPARATION, RESTORATION, REPAIRS, CLEANUP AND ACTIONS TAKEN DUE TO SNOW STORM "ALFRED", WOULD AFFECT THE LIVES, HEALTH OR PROPERTY OF THE CITIZENS OF VERNON; AND

WHEREAS, THE TOWN COUNCIL, PURSUANT TO SAID EMERGENCY WAIVED THE REQUIREMENT OF A PUBLIC HEARING, AS OTHERWISE REQUIRED BY CHAPTER TWELVE (12) SECTION EIGHT (8) OF THE VERNON TOWN CHARTER; AND

WHEREAS, THE TOWN COUNCIL, PURSUANT TO SAID EMERGENCY, RESOLVED TO ADD AN APPROPRIATION OF FUND BALANCE TO THE EMERGENCY MANAGEMENT BUDGET IN THE AMOUNT OF FOUR HUNDRED AND TWENTY THOUSAND DOLLARS ($420,000.00); AND

WHEREAS, THE COMPLETE ESTIMATE OF THE COSTS RELATED TO SAID EMERGENCY, AS AVAILABLE ON NOVEMBER 15, 2011, AMOUNTS TO A SUM OF THREE MILLION TWO HUNDRED AND FIFTY FOUR THOUSAND DOLLARS ($3,254,000.00), EXCEEDING THE ORIGINAL ADDITIONAL APPROPRIATION AMOUNT OF FOUR HUNDRED AND TWENTY THOUSAND DOLLARS ($420,000.00).

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWN COUNCIL AMENDS THE NOVEMBER 3, 2011 MOTION TO APPROVE THE ADDITIONAL APPROPRIATION OF FUND BALANCE TO THE EMERGENCY MANAGEMENT BUDGET, ACCOUNT 10232189-54820, FROM THE AMOUNT OF FOUR HUNDRED TWENTY THOUSAND DOLLARS ($420,000.00) TO A TOTAL SUM THREE MILLION TWO HUNDRED AND FIFTY FOUR THOUSAND DOLLARS ($3,254,000.00), AS INDICATED IN THE BUDGET AMENDMENT REQUEST #6.

Motion carried unanimously.

M.) ADOPTION OF MINUTES

THE TOWN COUNCIL WAIVES THE READING OF THE MINUTES OF THE EMERGENCY MEETING OF **NOVEMBER 3, 2011** AND THAT MINUTES OF SAID MEETING BE APPROVED.

Council Member Motola, seconded by Council Member Campbell made a motion to waive the reading of and approve the minutes of the November 3, 2011 Emergency Town Council meeting. Motion carried, Council Members Didio, Gingras, Kopec, Peterson, Russell, Sullivan, Weissberger and Winkler abstained.

THE TOWN COUNCIL WAIVES THE READING OF THE MINUTES OF THE REGULAR MEETING OF **OCTOBER 18, 2011** AND THAT MINUTES OF SAID MEETING BE APPROVED.

Council Member Motola, seconded by Council Member Herbst made a motion to waive the reading of and approve the minutes of the October 18, 2011 Regular Town Council meeting. Motion carried, Council Members Didio, Gingras, Hany, Kopec, Peterson, Russell, Sullivan, and Weissberger abstained.

N.) EXECUTIVE SESSION

Council Member Motola, seconded by Council Member Russell made the following motion to go into executive session:

MOTION:
THE TOWN COUNCIL, PURSUANT TO THE AUTHORITY GIVEN IN CONNECTICUT GENERAL STATUTES §1-200(6) (D), HEREBY MOVES TO GO INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION REGARDING **DIAMOND 67 LLC VS. TOWN OF VERNON,** DOCKET NUMBER CV11-6003248-S, PENDING IN THE **TOLLAND** COUNTY SUPERIOR COURT. FURTHER, THE TOWN COUNCIL INVITES JOHN D. WARD, TOWN ADMINISTRATOR, AND ATTORNEY MARTIN BURKE TO ATTEND.

Motion carried unanimously.

Council Member Motola, seconded by Council Member Hany made the following motion:

MOTION:
TO AUTHORIZE THE TOWN ATTORNEY TO SETTLE A TAX APPEAL CAPTIONED "DIAMOND 67 LLC VS. TOWN OF VERNON ET AL," FOR TAXES ON THE GRAND LIST OF OCTOBER 1, 2010 FOR THE ASSESSED VALUE OF $2,100,000 OR THE 100% FAIR MARKET VALUE OF $3,000,000 AND TO APPLY A CREDIT OF $18,388.50 TO THE SECOND HALF OF THE TAX INSTALLMENT DUE JANUARY 2012.

Motion carried unanimously.

Council Member Motola, seconded by Council Member Campbell made the following motion to go into executive session:

MOTION:
THE TOWN COUNCIL, PURSUANT TO THE AUTHORITY GIVEN IN CONNECTICUT GENERAL STATUTES § 1-200(6) (B), HEREBY MOVES TO GO INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION RELATIVE TO CASE NO. 1240095 FORD VS TOWN OF VERNON AND INVITES THE FOLLOWING INDIVIDUALS TO ATTEND: JOHN D. WARD, TOWN ADMINISTRATOR; HAROLD CUMMINGS, TOWN ATTORNEY AND ATTORNEY DAVID MONASTARSKY OF HOWD & LUDORF.

Motion carried unanimously.

Council Member Motola, seconded by Council Member Sullivan made a motion for the following resolution:

RESOLUTION:
RESOLVED THAT THE VERNON TOWN COUNCIL CONSENT TO ITS INSURER'S SETTLEMENT OF PENDING CHRO LITIGATION, FORD V TOWN OF VERNON, CASE NO. 1240095 AND AUTHORIZE THE TOWN ADMINISTRATOR TO EXECUTE ALL NECESSARY DOCUMENTATION TO EFFECTUAL THE SETTLEMENT.

Motion carried unanimously.

O.) INFORMATIONAL ITEMS, PETITIONS, COMMUNICATIONS, CORRESPONDENCE, REPORTS, ETC. NOT REQUIRING ACTION

1. Monthly Police Department Report, September, 2011 as prepared by Captain Stephen M. Clark.

2. Monthly Activity Report – Building Department, September, 2011 as prepared by Harry Dan Boyko, Building Official.

3. Monthly EMS Report – October, 2011 as prepared by Jean Gauthier, EMS Coordinator.

Adjourn (9:51 PM)

Council Member Herbst, seconded by Council Member Motola made a motion to adjourn. Motion carried unanimously.

Received:

Approved:

Respectfully Submitted,

Jill Kentfield
Recording Secretary