

MINUTES

PRESENT: M. DeSapio
P. Lubitz
R. Phillips
S. Stryker

ABSENT: T. Kratzer

CALL TO ORDER

The meeting was called to order at 8:00 PM by M. DeSapio.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Seasonality Waiver – Deputy Mayor J. Burke

J. Burke stated it has come to his attention there are logistical problems with the well ordinance. He has asked J. Gross to attend the meeting and describe the problems with the ordinance. J. Burke stated in situations where someone wants to build their house, the requirements of notification are causing all types of problems.

J. Gross stated he owns 70 acres in the Township. It is currently being farmed with hay, corn and soy beans. He hopes the property will stay that way for a long time. He and his wife are graduates of Rutgers with Environmental Science and Agricultural degrees. He would like to offer some thoughts on the ordinance. He has nothing on the table and is not asking for anything personally. In trying to live within the ordinance as it now exists, the ordinance mandates you notify the surrounding property owners within 200' of the perimeter of the property the date of the testing, four weeks in advance. That would require you to find your well driller 6 to 8 weeks in advance and pick a date for the testing. It is a long complicated process. He is pro-water quality and environment. You cannot bring in the rigs if you have a week of rain. You have to schedule an inspection date two months in advance to get on the calendar. Scheduling problems could occur, such as the hydrogeologist getting sick or has another priority. It is a one-two punch. You can put in a back up date in your letter and have another window. If something should occur and you cannot make the dates, you have to provide another four weeks notice. If it is in the middle or end of the period, you have no second chance. You miss out a full calendar year. The testing is permitted from July 1st through October 31st. If you miss those dates, the window does not open up until the next year. It is his understanding the intent of the ordinance is to provide the testing in the dry season. His understanding is that it is dry at the surface but it has no correlation of what is going on at the aquifer level. The aquifer level moves on a different time horizon and schedule. He has spoken with well drillers and they stated to him they never see any influence from another property. His well will be located 400-

500 feet from the outside perimeter of his property and 2,000' from his neighbor's well. The well drillers are telling him they cannot detect any interference. Finding something detectable is not likely. He stated the Township does not want to allow someone to build and then find there is no water. His thoughts would be more to the issue of allowing them to drill a well, provide a report with the flows at a certain rate, allowing them to build the house and protect the back end results. The applicant should provide a second report regarding the well and its yield. The ordinance should not hold up the building.

J. Burke stated he had asked J. Gross to attend this evening's meeting. This is a great intent for this ordinance to be in place but we have to sometimes live in the real world where the ordinance might prohibit someone from building a house. It is unfairly overly punitive. He spoke with J. Kopen today and she stated that within the ordinance, there is recourse for someone to come before the Board, not for a waiver, but for an exception, if there was a hardship situation. The Board needs to refine it to the point that there is an out and the ability to handle cases on an individual basis. An applicant has tried to comply and it is October 31st and they have not obtained their well test. It is punitive to have to wait another nine months. There should be some recourse to do it on November 1st. The ordinance cannot be so rigid so as to not allow recourse to someone in that situation.

J. Mac Connell responded to J. Gross' statement that well drillers stated there is no cause and effect with the well drilling and testing. When the well testing was done on the Clinton property, R. Henschel's artesian well went dry for eight months. When the Antiskay's drilled their well, R. Henschel's artesian well stopped within three days and has not returned. The well drillers are not happy with the ordinance. They state the water belongs to the State of New Jersey.

J. Gross stated he did not mean to imply he knew the facts but that the ordinance presents a scheduling issue.

J. Burke stated an ordinance is needed and the science is there. He stated we don't know that October 31st is the drop dead date for well testing. It might be the optimal time. If there is a developer who comes in, no exceptions can be made. On an individual basis, there has to be some sort of recourse for our citizens. We are here to protect the citizens that are coming into the Township as well as the ones already here. If you have a proposed resident considering relocating to the Township and does not because of the ordinance, it is not the purpose of the ordinance.

A. Hauck reviewed the geology of the Township. He stated he agrees with J. Burke in the need for a revision. The ordinance is not necessary in the shale zones but is necessary for the argillite zone. He suggested if someone is going to drill a well now, an escrow should be established in case the neighbor's well goes dry next summer because of the new well. The ordinance should be revised according to the geology.

W. Pandey stated when the development on Horseshoe Bend Road was being proposed, he placed a monitor in his well. The water in the ground is affected by rain. From May 1st through September, his well dropped 30'. It then leveled out. His well has dropped 10'. We have lost 10' of aquifer water from May 2008 to current. The well was drilled in 1955 and came within 10' of the top. They lost 10' in one year. The aquifer is affected by the rain. The full moon affects the aquifer.

J. Mac Connell stated when they drill the well deeper you are making a reservoir. The Township cannot put in a public water supply. Septic systems have to be mounded because there is so much ground water. The problems in the Township are related the geology. The Township cannot overbuild. Development should be planned where there is water.

J. Burke stated there is a need for a subcommittee to review all the different options, such as the different zones in the Township which might be good producing areas. The ordinance needs to be reviewed so it is not so cumbersome.

After some discussion, a suggestion was made the Board attorney could draft language for exceptional circumstances.

S. McNicol, Oak Grove Road, stated there was a subcommittee formed for the well ordinance. The well ordinance has been under development for many years. The subcommittee reviewed the ordinance and put tons of time into it. It is strict and it is important it remains that way. Building a home does not mean your cinder blocks or roofing material will come in on time. The Township has spent this much time on figuring out that seasonality is important. As soon as waivers are granted, you could throw the ordinance out. Too many waivers make it become useless. From the things she has been reading, the ground water is not getting recharged as it used to. Rain storms are flashier then ever. She is down gradient of the prospect of having eleven new homes in the future. If my well goes dry, it is my problem as well as the septic and everything else. She agrees a subcommittee should be formed to review the ordinance. The Township cannot afford to continue to be easy going on these things.

P. Lubitz thanked J. Gross for bringing the items to the Board's attention. It is important to get feedback on the good points and the other places where they need to be improved.

J. Gross stated everyone came to offer their opinions and he shared his own thoughts. He is not a developer, has never been a developer and has no plans to be a developer. He is retired. His issue is if you follow all the rules and have that narrow window and miss it, you are tied up for nine months. You cannot do a single thing. Scheduling issues cause these kinds of problems. He withdraws his comments made earlier regarding hydrogeology. He is not a hydrogeologist.

W. Pandy stated they can pack this room with people who have sulfur, lead and arsenic problems and are in favor of keeping a strong well ordinance. He cannot see the problem with the waiting time frame. If you miss your window, you have to wait until the following year.

J. Burke suggesting a new subcommittee be formed to obtain the information needed to back up the ordinance.

S. Stryker stated a data base should be developed.

J. Mac Connell stated when S. DeSapio was on the Board, a questionnaire was being developed to inquire if the Township's residents had any problems with their wells.

A. Hauck stated he has researched the Township. He stated if there are any problems with the water testing for the wells in the Township, at the County Department of Health level, they are sealed in a white envelope.

T. Stover stated arsenic is naturally occurring. He can provide remediation for the contamination. He stated if you sell a house or build a house, the water is tested. The results are put to the buyer and it is their decision if they want to have it treated or not. There are companies that will test for arsenic for free. His company drilling a well here or there will not give you arsenic. The State has lowered the acceptable levels. The Township

should offer testing for the residents to gain the data. In regard to lead, 99% of it comes from the brass fittings of the tank. The initial first sample is taken from the tank. When the sample is taken from the house, it is clean. 80% of the wells fail for lead. If you take it out of the tap and flush it, it will pass. If there is low PH and lead solder is used, the lead solder eats into the pipe. He is not against the well ordinance. They will be drilling the well either way. The problem is where he reads the ordinance and the ordinance says XYZ and someone else reads the ordinance and sees it differently. He offered to sit in at the round table. He would like to have clarification on the ordinance. There are two tests for gross alpha. One is a quick test. If you results are high, there is a more refined test. A lot of people will fail on the first test but will pass on the second test. J. Mac Connell stated he would like a checklist to eliminate the problems. P. Lubitz responded it will be discussed at the April meeting.

Block 37, Lot 2.05 – Septic Waiver Request

D. Fine was present for the application this evening. He stated the geology agrees with how the septic systems work in the Township. He is here on behalf of Terry and Cindy Houseworth. Their house is currently for sale. It is four years old. The existing septic system is gravity fed into the septic system. He was called in to evaluate if the failure was due to construction material. The water table issue was not correctly identified. He has retested the front area not too far from the existing system. It is approximately 50'-60' from the existing system. 6" below the ground surface they encountered mottling. The original system was based on the prior soil logs and did not indicate any mottling. The water table was found at 9'. He has correctly identified the soils and put together a disposal system to solve the problem. They have identified the water table at 6" higher than the allowable 24". In addition, the applicant's are requesting approval of the peat bio-filter system. They have reviewed the DEP's website and are proposing the location of the system to be 69' from DEP's indication of wetlands. There is a bit of flexibility in the location of the system. The typical wetlands buffer is 50'. R. Vaccarella of the Hunterdon County Health Department is satisfied the applicant will not be disturbing the wetlands. The lay of the land and the water table is consistent with a property that has some wetlands impact. It is mapped as Chalfont and silt loam and indicative of a water table less than 2'. The State requires inspections every six months for the life of the system, which could be 8 to 10 years. A notice in the deed will indicate the system requires maintenance.

It was moved by R. Phillips, seconded by P. Lubitz and carried to grant/waiver the following:

1. The Board granted a waiver due to the fact that the regional water table is less than 24" from the existing grade.
2. The use of the peat system;
2. The applicant shall provide deed notification of the peat system;
3. The applicant shall initially test for nitrates, fecal coliform, 5-day BODs and TSS prior to the start of the use of the system at all four ports, semi-annually for two years and annually for two years. The results shall be forwarded to the Kingwood Township Board of Health and Hunterdon County Health Department;
4. Proof of maintenance contract & reports on the monitoring shall be provided to the Board and County;

5. Maintenance agreement shall be provided to the owner and kept with the house;
6. Recommends that everyone is aware that this is an alteration to correct a malfunctioning system and the granting of the waivers or approvals, Kingwood Township assumes no responsibility for the system and shall be held harmless.
7. If it is determined there are wetlands present on the property, the applicant will obtain and conform to the GP25 permit requirements.

All members present voted **AYE** on **ROLL CALL VOTE**.

Waiver Request – Stover Wells and Pumps (water quality testing)

T. Stover of Stover's Wells and Pumps stated his firm had installed six wells in 2008. He is requesting the Board consider waiving the requirement of performing the water sampling and analysis for the six wells that were dug in 2008. He was not aware of the requirement. The sample being required by the ordinance is the same that is required prior to the issuance of a Certificate of Occupancy. The results of the test are valid for one year. The cost is approximately \$400.00. He is willing to come and discuss the well ordinance, as a professional, with the Board or subcommittee. He is requesting relief since the Hunterdon County Health Department requires the same testing. Any of the contaminants that are found as a result of the testing can be remediated. He suggested if the well yields "x" number of gallons per minute, has recovery and meets the specified number, it passes. A number is black and white. It is his interpretation of the ordinance that the water sampling and analysis is not required for single wells only for majors. He stated a member from V. Uhl's staff was present at the testing and should have informed him of the requirement. Possibly, the requirements could be tiered for the different kinds of applications.

The Board discussed the request for the waiver and decided to request an opinion from the Board attorney if they have the ability to grant the waiver. After receiving the opinion of the attorney, the Board members were in favor of having a special meeting if necessary.

Ordinance No. 2009-01

The matter was adjourned until the April meeting.

Approval of Minutes

It was moved P. Lubitz, seconded by R. Phillips and carried to approve the minutes of January 21, 2009 and place on file. All members presented voted **AYE**.

It was moved by P. Lubitz, seconded by R. Phillips and carried to approve the minutes of January 21, 2009 Executive Session minutes. All members presented voted **AYE**.

It should be noted that the minutes of executive sessions shall be held as closed until officially released by the Board of Health.

CORRESPONDENCE

PRIVILEGE OF THE FLOOR

J. Mac Connell commented on the special systems the Township approved in the 1970s and 1980s. Have any follow-ups been done on the systems? J. Burke stated it would be a simple matter to require the owners to provide pumping receipts from this point forward.

S. Stryker commented on the overflow of the septic system at Uncle Scott's Tavern. They are on a once a week pumping schedule. He would like to see the plans and will be obtaining them from the DEP.

ADJOURNMENT

It was moved by P. Lubitz, seconded by R. Phillips and carried to adjourn the meeting at 9:54 PM. All members voted **AYE** on **ROLL CALL VOTE**.

Respectfully submitted,

s/ Diane Laudensch

Diane Laudensch, Secretary