

## MINUTES

**PRESENT:** J. Burke  
R. Dodds  
D. Haywood  
T. Kratzer  
S. McNicol  
E. Niemann  
L. Senus  
J. Strasser  
M. Synchronick, Alt #1  
A. Clerico, Planner  
D. Pierce, Attorney

**ABSENT:** J. Mathieu

### CALL TO ORDER

The meeting was called to order by R. Dodds at 7:30 PM.

### 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 Express Times, 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

R. Dodds announced the item on the agenda listed as “Proposed Ordinances – Storage Containers” will not be discussed until the Community Survey results have been reviewed.

Van Holten – Block 28, Lot 11- Fairview Road/County Road 519 – Request for Refund

D. Pierce stated he spoke to the applicant’s attorney this afternoon. The applicant originally submitted a new application for a minor subdivision for the one lot. After receiving the application, D. Pierce spoke with the applicant’s attorney and advised the applicant to make it an amendment to their existing approval. The applicant had already paid for the application fee for a minor subdivision. The applicant is requesting the application fee be refunded to them. Since the time of their letter, the applicant’s escrow has been depleted and the applicant is requesting the application fee be applied toward the escrow account.

It was moved by M. Synchronick, seconded by L. Senus and carried to refund the applicant’s application fee for the minor subdivision and apply the amount to their escrow. All members present voted **AYE** on **ROLL CALL VOTE**.

Frenchtown Run - Block 12, Lot 31 – Horseshoe Bend Road – Request for Extension of Time to File

D. Pierce stated the application is for one of the parcels the Township is working on to preserve. The application came before the Board and received minor subdivision. It is in the final stages of the approval. The application requires an extension of time to perfect the subdivision.

It was moved by D. Haywood, seconded by S. McNicol and carried to a grant a 90-day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

Equestrian Village –Block 14, Lots 28.02 & 30 –Horseshoe Bend Road - Request for Extension of Time to File

D. Pierce stated Hunterdon County is acquiring the above lots with the exception of a nine acre parcel being retained by the seller. The application requires an extension of time to perfect the subdivision.

It was moved by D. Haywood, seconded by S. McNicol and carried to a grant a 90-day extension of time to file the deeds. All members present voted **AYE** on **ROLL CALL VOTE**.

Open Space and Recreation Plan Draft

A. Clerico stated the purpose is to obtain the comments and feedback from the Board members. She will be meeting with the project team next week. An Open Space plan was adopted 10 years ago. This plan reassesses the active and passive recreation in the Township, the preserved parcels and linkages between what is preserved, what is targeted to be preserved and goals for the future. There was a public meeting in February at which comments from the residents who attended were incorporated into this draft. It captures what the Township is looking to pursue in the future in regard to open space and recreation.

It was suggested if the Board members had any comments they should email them to A. Clerico. The next project team meeting to review the draft is April 21, 2010.

Discussion on Proposed Well Ordinance Changes

D. Pierce had the following comments on the proposed Well Ordinance:

**153-20**

*1. Basis for Ordinance. ....because seasonal fluctuations in aquifer recharge creates a loss of volume and dilution capacity during the summer and early fall when water uses normally increase,*

Comment: A reference should be added as to the source for the above conclusion.

*.....dependable yield and high quality of the ground water resource; and to ensure protection of the surface water resources, this ordinance will be used as the basis for decisions regarding potential detrimental impacts associated with proposed new and altered wells, and expanded uses of ground water (e.g., multi-residential, public, commercial, and off-site water supply).*

Comment: There is no other reference to surface water and how it is protected in the ordinance. This reference should be removed or have some expansion of how the protection of surface water is being effectuated by the ordinance.

*12. AVERAGE DAILY DEMAND: The average amount of water used per day, as specified in N.J.A.C. 7:10-12.6. Residential wells sharing capacity with agricultural uses shall include any crop, animal, and maintenance water demands in the total average daily demand of the well as presented by the Pennsylvania State University's College of Agricultural Sciences (<http://resources.cas.psu.edu/WaterResources/pdfs/wateruse.pdf>) or subsequent data.*

Comment: The definition of “*maintenance water*” should be included in the ordinance.

Comment: The end of the definition provides reference to “*subsequent data*”. It is too vague. A specific reference should be given. It provides the Board too much leeway.

36. *SEASONALITY: Normal fluctuation in aquifer level and volume from cyclical changes in recharge between seasons, with lower aquifer levels in summer and early fall due to increased water uses, and decreased recharge stemming from increased evapotranspiration.*

Comment: What is the statistical significance of the seasonal change evapotranspiration? Is it that significant that it needs to be accounted for in the ordinance?

4. *One copy of the entire application in an electronic pdf format is required to be submitted at the time of the application. [Global Positioning System (GPS) location required here or on Application?]*

Comment: Why the entire application and not just the plat?

5. *Certification of Taxes paid.*

Comment: Needs some language refinement to flesh this out.

#### **153-24 Certification of Well.**

1. *New water supplies, new water wells or altered water wells constructed in the Township of Kingwood shall not be placed in service, nor shall new dwellings or buildings or additions to existing buildings, which must rely on such supply for water, be used or occupied until the administrative authority shall have issued a certificate indicating that the said water supply has been located and constructed in compliance with the terms of the well construction permit.*

Comment: Is it the intent to encompass all additions, including a deck or just an additional bump out of a family room where there is no plumbing or bedrooms added? If so, everyone in the Township who undertakes a construction project will have to get their well certified. Or, is the intent to capture those facilities that require additional water consumption? This should be clarified to match the intent.

*If a well newly-drilled well delivers 10 or more gallons of water per minute and a well-water sample is ~~taken,~~ analyzed for the parameters required by the State [Enter regulation section number(s) here] and complies with the water quality standards, ~~and a remediation plan for the water sample taken is written,~~ a construction permit can be issued.*

Comment: It seems arbitrary to make a cut-off of 10 gpm. How does it relate to seasonal fluctuation? 10 gpm results in 14,400 gpd which might factor in later with the 800 gpd in the ordinance which drives the need for an aquifer test and makes it seem excessive to limit the exception to such a high yield. Also, this may create an argument that there should also be an exception to the seasonality requirement for the aquifer test.

*If any of the analyses are not within the required water quality limits a remediation plan must be written.*

Comment: To whom is the plan presented to and is it approved by someone in a particular time frame?

*If the water supply is less than 10 gallons per minute, the applicant must wait for the seasonality period.*

Comment: What is the basis for this restriction? If the cutoff is 10 gpm but the well still yields 9 gpm, the well is generating 12,500 gpd which is much more than the 800 gpd demand for a 4 bedroom house. A modest yield of 0.56 gpm produces 800 gpd. This threshold seems excessively conservative.

*If the well yields 1 gallon a minute or less, a storage plan must be made available to the Kingwood Township Board of Health.*

Comment: This provision is vague. There is no standard for approval. What does the storage plan have to show? How many gallons of storage? Does it need to show different storage capacity for a yield of 0.25 gpm than for a yield of 0.75 gpm?

**153-25      Applicability.**

*1. .... See section 153-28(a)(1) and 153-29(f).*

The references should be checked for accuracy.

Subdivision of one (1) lot (excluding the remaining lands)	YES	N/A	Prior to issuance, renewal or extension of Building Permit
Subdivisions of 2 or more lots <sup>3</sup> (excluding the remaining lands)	N/A	YES	Prior to approval as to suitability of subdivision
Agricultural Subdivision of one (1) lot (excluding the remaining lands)	YES	N/A	Prior to issuance, renewal or extension of Building Permit
Agricultural subdivision of 2 or more lots <sup>3</sup> (excluding remaining lands)	N/A	YES	Prior to issuance, renewal or extension of Building Permit

Comment: To alleviate the room for misinterpretation, in the sections relating to subdivisions both regular and agricultural, all additional language should be removed except for the type of application and specifying the application to the number of new lots being created.

**153-26**

*2. Spacing. No new well shall be located at a distance less than 100 feet from any approved well or subsurface disposal area. New wells shall be located upgradient from subsurface disposal areas for all new subdivisions.*

Comment: The proposed new language should be removed. If the regulation is for basic health and safety reasons, then it should apply to all lots, not just newly created lots.

*Lots less than 4 acres in an existing subdivision .....*

Comment: The actual date should be specified, this will leave no room for ambiguity.

.....that have a minimum of 6 soil tests that present a very limited (Note:include soil types) area of acceptable conditions for a subsurface disposal system, and is located upgradient, within 200 feet of an existing or proposed new well, may apply for a waiver from the Administrative Authority for the location of the subject disposal area. If a waiver is accepted by the Administrative Authority, all new or altered wells within 200 feet downgradient of the disposal area shall have casing lengths of no less than 100 feet as measured from the top of the bore hole. The spacing requirement for wells may be waived for multiple wells (only), on single lots that serve one individual residence, to not less than 50 feet.

Comment: There is no rational basis to distinguish between an existing subdivision and new subdivision on this provision. Why shouldn't the new lots be entitled to the same variance as an existing lot may be entitled? Is the rationale that the existing lot has an existing house and if the Township does not allow them this variance, we could be faced with a takings claim and depriving them of the value of any use because they cannot put in a new well? Even if that is the case, why is there a basis, from a health and safety point of view, to allow this variance on some lots and not on others. Either it is protective of health and safety or not, the fact that a lot is existing or part of a new subdivision should not have any bearing on that conclusion.

**153-28**      **Three-Part Pump Test.**

*1. General Requirements*

*a) A Three Part Pump Test Application must be completed prior to conducting the three part pump test.*

Comment: If you have a well construction permit, why the need for an application to conduct the 3 part pump test when it is a requirement for every new well? The applicant would have to follow the ordinance. It is not an aquifer test providing notice to other property owners.

*b) Property Owner Notification. Owners of existing wells on lots located within 300 feet of the property boundary of a proposed or new or altered well, as applicable to section 153-25A, Table 1, shall receive notification in letter form titled "Notification of Three-Part Pump Test as provided by the Township, of the scheduled well test(s) from the applicant or their representative, via certified mail, four weeks prior to the well test date. All property owner notifications shall be provided to the Administrative Authority prior to the mailing. The applicant shall obtain a certified list of all property owners within 300 feet of the property boundary from the Township Tax Assessor. If the lot that is the subject of the application is a flag lot, the distance indicated previously in this paragraph shall be measured from the main body of the lot, and the "stem" of the flag shall not be included in calculating such distance. ~~The applicant shall obtain a certified list of all property owners within 300 feet of the property boundary from the Township Tax Assessor.~~*

Comment: The 3 part pump test is not designed to see the affect on other property owners but to determine the performance of the well and it does not appear that there is any basis for requiring notice to adjoining property owners.

*2.c) .....requirements sufficiently to accommodate the performance of the well. See 153-28(c)(3).*

Comment: The reference should be checked for accuracy.

11(g)(ii) If results of the Trela Douglas nitrate dilution model predict unacceptable nitrate levels *for any of the new or existing wells within the improved or unimproved buildable lots of the subdivision* in the new or existing wells, then the site demand and/or development units must be reduced. Model simulations must reflect low-recharge summer season and drought conditions. (Reference: Trela, J.J. and Douglas, L.A., 1978, Soils, septic systems and carrying capacity in the New Jersey Pine Barrens: paper presented at the First Annual Pine Barrens Research Conference, Atlantic City, May 22, 1978, 34p.)

Comment: Why can't the applicant make a proposal to relocate the well at a greater distance than the proposed septic field? There is a concern the Township is using a model to predict acceptable or unacceptable

results. Is there a mechanism available for someone to come in with specific data for their site that presents a different result than the model?

Additional Comment: D. Pierce commented he now understands that this model is intended to predict nitrate dilution based upon recharge rates. Is the dilution rate predicted at a particular distance from the end of the septic field? If so, then the initial comment may still be applicable.

### **153-35**

#### ***3. Review of Storage Plan: \$1500.00 escrow deposit per well***

Comment: The escrow amount seems high for the review of a storage plan for a well that has less than 1 gpm yield.

T. Kratzer stated, in response to D. Pierce's comment, regarding the references under 153-25 (1) the codified version is numbered and lettered differently than the one before them. In response to D. Pierce's comment regarding 153-28.11(g)(ii), he stated the purpose is because if you have enough acreage available, an applicant can get the recharge requirements of the model. The intent is to look at the individual lots for non-existing septic systems. T. Kratzer stated for an applicant to come in with specific data for their particular site is very expensive but they can have the option available to them.

### **Special Meeting**

It was announced that the Planning Board will have a joint meeting on April 21, 2010 with the Board of Health beginning at 8:00 PM.

### **Resolution No. 2010-06 -Van Holten – Block 28, Lot 11 – Fairview Road/County Road 519 – Phasing of Major Subdivision**

It was moved by L. Senus, seconded by M. Syrnick and carried to adopt **Resolution No. 2010-06 -Van Holten – Block 28, Lot 11 – Fairview Road/County Road 519 – Phasing of Major Subdivision**. All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood and T. Kratzer who **ABSTAINED**.

### **Approval of March 9, 2010 Minutes**

It was moved by S. McNicol, seconded by J. Strasser and carried to adopt the March 9, 2010 minutes with the following corrections:

*Page 5 – 18th sentence – He had a concern about the POD maintenance on the proposed site.*

*Page 6 – 1<sup>st</sup> line – He stated his comments are redundant.*

All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood who **ABSTAINED**.

### **APPLICATION STATUS**

In response to an inquiry from a Board member, E. Niemann responded there are about 50 surveys that are left to input.

A. Clerico stated she did not find any ordinances for solar farms. She has obtained general information about towns in New Jersey that are looking to pursue solar farms, mostly in south Jersey.

It was requested the Board be provided with a copy of the ordinance for conservation easements and be provided with the number of conservation markers sold.

**CORRESPONDENCE**

R. Dodds reviewed as per the agenda.

**PRIVILEGE OF THE FLOOR**

A. Clerico stated she will be leaving Banisch & Associates. She was presented with an exciting opportunity with her father’s company. Her tentative last day is April 23, 2010.

Linda Lezak – She stated she was concerned about the storage container proposal. She inquired how the units, if they are stacked double, can be determined to be appropriately screened? She didn’t see anything in the ordinance. What happens when the units start to deteriorate? She stated Route 12 looks terrible. She requested the Board take its time and review every aspect of the ordinance. She does not want to stop someone who wants to have a business and bring in a ratable.

J. Klymec – He inquired as to the process required in order to obtain a subdivision or building permit with regard to the Well Ordinance. D. Pierce responded the well ordinance will not tell you and does not tell you when you have to do the testing in terms of a subdivision application. The subdivision is governed by the subdivision ordinance and checklist. If you are creating two or more lots, the applicant would be required to perform the aquifer test and obtain conforming aquifer test results prior to the application for a subdivision. If it is a single new lot, the applicant would have to perform a three part pump test and it would be required at the time of the issuance of the building permit.

E. Niemann announced the well ordinance will be discussed in detail at the next Board of Health meeting. The professionals will be present to educate those attending on the well ordinance.

K. Klymec – She stated they answered the survey that was sent out and attached a letter commenting on Route 12 and its appearance. She stated some of the establishments look fine and some are quite dreadful. It is getting worse and sloppy. An example is the Industrial Park. It is visually horrendous. She inquired who approved or planned the Industrial Park? She is a real estate agent and has a hard time selling out here. Statistically, Kingwood Township is, if not the slowest in resale, the next to slowest. Many people will not come out here due to the appearance of Route 12.

E. Schmid – Tumble Idell Road- She stated Route 12 is the entrance to the Township. If Route 12 looks disreputable, unkempt or industrial, that is what people will think of Kingwood. It will affect real estate values.

**Resolution No. 2010-07 – Frenchtown Run – Block 12, Lot 31 and Proposed Lot 31.01 – Extension of Minor Subdivision Approval**

It was moved by D. Haywood, seconded by T. Kratzer and carried to adopt **Resolution No. 2010-07 – Frenchtown Run – Block 12, Lot 31 and Proposed Lot 31.01 – Extension of Minor Subdivision Approval**. All members present voted **AYE** on **ROLL CALL VOTE**.

**Resolution No. 2010-08 – Horseshoe Bend – Block 14, Lot 30 and Proposed Lot 30.01 – Extension of Minor Subdivision Approval**

It was moved by D. Haywood, seconded by S. McNicol and carried to adopt **Resolution No. 2010-08 – Horseshoe Bend – Block 14, Lot 30 and Proposed Lot 30.01 – Extension of Minor Subdivision Approval.** All members present voted **AYE** on **ROLL CALL VOTE.**

S. McNicol inquired if the Board would like to ask the Township Committee to ask the Zoning Officer or Code Enforcement Official to look at some of the properties on Route 12. The person could do a little survey of what is up and proceed from there. More and more people are coming to the Board about the appearance of Route 12. The Board might consider doing something to try to take some steps to make some changes. It was requested the secretary write a letter to the Township Committee requesting a report for next month's meeting on the status of Route 12 with regard to any violations that have or are occurring.

P. Casuscelli inquired if the Board was going to discuss storage containers. R. Dodds responded the Board is waiting for the responses from the Community survey.

B. Casuscelli stated he has a buyer and has wasted six months. He was informed the Board would support the proposal.

R. Dodds responded the Planning Board needs to move in an expeditious and planned manner. They need a good idea of what should be out there and not come up with quick fixes.

P. Casuscelli stated he has pictures of what he can do on the property. R. Dodds requested he provide the pictures to the secretary for distribution.

#### **ADJOURNMENT**

It was moved by S. McNicol, seconded by J. Strasser and carried to adjourn the meeting at 8:37 PM. All members present voted **AYE.**

**Respectfully submitted,**

**Diane Laudenschick, Secretary**