

**MINUTES**

**PRESENT:** M. DeSapio  
T. Kratzer  
P. Lubitz  
S. Stryker  
J. Kopen, Attorney

**ABSENT:** R. Phillips

**CALL TO ORDER**

The meeting was called to order by D. Laudenschach at 8:09 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**

Nomination of Chairperson

T. Kratzer nominated and S. Stryker seconded M. DeSapio as Chairperson for 2009.

It was moved by P. Lubitz, seconded by T. Kratzer to close the nominations. All members present voted **AYE** on **ROLL CALL VOTE**, except M. DeSapio, who abstained.

Nomination of Vice Chairperson

T. Kratzer nominated and M. DeSapio seconded S. Stryker as Vice-Chairperson for 2009. All members present voted **AYE** on **ROLL CALL VOTE**, except S. Stryker, who abstained.

Appointment of Attorney

M. DeSapio appointed and T. Kratzer seconded Gebhardt and Kiefer, Judith Kopen, as attorney for the Board of Health for 2009. All members present voted **AYE** on **ROLL CALL VOTE**.

Appointment of Engineer

M. DeSapio appointed and S. Stryker seconded Gilmore and Associates, Thomas Decker, as engineer for the Board of Health for 2009. All members present voted **AYE** on **ROLL CALL VOTE**.

#### Approval of Meeting Dates:

|                   |                    |
|-------------------|--------------------|
| February 18, 2009 |                    |
| March 18, 2009    | August 19, 2009    |
| April 15, 2009    | September 16, 2009 |
| May 20, 2009      | October 21, 2009   |
| June 17, 2009     | November 18, 2009  |
| July 15, 2009     | December 16, 2009  |

It was moved by M. DeSapio, seconded by P. Lubitz and carried to approve the above dates for the 2009 Board of Health meetings. All members present voted **AYE** on **ROLL CALL VOTE**.

#### Designation of Newspaper

It was moved by M. DeSapio, seconded by S. Stryker and carried to designation the Hunterdon County Democrat as the official newspaper for 2009 of the Board of Health with the Courier News as the alternate. All members present voted **AYE** on **ROLL CALL VOTE**.

#### Approval of Minutes

It was moved by M. DeSapio, seconded by P. Lubitz and carried to approve the August 20, 2008 minutes and place on file with the following correction:

153-35– Fees – E(2) - add to the ending sentence “except in the instance where no new well has been constructed on the property, but in no instance shall the money be refunded prior to the expiration of the **6** (~~12~~)-years from the time that a well is constructed”.

All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz, who abstained.

It was moved by M. DeSapio, seconded by P. Lubitz and carried to approve the minutes of November 19, 2008 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except P. Lubitz, who abstained.

#### Well Tests – 2008

T. Kratzer stated he had reviewed the package provided to the Board members in regard to the well testing that was performed in 2008. He stated there were several different forms in the package for each application.

There was a lengthy discussion with V. Uhl regarding the process involved in obtaining a well permit, the performance and witnessing of the pump tests. V. Uhl stated he would contact the county and see what inspections are performed by them when a well is drilled.

After some discussion it was decided V. Uhl's office would be responsible for the issuance of the well certifications.

The invoice from Uhl, Barron and Rana was discussed with regard to the costs associated with each pump test witnessing. Reviewing the invoices, it seems as if the average cost associated with the pump test is \$1,000.00. V. Uhl stated this was the first season and there were a lot of questions. If the Board sets a fee limit, his firm will adhere to the limit. The original number of \$500.00 in the ordinance was provided by V. Uhl. V. Uhl stated the testing takes approximately 5.5 hours. J. Kopen stated the additional amount charged for the pump testing would have to be paid for by the Township since the ordinance does not specifically say the amount is an escrow. If the board is considering amending the ordinance, the language could be changed to indicate an escrow, which is replenishable.

P. Lubitz stated the same procedure utilized for the wetlands presence/absence determination could be incorporated in to the well ordinance. For the wetlands presence/absence determination, the homeowner contracts with their own professional to handle the requirements. It will take the Township out of the middle. The homeowner would contract with a professional to handle the oversight of the requirements of the well drilling. It would eliminate the Township having to handle the escrow issue. A properly licensed professional would be on site and the data would be provided to the Township hydrogeologist for their review. The qualified professional would have to be defined in the ordinance.

T. Kratzer stated the ordinance provides for an administrative authority to be present at the site. T. Kratzer stated section 153-27(B) addresses the witnessing for the three part pump test and indicates the Township reserves the right to witness all well tests. Paragraph A describes the professionals requirements.

T. Kratzer stated he would like to have a meeting with the well drillers to discuss the well ordinance.

P. Lubitz inquired if V. Uhl felt the \$1,000 fee would be adequate. V. Uhl responded it should work.

V. Uhl stated the additional voucher in the amount of \$3180.00 was additional time spent responding to questions from the well drillers and applicants.

### **Executive Session**

#### **RESOLUTION NO. 2009-01**

**WHEREAS**, Section 7 of the Open Public Meetings Act, Chapter 231 P.L. 1975 (R.S. 10:4-13) permits the exclusion of the public from a meeting or a portion of a meeting of this public body in certain circumstances; and

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

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Health of the Township of Kingwood, County of Hunterdon, State of New Jersey as follows:

1. The public shall be excluded from the meeting or a portion of a meeting at which this public body discusses the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:

**Possible Litigation**

3. The time when the circumstances under which the discussions conducted in closed session of this public body can be disclosed to the public is as follows:

The minutes of the closed session will be made public upon conclusion, dismissal or settlement of litigation; or final resolution of agreements or personnel matters; and in any event, when appropriate pursuant to N.J.S.A. 10:4-7 and -13.

4. This resolution shall take effect immediately.
5. The Board of Health may take additional action upon returning to regular session.

It was moved by P. Lubitz, seconded by S. Stryker and carried to adopt the foregoing resolution. All members present voted **AYE** on **ROLL CALL VOTE**.

M. DeSapio announced the Board will return to regular session.

V. Uhl stated there was some confusion regarding the amount the ordinance permitted for the well witnessing. He was under the impression the ordinance had been changed to \$1,000.00. V. Uhl stated a choice is to have his firm adhere to the \$500.00 for 2008 and move forward. His firm will work expeditiously to complete the work. If the Board determines the fee to be \$500.00 for 2008, he will accept it and move on to 2009.

The Board members will make a decision at the February 18, 2009 meeting.

V. Uhl was not willing to negotiate on the \$3,180.00 voucher for additional services.

**Well Ordinance Amendments**

J. Kopen stated she did not realize she had made some typographical errors indicating the proper designation for Section 153-35. She will make the corrections and provide a revised copy to the Board members for possible introduction at the February meeting. She will add the provisions relating to the possible replenishment for escrow fees and changing the language to indicate escrow rather than fees. She will provide the revision prior to the February meeting.

The time frame of reducing the amount of years for the escrow duration was suggested by V. Uhl. The release of the escrow could be based on the original baseline and if there is no increase in the baseline in that time frame, the funds can be released.

T. Kratzer stated the well quality monitoring should have the following:

- ❖ 4 samples the first year;
- ❖ 2 separate samples in different seasons for the following years  
(one year winter & summer, the following year, fall & spring);

which would allow for a review of the trending. A total of seven samples should be required. He stated there is a seasonal water level. The concentration changes seasonally. When you have a development, you may not have water flow from the upper part of the development over a period of time. Contamination up gradient may not be seen until later.

V. Uhl stated water quality time factor could be greater than the damage done to a well. The Board may want to continue the 12 years for water quality. Some sites may see an impact in a few years and some longer.

T. Kratzer stated for water quality for five or more lots, the Township is also looking for spatial distances between lots.

J. Kopen suggested the following language should be added to the last sentence:

- ❖ but in no event no refund will be issued prior to the expiration of .....

J. Kopen stated there might be instances where applicants apply for plans and not actually do anything or start construction for a period of time. An applicant could put monies into an escrow and not actually construct their wells for a period of 7 years so that the phrase was added so you had 6 years after the well is constructed. This was an additional time frame added on to the original time frame if there was a delay in the starting of the construction. If anyone would delay further than that, additional time would have to be added.

After some discussion, it will be changed back to 12 years and start the clock from when the well is installed.

T. Kratzer stated some other language to change is to require the nitrate dilution model to be 2 mg per liter. He would like an addition to the definition "measured near the end of the lot in question." It should not be measured on the neighbor's lot but has to be within or near the perimeter of the lot in question. The state standard is referenced in the nitrate dilution model but the state is worded as regional. The Township is looking at individual lots for nitrate dilution model and the outcome can be different with the Township's soils.

V. Uhl stated one item the ordinance does not cover is geo-thermal wells. He has seen a lot of geo-thermal wells being installed in Solebury Township. If they are being drilled in Kingwood, he has a concern about the fluids being used. There are friendly fluids and not friendly fluids. It is a great

technology. He is not sure if there will be a need in Kingwood Township to address geo-thermal wells.

In regard to Section 153-23(3), regarding the ability of the applicant to utilize County records to plot out the existing wells and septics, a time period of five years was suggested.

J. Kopen recused herself from the following matter.

Belmonte – Block 29, Lot 5 – Penalties

The history of the events was reviewed. The well driller drilled the well, without the homeowner's permission, prior to obtaining the local well permit. The homeowner has now complied with the requirements of the well ordinance for the drilling of the well. It was the contention of the well driller that, because the lot was an existing lot, the ordinance did not apply to the homeowner.

After a brief discussion, it was moved by S. Stryker, seconded by T. Kratzer and carried to assess a \$250.00 penalty to Jaime Belmonte, Block 29, Lot 5, for non-compliance with section 153-32 of the Well Ordinance. All members present voted **AYE** on **ROLL CALL VOTE**.

J. Kopen returned to the meeting.

The Board members requested J. Kopen review the administrative code regulations as to well driller licensing.

Planning Board Checklist – Modification

T. Kratzer stated the Planning Board subdivision checklist does not have any specifications for any use greater than 800 gpd. There is only a requirement for a major subdivision on the checklist. The checklist does not refer to requiring an aquifer test for a certain number of gallons per day. The aquifer test is triggered if the use is greater than 800 gpd. It could be added as a note or remark. The Board members were in agreement a letter should be sent to the Planning Board requesting the change.

## **CORRESPONDENCE**

M. DeSapio reviewed as per the agenda.

## **PRIVILEGE OF THE FLOOR**

A. Hauck stated he has resigned from the Environmental Commission to devote his time to the study of the water well yields in the Township. He has results from 600 water well yields. He has mapped them.

**ADJOURNMENT**

It was moved by P. Lubitz, seconded by M. DeSapio and carried to adjourn the meeting at 11:09 PM.  
All members present voted **AYE**.

Respectfully submitted,

*Diane Laudенbach*

Diane Laudенbach, Secretary