

7:30 P.M.

MINUTES

PRESENT: J. Golden
I. Kyd
R. Phillips
T. Ciacciarelli

ABSENT: P. Mikes, Alt #1
N. Marmorato, Alt #2

CALL TO ORDER

The meeting was called to order by J. Golden at 7:33 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, Courier News on August 19, 2021 and posted in the Kingwood Township Municipal Building on August 19, 2021 and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Ordinance Public Hearing and Adoption:

J. Golden read aloud the ordinance by title:

ORDINANCE NO. BOH – 2021-02

AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF THE BOARD OF HEALTH ORDINANCES OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY

This ordinance was introduced on first reading at a meeting of the Kingwood Township Board of Health on the 22nd day of September.

The Ordinance was then published in the Hunterdon County Democrat on September 30, 2021, and was posted in the Kingwood Township Municipal Building on September 23, 2021. Copies of the Ordinance have been available for inspection by the public since September 23, 2021.

It was moved by T. Ciacciarelli, seconded by I. Kyd and carried to open the public hearing on **Ordinance No. BOH – 2021-02**. All members present voted **AYE**.

Public Comments:

P. Lubitz, Federal Twist Road – commented the ordinance is to allow the company to whom we contract to codify ordinances to codify the ordinance the Board of Health (BOH) passed earlier this year and place it in the record. He stated since there is a lot of sentiment for changing the ordinance and to spare the Township the expense of having these new ordinances the code should be left as it stands now. Once the ordinance is redone, then the Township should codify the new ordinances. It is confusing to have an out-of-date ordinance put into the

electronic code book. He recommends that the Board vote against it. The code book should indicate that the last time it was codified was in December 2020.

I. Kyd inquired if the codification could exclude the ordinance.

T. Ciacciarelli responded excluding the ordinance would not reflect the current ordinance in place. If the Board does not adopt the ordinance, it doesn't remove or exclude the current ordinance in effect.

P. Lubitz stated he is just asking the company to go over the ordinance. He stated not adopting this ordinance will not affect the rest of the code book.

T. Ciacciarelli responded that without the adoption of Ordinance No. BOH -2021-02, the Township cannot codify any other portion of the book.

D. Kratzer wanted to express that she agrees with P. Lubitz. The way it is described the BOH portion of the code book would not be updated. There is talk about reverting back to the well ordinance that was on the books as of January 1, 2021. It was discussed at the last meeting to obtain the attorney's opinion but no attorney is present this evening. She thinks it is irresponsible to be paying for it when it is going to be changed back.

S. McNicol, Oak Grove Road, stated she would like to suggest to wait to the end of the meeting to codify this ordinance. There may be some suggestion in regard to the well ordinance that may influence on codifying the ordinance. She is requesting the Board postpone voting on it.

J. Mathieu, Federal Twist Road, stated he concurs with the comments made this evening. He inquired if the BOH has an attorney. D. Laudenbach responded it is the Township Attorney K. Campbell. He stated it is not fair that the Board attorney is not present this evening. The Board needs independent legal counsel when something controversial is on the agenda. The Board should request the attorney to come to the meeting. There is no sense in having the attorney come to the meeting for proforma stuff. It would have been helpful so that if members of the public have questions, they can be answered. He stated he thinks some mechanism has to be found whereby there is a hold harmless while any changes are being made. He stated depending on how quickly the Board can do this it is a wise decision.

P. Lubitz stated he is really afraid that by not having an attorney and not being able to introduce the revision that stood in place on January 1, 2021 is an attempt to play out the plot. Since January is coming up, there is nothing to prevent the Board from holding a special meeting which would allow the Board enough time to readopt the ordinance that stood before Ordinance No. BOH – 2021-01.

R. Phillips stated the Board should table the ordinance until the attorney can help the Board. They should schedule a special meeting.

It was moved by R. Phillips, seconded by J. Golden and carried to table **Ordinance No. BOH 2021-02**. All members present voted **AYE** on **ROLL CALL VOTE**.

S. McNicol suggested the Board does not have to have a special meeting. She thinks what they could, after some discussion this evening, vote tonight to introduce the well ordinance that was in place prior to January 2021 for the November meeting. They could then have some discussion at that time. She stated then during the November meeting the Board could adopt the old ordinance which was in place in January. She stated then in December, the ordinance would then appear again for final adoption. The Board should go back to the old ordinance because of various reasons. She thinks that the Board needs to work from that ordinance and she will talk to the Board later rather than have a special meeting.

I. Kyd inquired that the Board would require some input from the hydrogeologist. He does concur with some of the changes. She inquired if that wouldn't set everything back a month.

S. McNicol stated she worked on the subcommittee 12 years ago. The subcommittee had monthly meetings and it was laborious. She studied every line of the ordinance, made notes and learned things. It took forever. She doesn't think the current ordinance is adequate and is putting the residents in a bad position. She feels strongly that the Board should go back and discuss it as long as they want. It will take a long time and won't be resolved tonight. She stated her thinking is to go back and move from there.

T. Ciacciarelli stated he can only speak for himself and he is not the Board's attorney but there is a problem with introducing the ordinance this evening under the Open Public Meeting Act, Chapter 4, Section 7. If the Board is going to introduce an ordinance it must be listed on the agenda before the meeting. He stated it can't be introduced this evening.

P. Lubitz inquired if it could be done at the November meeting.

S. McNicol stated the introduction should be on the November agenda and then the Board can finalize it in December. She stated then they can talk and meet and talk and meet. She stated at least then they will get better protection for the residents if we place the old ordinance back.

P. Lubitz stated the current ordinance is in conflict with the Township's Master Plan. The foundation for the minimum lot sizes is the previous studies of the hydrogeology in the Township. In adopting this ordinance, the Township created a conflict with the Township's Master Plan. The Board has really opened up the Township to developer's law suits. A developer can challenge the ordinances that it does not need the lot sizes that have been adopted with the Master Plan. He stated he has a simple suggestion with the introduction of the ordinance for Chapters 153, Sections 20-37. The Board would want to include all of the applications and checklists that applied to those statutes and revert back to the ordinance that stood on January 1, 2021.

D. Kratzer stated she would like to add to P. Lubitz's and S. McNicol's suggestions. She stated another problem with the changes in February is that the one table no longer requires any well test for single family. It is inconsistent with other parts of the ordinance. She stated the Board should go back to the previous version of the ordinance and form a subcommittee. The purpose for making the changes was to make it more understandable. She doesn't think that has been accomplished. She has not reviewed V. Uhl's report but is concerned that up to three homes don't have to do any testing. She knows from one of the Environmental Commission's (EC) searches of building permits in Kingwood that there were nine building permits but she is really not sure as it is not in the data base.

I. Kyd stated it is safer to go back to the old ordinance and then look at it again. The Board should review the suggestions by the hydrogeologist. The Board can then go back and make the changes suggested by the hydrogeologist.

It was moved by R. Phillips, seconded by I. Kyd and carried to authorize the Board attorney to recreate the original ordinance which was in effect in January of 2021 for introduction at the November meeting. All members present voted **AYE** on **ROLL CALL VOTE**.

Discussion on Well Ordinance

V. Uhl was present this evening to discuss his memo to the Board dated October 8, 2021 regarding his review of the current well ordinance:

Re: Kingwood Township Well Ordinance No. 21-01-2021

As per your request, I have reviewed the recent changes to the Township Well Ordinance and letters and memorandums prepared by the Township Environmental Commission (EC - July 14 and July 28, 2021) and the Board Engineer Wayne Ingram (March 31 and September 9, 2021). My comments as well as input to the well ordinance changes made on February 17, 2021 are provided below.

1.0 Comments on the Well Ordinance Changes as of February 17, 2021

Single Residence: 3-part pumping tests: My strong recommendation is to stay the course with the original requirements of this part of the ordinance. A principal rationale and benefit, which gets lost in the back and forth between the EC and the Board Engineer, is that this test provides the owner, and ultimately the buyers of a residential property, with quantitative documentation of their well performance. It is of significant value to an owner of a new residence as he/she has a concrete document of a “well performance test” that was conducted as per NJDEP/NJGS guidance (*Hoffman, Jeffrey, and Robert Canace. 1986. Two-Part Pump Test for Evaluating the Water-Supply Capabilities of Domestic Wells*”. GWR 1. Department of Environmental Protection, Division of Water Resources) and under the supervision of the Board/Township Hydrogeologist.

The test has value for a property seller, because more often than not, one of the first questions that a prospective buyer will ask is about the well yield and water quality. It is important to bear in mind that a driller’s estimated yield is not a measured yield but a rough estimate of the quantity of water being blown out of the well during drilling often referred to as “Blow Out Yield”. In our industry, there is nothing that can replace a controlled pumping test to gauge and document a well’s performance. With respect to the cost burden of the 3-part pumping test process, I believe that we can get creative in finding ways to reduce the cost, which we can discuss at the October 20th meeting.

1.1 Number of Failed 3-Part Pumping Tests: Since 2007, none of the new wells that were tested failed the testing performance standards that are set forth in the former Ordinance. However, ~ 5% of the wells tested were replacement wells for existing wells that were no longer able to supply sufficient water to a residence to meet demand. Further, the wells in the Lockatong Formation were the lowest yielding wells, often required additional development/stimulation to increase yields, and even so, some only marginally passed the 3-part pumping test performance standards. Based on the above comments, I recommend keeping the original requirement for the 3-part test.

1.2 Specific Input on the Revised Ordinance:

153-23. B: Map – include licensed Hydrogeologist/Geologist

153-24(A) (1):

- Concur with 200 gpd change from 100 gpd.
- Do not concur with the well yield (estimate during drilling referred to as blow-out yield) reduction from 10 to 5 gpm for issuance of a construction permit. Also this part of the ordinance needs to be revised to be prescriptive as to how the well yield is measured during drilling and who should witness this.

Table 3: Number of Test Wells Required: I do not have an issue with reducing the number of test and observation wells. However, I recommend staying the course with the original ordinance with 2 lots and above requiring a hydrogeologic study and aquifer test.

153-29F (1), (2), and (3): Concur with reducing the radius from 2,500 ft. to 1,500 ft. for pumping test testing notification and monitoring radius.

153-29G (1): Table 1 substitute Licensed Hydrogeologist/Geologist for engineer.

153-29G (3): Concur

Section 4: 153a (1) Table 1: First off, this table needs to be simplified. There are now 14 categories which I believe very few of us totally comprehend as presented in the revised ordinance.

- Item 1 – Require the 3-part test.
- Item 2 – Question on how an upside figure of 20,000 gallons per day (gpd) demand for a single residential lot was developed.
- Item 3 – New category and same question as above.
- Item 4 – As per Item 1 above.
- Item 5 – Concur.
- Item 6 – New category and concur.
- Item 7 – Require the 3-part test.
- Item 8 – Require the Aquifer Test and Hydrogeologic Report.
- Item 9 – New category.
- Item 10 – Stay the course and require the 3-part test.
- Item 11 – Stay the course and require the hydrogeologic report and aquifer test
- Item 12 – Concur
- Item 13 – As per Item 1 above – require the 3-part test
- Item 14 – Require hydrogeologic report and aquifer test

2.0 Extent of Pumping Well Capture Zone: We disagree with the Board Engineer (last paragraph of March 21, 2021 letter to the Township EC) vis a vis the reasoning on a pumping well's capture zone. The capture zone of a pumping well is not governed by recharge but by aquifer hydraulic characteristics (hydraulic conductivity (permeability), transmissivity, and aquifer storativity). There are specific quantitative equations in the groundwater industry that are used to analyze pumping tests and also predict water-level drawdown impacts from pumping wells. Further, in this analysis, a knowledge of geologic structure/fracture orientations (as set forth in the ordinance) is important as water-level drawdown impacts can be greater along formation strike/fracture orientations.

In terms of water-level drawdown impacts from a proposed pumping center (group of wells in a residential development or commercial wells), impact thresholds for well interference should be established in the Ordinance.

3.0 Groundwater Recharge: There are a range of recharge numbers being bandied around. My recommendation is to plan for extremes as we all learned from Hurricane Ida. So for groundwater recharge and sustainability, the planning would be for the "Drought of Record" in New Jersey which occurred during three years in the early 1960s. Some thoughts:

- To resolve the question of groundwater use versus groundwater recharge for years of normal and drought precipitation, I propose that the Township convene the EC, the Board of Health Hydrogeologic Consultant, and an NJGS/USGS expert to put this important question to rest.
- The NJDEP policy of reserving 80% of groundwater recharge for ecological water needs (wetlands maintenance, stream base flow maintenance, etc.) has been in place for decades. This allows 20% of groundwater recharge (aka "Available Recharge") for abstraction.

P. Lubitz stated a mapping out of soil types with no penetration should be done. V. Uhl stated there is lower recharge but not no recharge.

P. Lubitz stated there are a number of areas where you cannot place a septic system. It is his belief that the DEP, when they are measuring the ability to have recharge, in Soil type B, they don't do a

calculation on recharge because that type of soil does not have recharge. There is little recharge in the lower part of the Township. V. Uhl stated that there has to be some recharge.

P. Lubitz stated there are parts in the Township where you can be ankle deep in standing water. V. Uhl stated the issue of recharge needs to be put to rest. There should be a meeting with either the NJGS or USGS, himself and the EC, to clarify recharge. They should not reinvent the wheel.

I. Kyd stated she thinks it would be helpful if the Board can have confirmed data.

J. Golden stated the data presented at last month's meeting was that the engineer was simply using different data.

V. Uhl stated the engineer's report was using data from Pennsylvania, which was a pretty thorough study. The individual from the NJGS or USGS will be the equalizer. It is what those folks do for a profession.

T. Ciacciarelli stated V. Uhl's memo referenced some cost reductions in the testing.

V. Uhl stated the driller charges about \$1,200 and their fee is \$1,500. If the Township performed some of the witnessing, it would reduce their costs. He is unable to give a dollar amount tonight. There are enough professionals in the Township or retired individuals who may be willing to witness the testing. He stated the testing is pretty straightforward. The witness would take their own measurements and then they would analyze the data. It is a spreadsheet. He didn't go through the new ordinance thoroughly but found some inconsistencies. It needs to be gone through from start to finish.

J. Golden asked for any other comments.

D. Kratzer stated she is really looking forward to reading the memo and requested a copy of it. She stated V. Uhl has reviewed a number of aquifer tests in the Township and she would like to obtain copies of the information. It would provide more information about what areas are more of a concern.

V. Uhl stated you can walk in some areas and may be on high ground but it is very spongy. He hasn't done a detailed analysis. He is hoping at one point on doing it.

Approval of Minutes

It was moved by T. Ciacciarelli, seconded by I. Kyd and carried to approve the minutes of September 22, 2021 and place on file. All members present voted **AYE** on **ROLL CALL VOTE**, except R. Phillips, who **ABSTAINED**.

CORRESPONDENCE

J. Golden reviewed as per the agenda:

Environmental Commission – 2020 Annual Report.

PRIVILEGE OF THE FLOOR

P. Lubitz thanked the Board for their consideration, for bringing in V. Uhl to make his comments and how it was opened to comments for the public. He is pleased with those actions.

ADJOURNMENT

It was moved by T. Ciacciarelli, seconded by I. Kyd and carried to adjourn the meeting at 8:21 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary