

2009 – 279

**November 2, 2009
Regular Township Committee
Meeting Minutes**

A Regular Meeting of the Kingwood Township Committee was called to order at 7:00P.M. with Mayor Niemann presiding.

Also present at the meeting were Deputy Mayor Burke, Committeeman Lubitz, Attorney Kopen, C.F.O. Laudenschlager, and Clerk MacConnell. Following the salute to the Flag, Mayor Niemann read aloud the following:

NOTICE REQUIREMENTS

Adequate notice of this meeting was provided in accordance with the Open Public Meetings Act by publication of the notice in the Hunterdon County Democrat and Courier News on January 15, 2009 and by telefaxing copies of the notice to the Express Times and Star Ledger on January 14, 2009. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on January 13, 2009.

In order to ensure full public participation in this meeting, all members of this Committee or Board, and also 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.

Sale of Surplus Land – Block 50 Lot 9

Mayor Niemann addressed whether or not there were proposals at this time. The Clerk announced that there was one proposal submitted. Attorney Kopen noted that at 7:00PM all bids were to be brought forward, and that the time has past, which is stated in the Notice of Sale for the receipt of bids of sale for Block 50, Lot 9. She noted that a bid has been received from Ryms Group LLC. The Attorney read aloud the proposal received. This was in the amount of \$81,500. She also noted that a cashier's check has been submitted in the amount of \$8,150.00, which is 10% of the bid amount. Attorney Kopen explained that there were proposed changes to the contract. The first change was that the Resolution authorizing the sale of the proposed contract indicated that the property is being sold as is, and without any claims or promises of the conditions or value of the property. She also explained that there is a conflict between what the terms the Township proposed, and the bid that has been received. Attorney Kopen suggested that the Township Committee discuss this matter in an executive session.

EXECUTIVE SESSION – RESOLUTION NO. 2009 - 138

At approximately 7:10 P.M. the following Resolution was introduced to enter into closed session:

RESOLUTION NO. 2009 – 138

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 Township Committee 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:

Advice of Attorney – Contract Negotiation – Sale of Public Property

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 Township Committee may take additional action upon returning to regular session.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	AYE	- Burke, Lubitz, Niemann
	NAY	- None
	ABSTAIN	- None
	ABSENT	- None

RETURN TO REGULAR SESSION

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to return to regular session at 7:50 P.M. **All voted Aye on Roll Call Vote.**

Continuation - Sale of Surplus Land – Block 50 Lot 9

The Attorney J. Kopen announced that the proposal from Rym's Group LLC regarding Block 50, Lot 9 cannot be accepted this evening, because it does not conform to the Resolution that authorizes the sale of this property. She explained that the Resolution indicated that the minimum deposit stated it had to be \$15,000, and that the deposit received was \$8,150. Attorney Kopen explained that since there were certain conditions placed on the contract for sale, this bid cannot be accepted, and the deposit will be returned to the bidder. She noted that since there was only one bid received for the property, the Township Committee has determined that they will introduce a revised resolution authorizing the sale of the property. Attorney Kopen reviewed that changes that need to be made in the resolution.

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 - 141

AUTHORIZING SALE OF SURPLUS PROPERTY

WHEREAS, the Township of Kingwood ("Township") is the owner of a parcel of land with buildings located thereon known by the street address of 3003 Daniel Bray Highway, Frenchtown, New Jersey and known as Block 50, Lot 9 on the Tax Map of the Township of Kingwood in Hunterdon County which is fully described in Schedule A attached hereto and made a part hereof ("Property").

WHEREAS, the Property is no longer needed or required by the Township for public use; and

WHEREAS, it is in the best interest of the Township to advertise the Property for public sale to the highest bidder; and

WHEREAS, the Township wishes to dispose of the Property pursuant to N.J.S.A. 40A:12-13.

NOW THEREFORE, it is hereby resolved as follows:

1. The Township Committee hereby authorizes the sale of the parcel of land with all buildings and improvements located thereon owned by the Township of Kingwood shown on the Tax Map as Block 50, Lot 9 in the Township of Kingwood, in Hunterdon County, and known by the street address of 3003 Daniel Bray Highway, Frenchtown, New Jersey (the "Property"), at public sale to the highest bidder. Said sale is to be held on December 1, 2009 at 7:00 p.m. at the Township Municipal Building.

2. The sale shall be advertised in a newspaper circulating in the Township by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven (7) days prior to said sale.

3. Written, sealed bids shall be received for the Property, no later than the start of the sale at 7:00 pm, December 1, 2009. In the event of a tie in the highest written bids received, additional, oral bids will be accepted only from the highest, tied bidders at the time of bid opening.

4. The minimum bid price shall be \$ 80,000.00.

5. The sale of the Property shall be subject to a written contract to be executed by the highest bidder. The form of contract to be executed is attached to this Resolution. The form of contract is not negotiable. The three (3) day attorney review period does not apply to this transaction.

6. All persons intending to bid on the Property shall be required to supply with their written bid or at the time of bid opening, cash or certified check or other immediately negotiable funds in an amount equal to ten percent (10%) of the bid amount. The Township of Kingwood will return all deposits to each bidder, except for the highest bidder, immediately following the close of bidding.

7. The Property shall be sold for use in accordance with the zoning regulations for the zoning district in which it is located, unless a variance is received following timely application to the appropriate Township board as is further described in paragraph 12 of this Resolution.

8. The purchaser shall be required to enter into a contract with the Township within two (2) business days following the acceptance of the highest bid, unless other arrangements are made with the permission of the Township, which contract shall include among other conditions:

a. The Township shall convey by deed of bargain and sale, covenants against the acts of the grantors. The Property shall be sold subject to any easements and restrictions of record [including but not limited to utility easements, roadway, slope, drainage, and bridge maintenance easements],

rights in any water courses abutting or traversing the Property, such facts as an accurate survey may reveal, and standard exclusions found in title insurance policies.

b. Title will close within one hundred twenty (120) days from the date of the execution of the contract.

If title does not close on such date due to any default of the purchaser, the Township shall have the option to cancel the Contract unilaterally by writing to the purchaser and retaining the deposit monies as liquidated damages, in addition to any rights the Township shall have at law and in equity against the purchaser.

c. The conveyance shall be subject to public and private rights in any roadways or water courses which may abut or traverse the Property, restrictions and easements of record, if any, such facts as an accurate and current survey may reveal, the deed of conservation easement (mentioned above), and zoning ordinances of the municipality.

d. In the event that title to the Property is deemed unmarketable because it is uninsurable by a reputable title insurer licensed in New Jersey, the Township shall return to purchaser all monies paid by way of deposit without interest, without deduction, and without any liability for the payment of any fees or commission and without further liability between seller and purchaser.

9. The sale of the Property is "as is" and without contingency, warranty or representation including, by way of example, as to condition of land, suitability for construction of structures thereon, compliance with zoning regulations, compliance with construction codes, subdivision approval, issuance of building permit, environmental factors affecting the Property, septic system condition, well condition, radon condition, condition of appliances, and any financing requirements of purchaser, other than is set forth in this Resolution.

No financing or inspection contingencies shall be allowed. An inspection was performed in May of 2009 by the Township of Kingwood, including a Phase 1 Environmental Site Assessment. Copies of this inspection may be obtained from the Township.

10. The Township of Kingwood will not pay a real estate commission on the sale of the Property.

11. A prospective purchaser who wishes to inspect the Property may do so by contacting Mary MacConnell, Township Clerk, Kingwood Municipal Building, Baptistown, New Jersey, (908-996-4276) to establish a mutually

convenient time. Prospective purchasers are encouraged to carefully review the Property, the zoning ordinances, construction code regulations and the ordinances of the Township of Kingwood, and any other county, state and federal regulations, including flood plain regulations, in order to determine whether the prospective purchaser's proposed use can be accommodated. Any inspections desired by a prospective purchaser, such as, by way of example, septic, well or radon, should be completed prior to the sale date. All sales are final and the successful bidder's deposit will not be returned for any reason except as otherwise provided in the Ordinance, Notice of Sale, this Resolution and proposed Contract of Sale.

12. It will not be a reason to return the successful bidder's deposit that the Property cannot be used for the purpose intended by the successful bidder or that the successful bidder cannot obtain the funds necessary to complete the purchase of the Property by the assigned closing date, except that, in the event that purchaser intends a use for the property that is not a permitted use under the current zoning ordinances, purchaser shall make application to the applicable Township board for any required relief within thirty (30) days of the date of execution of the contract of sale by the Township. In the event that the requested relief is denied by the applicable Township Board, or if a condition of approval imposed by the Board cannot be satisfied within sixty (60) days from the date of the adoption of a memorializing resolution of such Township Board, the Township shall return to the purchaser all monies paid by way of deposit, without deduction, without liability for the payment of a commission (if applicable) and without further liability as between seller and purchaser.

13. The Township of Kingwood reserves the right to reject any or all bids. The acceptance or rejection of bids shall be made by the Township Committee immediately following the bid opening. The notification of the successful bidder, if any, is to be made at the December 1, 2009 meeting of the Township Committee. All bids will be received at the Township Municipal Building on the day of the sale, December 1, 2009.

14. Should the highest bid be rejected at the December 1, 2009 meeting, the Township of Kingwood may consider the next highest bid at the same meeting. If the Township of Kingwood determines to accept the next highest bid, that bidder shall be required to deposit 10% of the winning bid in cash, certified check or other like good funds on the next business day following the meeting, and enter into a contract with the Township as set forth in paragraph 7 above.

15. The Mayor, the Clerk of the Township, the Chief Financial Officer, and any other proper official of the Township, be and each of them is hereby authorized to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary and proper for carrying out the transactions contemplated by this resolution.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	AYE	- Burke, Lubitz, Niemann
	NAY	- None
	ABSTAIN	- None
	ABSENT	- None

Deputy Mayor Burke noted that by Law the Township will need to advertise the new resolution, and also the Notice of Sale to receive bids by December 1, 2009, at 7:00PM. at the Township Committee Meeting.

Greg Crance, South Hampton PA Thanked the Committee members, and commented on what he plans to do on the property. He explained he will provide tubes, kayaks, rafts and outfitting. He stated that he plans to have people launch into the water from that location.

Appointment and Oath of Office – Zoning Board of Adjustment Alternate

Mayor Niemann noted that she has received a letter from a Mr. Matthew Bert Przystup. She explained that he has requested to be a volunteer for a position that is open on the Board of Adjustment. Mr. Przystup was present at the meeting.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to accept Matthew Bert Przystup as a candidate for the position as Alternate #1 on the Board of Adjustment for an expiration date of 12/31/2010.

Roll Call Vote:	Aye	- Burke, Lubitz, Niemann
	Nay	- None
	Abstain	- None
	Absent	- None

Clerk MacConnell gave Mr. Matthew Bert Przystup his Oath of Office.

CORRESPONDENCE

Letter from the NJDOT re: 2010 Municipal Aid Program Grant

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Mayor Niemann reviewed the letter from the NJDOT. She noted that the Township has been selected to receive \$90,000 from the NJDOT 2010 Municipal Aid Program for the improvements of Spring Hill Road. Mayor James Burke described the work that will be completed.

Resolution No. 2009-128 - 2009 Budget Appropriation Transfers

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 – 128

2009 BUDGET APPROPRIATION TRANSFERS

BE IT RESOLVED, by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey, that the Chief Financial Officer be authorized to make the following transfers within the 2009 Budget Appropriations:

FROM ACCOUNT	TO ACCOUNT	AMOUNT
119-0400-302	119-0400-304	\$ 1,300.00
119-0652-299	119-0010-299	\$ 1,000.00
119-0652-299	119-1050-299	\$ 2,000.00
119-0652-299	119-1050-299	\$ 500.00
119-0200-299	119-1050-299	\$ 500.00
119-0009-299	119-0300-299	\$ 5,000.00
119-0650-299	119-0651-299	\$ 1,300.00
119-0050-299	119-0800-299	\$ 500.00
119-0750-299	119-0010-299	\$ 1,000.00
TOTAL TRANSFERRED:		\$ 13,100.00

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

Motion to Approve Payment to Fry’s Plastic

Mayor Niemann explained that a motion needs to be made to approve payment to a vendor that the Township has purchased from named Fry’s Plastic.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to approve payment to Fry’s Plastic in the amount of \$3,315.20.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

BILLS AND CLAIMS

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to approve and pay all bills and claims in the amount of **\$1,106,643.82** that are in order and attached as **Bill List** for **November** 2009.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Abstain	-	None
	Absent	-	None

PUBLIC COMMENT – PRIVILEGE OF THE FLOOR

Gilbert Dick, Oak Grove Road Stated that he had further comments on his OPRA requests from the Township. He feels that he is not getting the appropriate response for what he has requested. He stated that a lot of the information that he received was redacted, and feels that there should have been an explanation for why it has been done. The Committee members explained the process of releasing the executive session minutes. Attorney Kopen also commented. Mr. Dick also commented on the issue of code enforcement, and explained his concern on the complaints that have been issued and have not been acknowledged. Mayor Niemann responded.

Jack MacConnell, Spring Hill Road Explained that he has been attending courses in regard to the Emergency Management Coordinator, and will be attending additional courses in the near future. He stated that he will be working close with the N.J. State Police with positive communications, so that they can all work together in any type of necessary emergency situation.

REPORTS

Mayor Niemann noted that the following have been received and are available for review:

Tax Collector's Report of September 2009
Budget Report
Municipal Court Report of September 2009
Annual Municipal Court Visitation Report
Construction Department Reports of September 2009
Zoning Permits Report of October 2009
General Code Enforcement Report of October 2009

Mayor Niemann commented on a meeting with regard to Chris's Citgo. She stated that there will be a hearing sometime this week.

Township Engineer's Monthly Report
Dog License Report
NJSP Report

Housing Board

Committeeman Lubitz reported on an update of COAH. He stated that the Township's Planner David Banisch is working with the Substantive Certification for the Township's Housing Element and Fair Share Plan. He explained several items the Township must submit in order to satisfy COAH's requirements for the next meeting scheduled for the State, which is dated December 9th, 2009.

PAICF – Risk Mgt. Seminar

Mayor Niemann reported on a seminar that was given by our insurance company on October 23rd, at the Hunterdon County Complex regarding workplace harassment. She stated several municipal employees attended the seminar. Mayor Niemann explained that she would like to have orientation sessions for the volunteers regarding the procedures for the Committees and Commissions. She would like approval from the Committee members to review the procedures for these Boards at the reorganization meeting.

Ethics Training

Committeeman Lubitz reviewed an ethics training that he attended. He explained that the Director of Local Government Services, Susan Jaccobucci, is willing to do a seminar for the Township employees at no charge. Mayor Niemann suggested making a date for a seminar at the next Township Committee meeting in December.

FUTURE MEETINGS AND ACTIVITIES

Mayor Niemann reviewed as per the Agenda. She explained that at the next scheduled recycling day on Saturday, November 14th, they will also be accepting computers and accessory items of any kind.

Mayor Niemann announced that a joint meeting of the Kingwood Township Committee, Bd. of Health, Planning Bd. and the Environmental Commission, which was scheduled for November 18th, has been postponed until January’s Board of Health meeting at 8:00PM.

ORDINANCES

ORDINANCE NO. 15-12-2009 TO AMEND CHAPTER 71, CONSTRUCTION CODES, UNIFORM, FEES OF THE CODE OF THE TOWNSHIP – Introduction and Adoption on First Reading

Mayor Niemann read the Ordinance aloud which was introduced.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt on first reading **ORDINANCE NO. 15-12-2009 TO AMEND CHAPTER 71, CONSTRUCTION CODES, UNIFORM, FEES OF THE CODE OF THE TOWNSHIP.**

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Abstain	-	None
	Absent	-	None

Consideration of final adoption at a public hearing is scheduled for Tuesday, December 1, 2009 at a meeting beginning at 7:00 P.M. at the municipal building.

RESOLUTIONS

Resolution No. 2009-129 -Tax Sale Redemption Bl 9 L 11.03

The following Resolution was introduced:

RESOLUTION NO. 2009 - 129

TAX SALE REDEMPTION

WHEREAS, the Tax Collector has received redemption monies in the amount of \$6,754.10 to redeem Tax Sale Certificate No. 2009-05 on Block 9, Lot 11.03.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey, that the Chief Financial Officer be authorized to issue a check in the amount of \$6,754.10 to Plymouth

Park Tax Services, LLC, P.O. Box 2288, Morristown, New Jersey, 07962 for the redemption of Tax Sale Certificate No. 2009-05, and

BE IT FURTHER RESOLVED that the Chief Financial Officer be authorized to issue a check in the amount of \$5,100.00 to return the premium paid at the time of the sale.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Resolution No. 2009-130 - Cancellation of Real Estate Taxes

The following Resolution was introduced:

RESOLUTION NO. 2009 – 130

CANCELLATION OF REAL ESTATE TAXES

WHEREAS, the following properties were purchased by the NJDEP in 2008 and became tax exempt as of January 1, 2009.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey, that the Tax Collector be authorized to cancel the following real estate taxes:

Block 38, Lot 20Q0448 –	August 1, 2009 -	\$ 48.28
Block 38, Lot 20Q0448 –	November 1, 2009 -	\$ 48.28
Block 38, Lot 20Q0448 –	February 1, 2010 -	\$ 24.14
Block 38, Lot 20Q0448 –	May 1, 2010 -	\$ 24.14
Block 40, Lot 100.05 –	August 1, 2009 -	\$107.57
Block 40, Lot 100.05 –	November 1, 2009 -	\$107.57
Block 40, Lot 100.05 –	February 1, 2010 -	\$ 53.79
Block 40, Lot 100.05 –	May 1, 2010 -	\$ 53.78

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Resolution No. 2009-131 - Cancellation of Resolution No. 2009-73

The following Resolution was introduced:

RESOLUTION NO. 2009- 131

CANCELLATION OF RESOLUTION NO. 2009-73

WHEREAS, Kingwood Township adopted Ordinance No. 15-18-2008, which covers the costs associated with the acquisition of Block 14, Lots 28.02 and 30, and

WHEREAS, Resolution No. 2009-73 provided for preliminary expenses for Block 14, Lots 28.02 and 30.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Township Committee that Resolution No. 2009-73 be cancelled.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Resolution No. 2009-132 - Fuel Oil, Gasoline and Diesel Award

The following Resolution was introduced:

RESOLUTION NO. 2009 - 132

A RESOLUTION AUTHORIZING PURCHASE FROM ALLIED OIL THROUGH THE HUNTERDON COUNTY EDUCATIONAL SERVICES COMMISSION

WHEREAS, Kingwood Township has a need for certain goods and services that are offered through cooperative purchasing with the Hunterdon County Educational Services Commission (“HCESC”); and

WHEREAS, N.J.S.A. 40A:11-10 and 11-11 authorize a municipality to enter into cooperative pricing agreements with an educational services commission for the provision of goods and services through an educational services commission, rather than through public bidding; and

WHEREAS, the Township of Kingwood, by way of Resolution 2009-24, authorized the entry of the Township as a member of the Hunterdon County Educational Services Commission, which membership has been accomplished; and

WHEREAS, the Township of Kingwood desires to purchase fuel oil, diesel fuel and gasoline through the Hunterdon County Educational Services Commission.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Kingwood, Hunterdon County, as follows:

1. The Township of Kingwood, as a member of the Hunterdon County Educational Services Commission, hereby authorizes the purchase of fuel oil, diesel fuel and gasoline from the low bidder for these items, Allied Oil, per the bid amounts set forth in correspondence from the Hunterdon County Educational Services Commission dated October 7, 2009, attached hereto and made a part hereof as Exhibit A.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Resolution No. 2009-133 - Appoint Plumbing Inspector

The following Resolution was introduced:

RESOLUTION NO. 2009 – 133

APPOINT PLUMBING SUB-CODE/INSPECTOR

WHEREAS, Kingwood Township is in need of a Plumbing Sub-Code/Inspector and has duly advertised for such position; and

WHEREAS, the Construction Official has reviewed applications and conducted interviews;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey to employ Mark Farneski, 2 Indian Creek Road, Pittstown, NJ 08867 as Plumbing Sub-Code/Inspector effective November 4, 2009, at the current position salary of \$6,652.00 for 2009.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Resolution No. 2009-134 - Sale of DPW Truck

The following Resolution was introduced:

RESOLUTION NO. 2009 – 134

SALE OF KINGWOOD TOWNSHIP DPW TRUCK

WHEREAS, it has been determined that the Township of Kingwood possesses a surplus truck which is no longer needed for municipal use; and

WHEREAS, the Township of Kingwood may sell the truck in accordance with N.J.S.A. 40A:12-13;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon, State of New Jersey that the Township Clerk is hereby authorized to publish an advertisement in the Hunterdon Democrat for any interested buyers to call the Township DPW for an appointment to view the item; and

BE IT FURTHER RESOLVED that the following item is offered for sale, as is:

1973 Ford Dump Truck with Cinder Body – 1160 Diesel Engine

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

NEW BUSINESS

Certified Recycling Coordinator

Mayor Niemann reported that she and Cynthia Niciecki met with Alan Dilley from Franklin Township DPW. She noted that Alan Dilley is a certified recycling coordinator. Mayor Niemann stated that Mr. Dilley would be happy to help our Township out with any necessary paperwork, and executions of tonnage application reports. She noted that she wrote to Mayor Robert Shockley of Franklin Township, explaining our interest in having Mr. Dilley help our Township, but has not received a response as of this time.

Open Space Ban Payment

The Committee members discussed the Open Space Ban Payment with C.F.O. D. Laudenbach. They decided to take a temporary, short-term financing for the acquisition of open space. The Township Committee deliberated over making an interest payment this year and “rolling” this item into “permanent financing”, a bond, or paying off the balance on the Ban. Mayor Niemann explained that the Township will be combining the open space preservation BANs into a bond in the next year, and that all of the activity is financed within the budget revenue provided by Kingwood Township’s dedicated 3% open space tax.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to allocate an interest only payment on the BAN for the Open Space payment, until it is rolled into permanent financing.

Roll Call Vote:	Aye	-	Burke, Niemann
	Nay	-	Lubitz
	Absent	-	None
	Abstain	-	None

Banking Proposals

C.F.O. Diane Laudenbach explained to the Committee members that she likes to solicit proposals from banks so that the Township can take advantage of the best interest rates, lowest fees, and best services available in the market.

The Township Committee all agreed to solicit proposals, and they will review them at the next Township Committee meeting on December 1, 2009.

Community Hope for Veterans

Committeeman Lubitz noted that he had spoken with representatives from Community Hope. He explained that this is the group that will be working with the Township for its COAH plan. Mr. Lubitz stated that he spoke to the Director of Community Hope on the possibility of using the now vacant home on the Melnyk farm. He stated that they may be able to provide funds for possible renovations, or possibly tear down the building and rebuild a replica of the home. There was a lengthy discussion on possibilities of what could be done with the existing home.

Municipal Building Ramp Repairs

Deputy Mayor Burke explained that he has met with a contractor in regard to repairing a ramp that is located on the side of the Municipal Building going into the offices. The contractor told him that the concrete walls are fine along the sides of the ramp, but, the drain needs to be repaired with a larger pipe. He suggested that an overhang over top of the ramp be put up, and to replace the door into the building. Mr. Burke explained that this will keep the costs down to repair the entranceway, and the water problem coming into the basement.

Part time Snow Removal Plower

Deputy Mayor Burke noted that the Publics Work Department Supervisor inquired whether the Township would be hiring a part time person for snow removal for the winter months only. Mr. Burke noted that last year the part time hired person was paid \$18.00 an hour. He suggested \$20.00 an hour for this year. The Township Committee discussed the idea, and they all agreed to advertise for a part time seasonal snow removal employee to plow the roads as needed only.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to advertise for a part time on call, seasonal employee to work with the Public Works Dept. at a rate of \$20.00 an hour as needed.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

Warford Road

Mayor Niemann explained that she received a call from a resident, who resides on Warford Road and after it had rained heavy for several days. She explained that Warford Road is a dead end road in the south part of Kingwood Township. Mayor Niemann explained that the resident sent her pictures of the damage of his driveway, due to storm water poor drainage. The resident expressed that his driveway is damaged, and also trees are falling down onto electric lines from all the wet drainage coming from the road. The resident asked if Warford Road could have the ditches dug out, since they haven't been touched in many years. The resident suggested that if there were ditches dug out along the side of the road where the houses are located, then the water would drain towards the end of the road where no houses are located. Deputy Mayor Burke suggested that Mayor Niemann forward the photos to the Township Engineer to evaluate and see if there is anything that can be done to solve the problem.

OLD BUSINESS

Combe Landfill Settlement Agreement and Release – Resolution No. 2009 – 139

Attorney Kopen briefly reviewed.

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 – 139

A RESOLUTION APPROVING SETTLEMENT AGREEMENT AND RELEASE FROM SELECTIVE INSURANCE IN CONNECTION WITH THE SETTLEMENT WITH GOVERNMENT PLAINTIFFS IN THE CONSOLIDATED ACTIONS ENTITLED UNITED STATES OF AMERICA V. BECKMAN COULTER, ET ALS. AND NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, V. AMERICAN THERMOPLASTICS CORP., ET ALS

WHEREAS, certain claims have been asserted against the Township of Kingwood (the "Township") in the consolidated actions entitled United States of America v. Beckman Coulter, Inc., et als., Civil Action No. 98-4812 (WHW) and New Jersey Department of Environmental Protection v. American Thermoplastics Corp., et als., Civil Action No. 98-4781 (WHW) pending in the United States District Court for the District of New Jersey (the "Litigation") regarding alleged environmental contamination at the Combe Fill South Landfill in Chester, New Jersey ("Site"); and

WHEREAS, certain Third-Party Defendant municipalities, school boards, school districts, colleges, parks commissions and housing authorities, including the Township, are members of a group known as the Municipal Group in the Litigation; and

WHEREAS, the Municipal Group on behalf of its members engaged in settlement negotiations with the United States Department of Justice and the State of New Jersey (“Governmental Plaintiffs”) under the supervision of the Honorable Esther Salas, United States Magistrate Judge; and

WHEREAS, the Governmental Plaintiffs in the Litigation agreed to settle with the Municipal Group for all past costs, future costs, and natural resource damage claims related to the Site, pursuant to a Consent Decree and Bar Order which will provide for contribution protection and no re-opener as to the municipal entities, except where there is a fraudulent misrepresentation by a party of the amount or type of its waste, in exchange for a total payment by the Municipal Group of \$12 million (“Municipal Group Settlement Payment”) together with interest beginning from December 8, 2007 at the Superfund rate of interest which currently is 4.34% APR; and

WHEREAS, a Funding Agreement was prepared by the Municipal Group for the purpose of memorializing the allocation between the members of the Municipal Group for funding and enforcement of the payment of Municipal Group Settlement Payment together with interest from December 8, 2007 (“Funding Agreement”), a copy of which was earlier provided to the Township; and

WHEREAS, the Mayor and Committee of the Township have reviewed the terms of the Funding Agreement;

WHEREAS, a confidential escrow agreement and a partial consent decree between plaintiffs, United States of America, New Jersey Department of Environmental Protection and Administrator of the New Jersey Spill Compensation Fund, and settling defendants, settling federal agencies and settling municipal group parties were, in 2008, approved by the Mayor and Committee of the Township; and

WHEREAS, the Mayor and Committee are authorized under N.J.S.A. 40A: 63-1, et. seq. to adopt resolutions for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law; and

WHEREAS, the Township’s insurance carrier, Selective Insurance, has agreed to pay the entire amount of the settlement on behalf of Kingwood Township, which amount is \$42,097.67, as well as additional monies on behalf of

the Township if the Township’s final share is greater than \$42,097.67, together with all reasonable and necessary defense costs incurred by the Township until the Consent Decree is entered, which terms are set forth in the Settlement Agreement and Release attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Kingwood, Hunterdon County, as follows:

1. The Mayor, Clerk and any other necessary municipal official are hereby authorized to execute the Settlement Agreement and Release from Selective Insurance, attached hereto as Exhibit A in this matter.
2. This resolution shall take effect immediately.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

RESOLUTION

Shared Municipal Court – Agreement and Resolution No. 2009-135

Attorney Kopen reviewed the changes from the first version. The changes are all contained in Article IV – Municipal Court Personnel. The Committee members briefly reviewed.

The following Resolution was introduced:

RESOLUTION NO. 2009 - 135

RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT FOR MUNICIPAL COURT SERVICES

WHEREAS, the Township of Kingwood (Kingwood) operates its own municipal court with office’s in the municipal building at 599 Oak Grove Road, Frenchtown, New Jersey; and

WHEREAS, the Borough of Milford (Milford) is withdrawing from membership in the Joint Municipal Court of Holland and Alexandria Townships and Milford and Frenchtown Boroughs effective January 1, 2010; and

WHEREAS, Kingwood and Milford now wish to share municipal court services pursuant to *N.J.S.A. 2B:12-1(c)*; and

WHEREAS, such shared service agreements are authorized by the Uniform Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1, et. seq.*; and

WHEREAS, a copy of the Shared Services Agreement has been reviewed and approved by the governing body and is attached to this resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Township Committee of the Township of Kingwood, County of Hunterdon, as follows:

The proposed Shared Services Agreement, in the form attached to this resolution, is hereby approved, and the Mayor of the Township of Kingwood be and she hereby is authorized to execute the Agreement on behalf of the Township.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution with the modification regarding a pension contribution obligation on the part of the Milford Boro.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

Acknowledgement of Receipt – Gergar Property – **Resolution No. 2009 – 140**

Attorney Kopen explained the definition for an acknowledgment of receipt. She stated that it is a refunding bond and relief, which is to be provided to the attorney for the Gergar Estate. This is an exchange for when the Township receives the executed life estate agreement, and the deed conveying the property.

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 - 140

RESOLUTION AUTHORIZING EXECUTION OF DOCUMENTS RELATING TO BEQUEST OF HELEN GERGAR

WHEREAS, the Township of Kingwood requires authorization in order to execute a Refunding Bond and Release relating to Block 2, Lot 16 and Block 7, Lot 2 (the “Property”), both of which are currently owned by the estate of Helen Gergar, in order to facilitate the bequest of the previously mentioned Property from the estate of Helen Gergar to the Township of Kingwood; and

WHEREAS, the executed Refunding Bond and Release shall be held by the Township Attorney until the same are exchanged for the executed Life Estate Agreement, the form of which has been agreed between the parties, from Samuel and Irene Leon, Executors of the Estate of Helen Gergar, and Deed conveying the Property to the Township;

WHEREAS, the Mayor and Committee are authorized under N.J.S.A. 40A: 63-1, et. seq. to adopt resolutions for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Kingwood, Hunterdon County, as follows:

1. The Mayor, Clerk and any other necessary municipal official are hereby authorized to execute the Refunding Bond and Release in the matter of the Estate of Helen Gergar, which shall be held by the Township attorney until it is exchanged for the executed Life Estate Agreement and Deed conveying the Property, as well as any and all other documents that are required to vest title in the Township for the above described Property.

3. This resolution shall take effect immediately.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

2009 Planning Incentive Grant Program Bl 14 L 23 – Letter to County & Resolution No. 2009 – 136

Liz Schmid Farmland Preservation Coordinator addressed the Committee members regarding a resolution that must be sent to the State regarding a breakdown of funds.

She explained that the Township Committee will need to decide how to split up the Federal Farm and Ranchland Program Funds. There was a brief discussion between L. Schmid and the Committee members.

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 – 136

FARMLAND PRESERVATION – PIG

WHEREAS, the Kingwood Township Committee adopted Resolution No. 2009-14 supporting and endorsing the 2009 Municipal Planning Incentive Grant Program; and

WHEREAS, the Kingwood Township Committee adopted Resolution No. 2009-120 approving cost share funding on the Felix farm of Horseshoe Bend Road, Block 14, Lot 23, which is a part of the 2009 Municipal Planning Incentive Grant Program application; and

WHEREAS, the landowner has accepted the certified value of \$9,000/acre for @ 175 acres as will be determined by survey for a total of approximately \$1,575,000; and

WHEREAS, the Township expects that a potential \$665,000.00 Farm and Ranchland Protection Program Grant will be available to augment available municipal, county and state funds; and

WHEREAS, the SADC is proposing to use \$399,000 of these funds toward the State cost share on this farm; and

WHEREAS, the usual cost share in PIG preservation projects is 60% state, 20% county and 20% municipal funds;

NOW, THEREFORE, BE IT RESOLVED by the Township of Kingwood, County of Hunterdon and State of New Jersey that funding will be divided in the usual manner as follows:

Farm	Cost Basis	Cost Share	Avail SADC			TOTAL
				Township	County	
Felix				315,000 @1,800 per acre (each)		1,575,000.00
	1,575,000.00	945,000.00	546,000.00	182,000.00	182,000.00	
		FRPP →	399,000.00	133,000.00	133,000.00	
		SADC PIG balance	204,000.00	County balance for Twp	68,000.00	
Total Pending		945,000.00	945,000.00	315,000.00	315,000.00	

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:

Aye	-	Burke, Lubitz, Niemann
Nay	-	None
Absent	-	None
Abstain	-	None

Approval of Letter to the County

Mayor Niemann explained that the Township would like to work with the County regarding the Felix Preservation. Mayor Niemann explained that she spoke with the Attorney who represents the County, and stated that the County was agreeable, as long as, the Township is agreeable to guarantee full payment for the title work and the survey on the Felix property. There was a very lengthy discussion between Liz Schmid and the Township Committee.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to allow the Mayor of the Township of Kingwood to communicate with the County by letter regarding the Felix property.

Roll Call Vote:

Aye	-	Burke, Lubitz, Niemann
Nay	-	None
Absent	-	None
Abstain	-	None

Approve Additional Work for County Bridges Easements and Green Acres Survey for Deer Run – Professional Services Agreement **Resolution No. 2009 – 137**

Deputy Mayor Burke explained additional work that is being done by a surveyor.

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2009 - 137

RESOLUTION AUTHORIZING ADDITIONAL WORK BY SURVEYOR

WHEREAS, the Township of Kingwood previously authorized the services of surveyors Taylor Wiseman & Taylor (hereafter sometimes referred to as TWT) to perform certain survey work for Equestrian Village, Block 14, Lots 28.02 & 30, and Deer Run, Block 12, Lot 31, pursuant to resolutions number 2009-62, 2009-97, and 2009-108, in connection with the preservation of the properties; and

WHEREAS, the Township of Kingwood has determined that additional services of Taylor Wiseman & Taylor are required in order for TWT to comply with additional work required by NJDEP and Hunterdon County as is more specifically set forth in the "Description of Services and Fees" of TWT attached hereto as Exhibit A; and

WHEREAS, funds in the amount of \$7,000.00 are or will be made available for this purpose to be certified by the Chief Financial Officer; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, *et seq.*) authorizes the hiring of a professional, such as a surveyor, without competitive bidding providing that the amount to be paid for the work of the professional is less than the bid threshold set forth in the law.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Committee of the Township of Kingwood, Hunterdon County, as follows:

1. Taylor Wiseman & Taylor, is hereby engaged to perform professional surveying services for the Township of Kingwood in connection with

DEP Green Acres Survey and Hunterdon County requirements as to Equestrian Village, Block 14 Lots 28.02 & 30, and Deer Run, Block 12, Lot 31, for an amount not to exceed \$7,000.00 per the "Description of Services and Fees" provided by TWT and attached hereto as Exhibit A.
2. This contract is awarded without competitive bidding as "Professional Services" as well as being in an amount for less than the bid threshold under the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-5.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to adopt the foregoing Resolution.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

Health Insurance

Mayor Niemann explained that there are no options to consider at this time, as far as, other health insurance plans that are comparable, and less expensive than the State Benefits, which the full time Township Employees currently have now. Mayor Niemann explained that the smaller the business the harder it is to obtain a plan. She explained that there should be more options in the near future to consider.

Gas Greenhouse Grant Application

Committeeman P. Lubitz explained that the State received many applications, which was a greater amount than what was anticipated. He explained that the response date for the preliminary application has been moved back to November 15th.

MINUTES

October 6, 2009 Regular Meeting

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the Minutes of October 6, 2009 Regular Township Committee Meeting Minutes as amended.

Roll Call Vote:	AYE	-	Burke, Lubitz, Niemann
	NAY	-	None
	ABSTAIN	-	None
	ABSENT	-	None

October 6, 2009 Executive Session 7:35PM – 8:15PM

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the Minutes of October 6, 2009 Executive Session.

Roll Call Vote:	Aye	-	Burke, Lubitz
	Nay	-	None
	Abstain	-	Niemann
	Absent	-	None

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

October 6, 2009 Executive Session 9:40PM – 10:20PM

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the Minutes of October 6, 2009 Executive Session as amended.

Roll Call Vote:	Aye	-	Burke, Lubitz
	Nay	-	None
	Abstain	-	Niemann
	Absent	-	None

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

May 6, 2004 Executive Session

May 13, 2004 Special Meeting

May 21, 2004 Special Meeting

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the Minutes of May 6, 2004 Executive Session, May 13, 2004 Special Meeting, May 21, 2004 Special Meeting.

Roll Call Vote:	Aye	-	Burke, Lubitz
	Nay	-	None
	Abstain	-	Niemann
	Absent	-	None

Executive Session – Resolution No. 2009 – 138

The following Resolution was introduced to enter into closed session at approximately 9:55PM.

RESOLUTION NO. 2009 – 138

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 Township Committee 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 and Advice of Attorney - RDR

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 Township Committee may take additional action upon returning to regular session.

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

Roll Call Vote:	AYE	- Burke, Lubitz, Niemann
	NAY	- None
	ABSTAIN	- None
	ABSENT	- None

RETURN TO REGULAR SESSION

It was moved by Mr. Lubitz, seconded by Mr. Burke and carried to return to regular session at 10:10 P.M. **All** voted **Aye** on **Roll Call Vote**.

Amend Motion to Fry's Plastic

Mayor Niemann explained that a motion needs to be made to amend the motion to pay Fry's Plastic, which was voted on earlier in the meeting. She explained that Fry's Plastic is not a New Jersey registered vendor. She stated that they are located in the State of Pennsylvania. The Mayor explained that the Township of Kingwood is not allowed to do business with any business that does not have a business registration in New Jersey.

She noted that the Township has ordered and installed materials from this vendor, and they are unable to be returned. The Committee members will be speaking with the Township's Road Supervisor Jack Search to advise him of this information so that this problem will be avoided in the future.

It was moved by Mr. Burke, seconded by Mr. Lubitz and carried to approve an amendment to the motion to pay Fry's Plastic in the amount of \$3,315.20, with a notation that payment will likely result in an audit recommendation.

Roll Call Vote:	Aye	-	Burke, Lubitz, Niemann
	Nay	-	None
	Absent	-	None
	Abstain	-	None

ADJOURNMENT

It was moved by Mr. Burke, seconded by Mr. Lubiz and carried to adjourn the meeting at 10:15P.M. All voted **Aye** on **Roll Call Vote**.

Respectfully submitted,

**Cynthia L. Keller, RMC
Deputy Clerk**