

KINGWOOD TOWNSHIP COMMITTEE

APRIL 25, 2011

Special Meeting Agenda 8:00 PM

Call to Order

Roll Call

Pledge of Allegiance

Adequate notice of this meeting was provided in accordance with the Open Public Meetings Act by publication of the notice in the Hunterdon Democrat and Courier News on April 21, 2011 and by telefaxing copies of the notice to the Express Times on April 18, 2011. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on April 18, 2011.

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.

Ordinances

Ord No. 16-13-2011 To Amend And Supplement The Land Use Regulations Of The Township of Kingwood, Specifically “Zoning, Chapter 132” Pertaining To Solar Or Photovoltaic Energy Facilities And Structures – Public Hearing & Final Adoption

Ord No. 16-14-2011 To Amend And Supplement The Land Use Regulations Of The Township Of Kingwood, Specifically “Zoning, Chapter 132” Establishing The Route 12 Scenic Corridor Overlay (SCO) Zone And Route 12 Scenic Corridor Overlay Zone Regulations – Public Hearing

Ord No. 16-15-2011 To Amend And Supplement The Land Use Regulations Of The Township Of Kingwood, Specifically “Zoning, Chapter 132” Establishing Eastern Gateway Village Center Overlay (EGVCO) Zone And Regulations – Public Hearing

April 25, 2011 Agenda Continued

Ordinances Continued

**Ord No. 16-16-2011 To Amend And Supplement The Land Use Regulations
Of The Township Of Kingwood, Specifically “Zoning, Chapter 132”
Pertaining To Escrow Deposits For Major Solar Or Photovoltaic Energy
Facilities And Structures – Public Hearing and Final Adoption**

Old Business

Renewal of DPW Agreement

Public Comments

Adjournment

2011 - 154

**April 25, 2011
Township Committee
Special Meeting Minutes**

A Special Meeting of the Kingwood Township Committee was called to order at 8:00 P.M. with Mayor Lubitz.

Also present at the meeting were Deputy Mayor Burke, Committeewoman Niemann, Deputy Clerk Keller, Planner D. Banisch. Following the salute to the Flag, Mayor Lubitz 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 Democrat and Courier News on April 21, 2011 and by telefaxing copies of the notice to the Express Times and Star Ledger on April 18, 2011. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on April 18, 2011.

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.

Mayor Phil Lubitz started out by explaining that Ordinance No. 16-14-2011 and No. 16-15-2011 will not be open for a public hearing this evening, and they will be postponed until the next Township Committee meeting on May 5th, 2011.

ORDINANCES

ORDINANCE NO. 16-13-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY "ZONING, CHAPTER 132" PERTAINING TO SOLAR OR PHOTO VOLTAIC ENERGY FACILITIES AND STRUCTURES –Public Hearing and Final Adoption

Mayor Lubitz read aloud the ordinance by title, which was then introduced:

This Ordinance was introduced and adopted on first reading at a meeting of the Kingwood Township Committee on the 7th day of April, 2011. The Ordinance was published in the Hunterdon County Democrat on April 14, 2011 and has been posted in the Kingwood Township Municipal Building on April 8, 2011. Copies of the Ordinance have been available for inspection by the public since April 8, 2011.

2011 - 155

It was moved by Mr. Burke, Mayor Lubitz stepped down from the Chair second the motion and carried to open the hearing to the public. **All voted Aye on Roll Call Vote.**

Public Hearing Comments:

Mark Bellin, Attorney and Consultant representing Effi Solar, Stated that the company is Canadian Company that generates electricity from renewable energy, and noted that he is a developer in the area. He described a little bit about himself and the history of what kind of work he has done in the area, and that he works on projects and identifies the sites for solar construction. He described the area and the ground soil that is needed for this type of solar project. He noted that there are not many towns passing ordinances like this ordinance being adopted this evening. He stated that he feels that Kingwood Township is the perfect area for natural resources for solar development, and that the Township is rich in substations. He stated that they are looking for substations close to nearby towns and also a feasibility line to the solar projects. There was a very long discussion on the evaluation of solar farms and their taxes. Mr. Bellin feels that the Township should be looking at it in a different light. The Committee responded to Mr. Bellin who had some questions about the ordinance presented for public hearing.

Richard Roseberry, Professional Engineer and Planner, Maser Consulting representing Effi Solar, Commented on several properties that they have looked at and explained that they have rejected approximately 75% of the locations in the area. He described the structure and how much coverage would be used. He explained that there are 5 acres for every mega watt. Mr. Roseberry feels that Kingwood Township's ordinance is one of the strictest of all ordinances he has come across. He stated that the ordinance notes several restrictions, and requested that the Township clarify several items. Planner David Banisch responded to all questions asked by Mr. Roseberry. He noted that there have been some changes to the ordinance regarding structures. David Piece, Attorney for the Township's Planning Board, who was present in the audience noted that the planning board has approved one of two substantive changes.

Kerry Floyd, Captain Rescue Squad, Had a question regarding Section M of the ordinance. She asked if it was possible to add "rescue squad" in places in the ordinance where fire department is noted. Committee member James Burke noted that this could be added into the ordinance.

David Frank 17, Muddy Run Road, Noted that he had attended several meetings of the Planning Board and the Township Committee recently, and feels that the original solar ordinance was fair to the property owners. He expressed that he has a piece of property along Muddy Run Road and has been trying to sell it for several years. He stated that the only offer he has received are from solar contractors. He expressed that he would rather see a solar farm go in next to his property rather than a development of homes or a run down farm that has not been kept up.

2011 - 156

Committeeman Burke stated that the Township Committee feels that they are doing this in a ratable way for the taxpayers, not the Township. David Frank feels that the Township has become anti-solar. Deputy Mayor Niemann expressed that the Township appreciates the opportunity to learn what has been shared by the applicants, so that the Township can take that technical information and work with it in a manner that would be best for the applicant and the Township.

Ralph J. Salerno, Attorney representing Sun Dancer Capital was present from Newark, Expressed that he was present to take a look at the ordinance by a legal perspective, as requested by his client. He stated that he would like to comment by way of observation on the ordinance presented. He noted that they hope that the Township reconsiders the adoption of this ordinance, and that they will consider more input from the professionals before making any decision. Planner David Banisch responded to Mr. Salerno's questions. Mr. Salerno asked if the Township would incorporate their letter of March 21, 2011, and consider their requests. Planner, David Banisch explained that their requests will be considered by the Planning Board and possibly amended, as soon as, the Township adopts the ordinance.

Adam Belle, Barbertown Point Breeze Road Asked for some clarification on several items in the ordinance regarding roofs and height standards. David Banisch addressed the questions that Mr. Belle had asked. He explained that several of the items in the ordinance were requested by the fire department and rescue squad. Committeeman Burke commented that the emergency squad and fire department recommended these standards.

Frank Floyd – Captain, Kingwood Township Fire Department Explained the reasons for the request for the changes by fire department. He explained the plan that would be the best and safest way for the fire department to get into the roof area to put fires out. He explained that this is recommended by the California standard ordinances, and feels that this is the best for the Township.

Charles Greybarr, Sundancer Capital LLC – Commented on his opinion of the ordinance, the amendments, and the taxation of the land that he will purchase and develop.

It was moved by Mr. Burke, seconded by Mrs. Niemann and carried to close the public comment portion of the hearing. **All voted Aye on Roll Call Vote.**

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to adopt on final reading **ORDINANCE NO. 16-13-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY "ZONING, CHAPTER 132" PERTAINING TO SOLAR OR PHOTO VOLTAIC ENERGY FACILITIES AND STRUCTURES AS AMENDED BY THE REPORT OF THE PLANNING BOARD, AS WELL AS COMMENTS CONCERNING THE FIRE DEPARTMENT AND RESCUE SQUAD.**

Mayor Lubitz explained all of the amendments that were made to the ordinance.

A member of the public asked if the ordinance will be published with amendments in the newspaper. Planner David Banisch responded by stating the ordinance will be published in the Hunterdon County Democrat with amendments this Thursday, April 28, 2011.

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

ORDINANCE

ORDINANCE NO. 16-14-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132” ESTABLISHING THE ROUTE 12 SCENIC CORRIDOR OVERLAY (SCO) ZONE AND ROUTE 12 SCENIC CORRIDOR OVERLAY ZONE REGULATIONS – Public Hearing and Final Adoption

It was moved by Mr. Burke, seconded by Mrs. Niemann and carried to open the public hearing for Ordinance No. 16-14-2011.

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

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to re-open public hearing for Ordinance No. 16-14-2011. **All voted Aye on Roll Call Vote.**

Comments: No comments were made.

It was moved by Mrs. Niemann seconded by Mr. Burke and carried to adjourn the public hearing for Ordinance No. 16-14-2011 and to table this hearing to the next Township Committee meeting scheduled on May 5, 2011, after proper notice has been sent to the affected property owners within 200 feet of the proposed ordinance.

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

ORDINANCE NO. 16-15-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132” ESTABLISHING EASTERN GATEWAY VILLAGE CENTER OVERLAY (EGVCO) ZONE AND REGULATIONS – Public Hearing and Final Adoption

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to open public hearing for Ordinance No. 16-15-2011. **All** voted **Aye** on **Roll Call Vote**.

Comments: No public comments.

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to adjourn the public hearing for Ordinance No. 16-15-2011 and to table this hearing to the next Township Committee meeting scheduled on May 5, 2011, after proper notice has been sent to the affected property owners within 200 feet of the proposed ordinance.

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

ORDINANCE

ORDINANCE NO. 16-16-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132” OF THE GENERAL ORDINANCES OF THE TOWNSHIP PERTAINING TO ESCROWS DEPOSITS FOR MAJOR SOLAR OR PHOTOVOLTAIC ENERGY FACILITIES AND STRUCTURES – Public Hearing and Final Adoption

Mayor Lubitz read aloud the ordinance by title, which was then introduced:

This Ordinance was introduced and adopted on first reading at a meeting of the Kingwood Township Committee on the 7th day of April, 2011. The Ordinance was published in the Hunterdon County Democrat on April 14, 2011 and has been posted in the Kingwood Township Municipal Building on April 8, 2011. Copies of the Ordinance have been available for inspection by the public since April 8, 2011.

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to open the hearing to the public. **All** voted **Aye** on **Roll Call Vote**.

Comments: No Comments.

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to close the public comment portion of the hearing. **All** voted **Aye** on **Roll Call Vote**.

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to adopt on final reading **ORDINANCE NO. 16-16-2011 TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132” OF THE GENERAL ORDINANCES OF THE TOWNSHIP PERTAINING TO ESCROWS DEPOSITS FOR MAJOR SOLAR OR PHOTOVOLTAIC ENERGY FACILITIES AND STRUCTURES.**

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

EXECUTIVE SESSION – Resolution No. 2011- 64A

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

RESOLUTION NO. 2011 – 64A

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:

Contractual Negotiations – Renewal of DPW Union Agreement

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 Mrs. Niemann, seconded by Mr. Burke and carried to adopt the foregoing Resolution.

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

RETURN TO REGULAR SESSION

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to return to regular session at 10:15P.M. **All** voted **Aye** on **Roll Call Vote**.

OLD BUSINESS

Renewal of DPW Agreement

It was moved by Mrs. Niemann and carried to approve an agreement between the Township of Kingwood and Local Union #469 International Brother Hood of Teamsters effective, January 1, 2011 to December 31, 2013, provided that the perfection 1 in Article 38, Longevity is removed and subsequent sections renumbered accordingly, and the renumbered section 1, in the last sentence, set payment shall be a one time payment only to be made in the qualifying year and **shall not** be permanently added to base wage, and correcting the date, which will be effective until December 31, 2013.

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

Request from Road Department Supervisor – Hire Part-time Employee

Committeeman Burke noted that he had a request from the Department of Public Works Supervisor, Mark Petro to hire Barry Ewing as a part time seasonal employee for grass cutting and snow plowing.

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to hire Barry Ewing, as a part time seasonal employee for the DPW to cut grass and snow plow when needed at a rate of \$20.00 an hour, date of hire will be at the end of May, 2011.

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

Plaque for Retiring Employee

Committeeman Burke showed the Committee members a plaque he had made for the Public Works Department building in honor of retiring employee Jack Search. Mr. Burke noted that J. Search will be attending the gathering on Friday, April 29th, 2011 at 12:30PM.

ADJOURNMENT

It was moved by Mrs. Niemann, seconded by Mr. Burke and carried to adjourn the meeting at 10:27P.M. **All** voted **Aye** on **Roll Call Vote**.

Respectfully submitted,

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