

KINGWOOD TOWNSHIP COMMITTEE

MARCH 1, 2012

Regular Meeting Agenda 7:00PM

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 January 12, 2012 and by telefaxing copies of the notice to the Express Times and Star Ledger on January 9, 2012. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on January 9, 2012.

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.

Ordinance

KT Volunteer Fire Company Request – Ordinance to Allow Coin Tosses

ORDINANCE NO. 17 – 08 – 2012 An Ordinance Authorizing the Solicitation of Charitable Contributions On Roadways or Highways within the Township of Kingwood, County of Hunterdon and State of New Jersey and Establishing Procedures for the Same – Introduction and Adoption

Correspondence

Copy of Letter from Readington Twp Mayor re: Shared Services – Cty Planning Dept
Copy of Resolution from Readington Twp re: S1085 Forest Harvest on State Lands

Bills and Claims

Public Comment – Privilege of the Floor

Reports

Tax Collector's Report of January 2012
Municipal Court Report of January 2012
Construction Reports of January 2012
Township Engineer's Monthly Report

March 1, 2012 Township Committee Agenda Continued

Future Meetings & Activities

- March 9 -** Public Meeting at Horseshoe Bend Park, North Entrance at 7:00PM
- March 10 -** Recycling at Township Garage from 9:00am-12:00noon
- March 26 -** Public Hearing on DVRHS Budget, 7:00PM, School Library, 19 Senator Stout Rd
- March 31 -** Easter Egg Hunt at Kingwood Park at 1:00PM, ages up to 10 yrs.
- April 2 -** Deadline to file Petitions for June Primary, by 4:00PM
- April 5 -** Monthly Township Committee Meeting at Municipal Building
Reschedule Township Committee Meeting to Monday, April 2, 2012
- April 11 -** Deadline to Change Party Affiliation to Vote in June Primary
- April 12 -** Drawing by Municipal Clerk for Ballot Position in June Primary beginning at 3:00PM
- June 9 -** Annual Fishing Derby from 9:00am until noon, at the Pond behind the NEW DPW, Union Rd.

Ordinances

Ordinance No. 17-01-2012 To Amend And Supplement The Land Use Regulations Of The Township, Specifically “Zoning, Chapter 132, Article III, District Regulations, Section 132-37 Floodplain District” Of The General Ordinances To Establish Consistency With Department Of Homeland Security Federal Emergency Management Agency (FEMA) Modifications To Base Flood Elevations And FEMA Amendments To Floodplain Management Regulations – Public Hearing and Final Adoption

Ordinance No. 17-02-2012 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 “Small Wind Energy Systems” – Public Hearing and Final Adoption

Ordinance No. 17-03-2012 To Amend And Supplement The Land Use Regulations Of The Township, Specifically “Zoning, Chapter 132” Of The General Ordinances Of The Township Pertaining To “Noise” In Accordance With Amended State Noise Control Regulations N.J.A.C. 7:29, Effective July 3, 2007 And The New Jersey Department Of Environmental Protection Model Noise Ordinance – Public Hearing and Final Adoption
Comment Letter Received From Resident

Ordinance No. 17-04-2012 Calendar Year 2012 Ordinance To Exceed The Municipal Budget Appropriation Limits And To Establish A Cap Bank (N.J.S.A. 40A:4-45.14) – Public Hearing and Final Adoption

March 1, 2012 Township Committee Agenda Continued

Ordinances Continued

Ordinance No. 17-05-2012 Amending Ordinance No. 14-23-2007, 15-13-2009 And 16-12-2011 Providing For The Acquisition Of Open Space By The Township Of Kingwood, Appropriating \$4,500,545.88 Therefore And Authorizing The Issuance Of \$950,000 Bonds Or Notes Of The Township For Financing The Cost Thereof – Introduction and Adoption on First Reading

Ordinance No. 17-06-2012 Authorizing The Private Sale Of Block 19 Lot 5 Owned By The Township Of Kingwood To Raritan Valley Habitat For Humanity – Introduction and Adoption on First Reading

Ordinance No. 17-07-2012 Fixing The Salaries And Compensation Of The Various Officers And Employees Of The Township – Introduction and Adoption on First Reading

Resolution

Resolution No. 2012-25 - Recycling Coordinator

New Business

Approve Contract for Bank to Act as Agent for Tax Payments
Request from Delaware Township – Auction Jointly Owned Stone Box – **Resolution No. 2012-26** Authorizing Sale of Surplus Property
Approve KTEF Announcement for Website
2012 Cleanup Day Program Price Quotations and Letter to Residents
COAH Funds
Discuss Grass Cutting
Discuss Rescue Squad By-laws
Correction on Agenda
Discuss Park Director Position
2012 Clean Watershed Needs Survey
Raffle License Applications - Big Brother & Big Sister Organization at Hunterdon Lanes

Old Business

Horseshoe Bend Park – Request to Designate Steering Committee
Parks & Recreation Letter Carried Over From February Mtg – Federal Tax Exemption
Park Director's House

Minutes

February 2, 2012 Regular Meeting

March 1, 2012 Township Committee Agenda Continued

Executive Session – Resolution No. 2012-24

Contract Negotiations – Habitat for Humanity Bl 19 L 5, Bl 20 L 1
Personnel – Board of Adjustment

Return to Regular Session

Appointments

Board of Adjustment Secretary
Board of Adjustment Alternate #1

Adjournment

PLEASE NOTE THIS AGENDA IS SUBJECT TO LAST MINUTE CHANGES

2012 -

March 1, 2012

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 Lubitz, Committeewoman Diana Haywood, Attorney Judith Kopen, C.F.O. Diane Laudenbach, Deputy Clerk Cynthia Keller and Clerk Mary E. MacConnell. Mayor Niemann called the meeting to order and following the salute to the flag 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 January 12, 2012 and by telefaxing copies of the notice to the Express Times and Star Ledger on January 9, 2012. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on January 9, 2012.

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 Niemann asked for anyone that had a cell phone to please take a moment and turn them off or to silence them.

KT Volunteer Fire Company Request – Ordinance to Allow Coin Tosses

James Drake a member of the Kingwood Township Fire Dept. was present and explained that a few years ago the State came up with new regulations, which requires the governing body to approve coin tosses in the Township by adopting an ordinance. He stated that they would like to start doing some fund raisers for the fire company.

ORDINANCE

ORDINANCE NO. 17 – 08 -2012 AN ORDINANCE AUTHORIZING THE SOLICITATION OF CHARITABLE CONTRIBUTIONS ON ROADWAYS OR HIGHWAYS WITHIN THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AND ESTABLISHING PROCEDURES FOR THE SAME – Introduction and Adoption on First Reading

2012 -

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

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt on first Reading **AN ORDINANCE AUTHORIZING THE SOLICITATION OF CHARITABLE CONTRIBUTIONS ON ROADWAYS OR HIGHWAYS WITHIN THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY AND ESTABLISHING PROCEDURES FOR THE SAME.**

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

Consideration of final adoption at a public hearing is scheduled for Monday, April 2, 2012 at a meeting beginning at 7:00 P.M. at the municipal building.

CORRESPONDENCE

Copy of Letter from Readington Twp Mayor re: Shared Services – Cty Planning Dept

Mayor Niemann reviewed.

Copy of Resolution from Readington Twp re: S1085 Forest Harvest on State Lands

Mayor Niemann reviewed.

BILLS AND CLAIMS

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to approve and pay all bills and claims in the amount of **\$1,111,424.97** that are in order and attached as Bill List for March 2012.

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

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to approve payment for reimbursement to Ronald Hartpence, Chairman of the Parks and Recreation Committee in the amount of \$432.52 for supplies purchased for the Annual Easter Egg Hunt.

2012 -

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

PUBLIC COMMENT – PRIVILEGE OF THE FLOOR

N/A

REPORTS

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

Tax Collector’s Report of January 2012

Municipal Court Report of January 2012

Construction Reports of January 2012

Township Engineer’s Monthly Report

Mayor Niemann reviewed an update of the report to new Committeewoman Diana Haywood.

There was a brief discussion on a variance for Chris’s Citgo.

FUTURE MEETINGS AND ACTIVITIES

Mayor Niemann reviewed as per the Agenda. Mayor Niemann stated that she had a conflict on April 5th, 2012, which is the date that is scheduled for the next Township Committee Meeting for April. She asked the Committee Members if they could change the meeting date to another date. There was a brief discussion on the budget to be introduced and the amount of days that is to be in between the introduction and adoption. The Committee Members all agreed to reschedule the Township Committee meeting to Monday, April 2, 2012 at 7:00PM. This will be advertised in the local newspapers.

ORDINANCES

ORDINANCE NO. 17-01-2012 AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132, ARTICLE III, DISTRICT REGULATIONS, 132-37 FLOODPLAIN DISTRICT” OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF KINGWOOD TO ESTABLISH CONSISTENCY WITH DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) MODIFICATIONS TO BASE FLOOD ELEVATIONS AND FEMA AMENDMENTS TO FLOODPLAIN MANAGEMENT REGULATIONS VOL.17, PG. 17-01 – Public Hearing and Final Adoption

2012 -

Mayor Niemann read aloud the following 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 2nd day of February, 2012. The Ordinance was published in the Hunterdon County Democrat on February 16, 2012 and has been posted in the Kingwood Township Municipal Building on February 13, 2012. Copies of the Ordinance have been available for inspection by the public since February 13, 2012.

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

Comments: None

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to close the hearing to the public. **All voted Aye on Roll Call Vote.**

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adopt on final reading:

ORDINANCE NO. 17 – 01 - 2012

AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY TO AMEND AND SUPPLEMENT THE LAND USE REGULATIONS OF THE TOWNSHIP OF KINGWOOD, SPECIFICALLY “ZONING, CHAPTER 132, ARTICLE III, DISTRICT REGULATIONS, §132-37 FLOODPLAIN DISTRICT” OF THE GENERAL ORDINANCES OF THE TOWNSHIP OF KINGWOOD TO ESTABLISH CONSISTENCY WITH DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) MODIFICATIONS TO BASE FLOOD ELEVATIONS AND FEMA AMENDMENTS TO FLOODPLAIN MANAGEMENT REGULATIONS

WHEREAS, the Township Committee of Kingwood Township, Hunterdon County, New Jersey is desirous of establishing consistency between local Floodplain District regulations and the standards of Section 60.3(d) of the National Flood Insurance Program to continue Kingwood Township’s eligibility in the National Flood Insurance Program; and

WHEREAS, FEMA has modified Base Flood Elevation determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for Kingwood Township; and

WHEREAS, FEMA and the New Jersey Department of Environmental Protection have advised Kingwood Township that in order to maintain the Township’s eligibility in FEMA’s Flood Insurance Program certain amendments are needed to the Kingwood Township Floodplain District regulations in the Township’s Zoning Ordinance found at §132-37, which are required to be adopted by May 2, 2012,

2012 -

NOW, THEREFORE, be it ordained by the Mayor and Township Committee of the Township of Kingwood as follows:

SECTION I - CHAPTER 132 – ZONING, of the Ordinances of Kingwood Township, **ARTICLE III**, District Regulations, §132-37. Floodplain District is hereby amended and supplemented as follows:

1. §132-37.F. “Basis for establishing areas of special flood hazard”, subsections (1) is hereby amended and supplemented by deleting existing subsection §132-37.F.(1) (a) & (b) and replacing these subsections with the following new subsections §132-37.F.(1) (a) & (b), as follows:

(a) A scientific and engineering report "Flood Insurance Study, Hunterdon County, New Jersey (All Jurisdictions)" dated May 2, 2012.

(b) Flood Insurance Rate Map for Hunterdon County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34019C0214G, 34019C0216F, 34019C0217F, 34019C0218G, 34019C0219F, 34019C0236F, 34019C0238F, 34019C0240F, 34019C0302G, 34019C0304G, 34019C0306G, 34019C0307F, 34019C0308F, 34019C0309F, 34019C0312G, 34019C0316G, 34019C0317F, 34019C0326F, 34019C0327F, 34019C0328F; whose effective date is May 2, 2012.

2. §132-37.O. “Provisions for flood hazard reduction”, subsection (1)(a)[2], is hereby amended to read as follows:

[2] All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors.

This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

3. §132-37.O. “Provisions for flood hazard reduction”, subsection (1)(c)[4], is hereby amended to read as follows:

[4] For all new construction and substantial improvements the electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. §132-37.O. “Provisions for flood hazard reduction”, delete existing subsection (2)(b) entitled “Nonresidential construction”, and replace it with the following new subsection §132-37.O.(2)(b) as follows:

(b) Nonresidential construction: In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other

2012 -

nonresidential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities:

either

[1] Elevated to the level of the base flood elevation; and

[2] Within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified), and, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

[3] Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[4] Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[5] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in §132-37.M.(3)(b)[2].

5. Amend §132-37 by adding a new subsection Q. with the following new provision:

Q. National Flood Insurance Program Compliance.

Floodplain District regulations contained herein are adopted to maintain consistency and compliance in all aspects with the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, to ensure that Kingwood Township remains eligible for participation in the National Flood Insurance Program.

If any provision of this ordinance is found to be inconsistent with any amendment or modification to the National Flood Insurance Program regulations codified as 44 Code of Federal Regulations Parts 59-78, such amendment and modification shall have the full force and effect of law until such time as the Township's Floodplain District regulations may be amended to address any such inconsistency.

SECTION II - All other provisions of Chapter 132 – Zoning, of the Ordinances of Kingwood Township not modified herein shall remain unchanged and in full force and effect.

SECTION III- If the provisions of any article, section, subsection, paragraph, subdivision, clause or application of the Ordinance shall be judged invalid by any Court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any such article, section, subsection, paragraph, subdivision, clause or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

SECTION IV- This ordinance may be renumbered for codification purposes.

SECTION V - This Ordinance shall take effect immediately upon final passage, publication according to law, and filing with the Hunterdon County Planning Board.

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adopt the foregoing Ordinance.

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

ORDINANCE

ORDINANCE NO. 17-02-2012 AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY 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 “SMALL WIND ENERGY SYSTEMS” VOL.17, PG. 17-02 – Public Hearing and Final Adoption

Mayor Niemann read aloud the following 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 2nd day of February, 2012. The Ordinance was published in the Hunterdon County Democrat on February 16, 2012 and has been posted in the Kingwood Township Municipal Building on February 13, 2012. Copies of the Ordinance have been available for inspection by the public since February 13, 2012.

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

Comments: None

2012 –

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to close the hearing to the public. **All** voted **Aye** on **Roll Call Vote**.

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adopt on final reading:

ORDINANCE NO. 17 – 02 - 2012

AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY 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 “SMALL WIND ENERGY SYSTEMS”.

WHEREAS, the Township Committee of Kingwood Township, Hunterdon County, New Jersey is desirous of updating and amending zoning regulations as they pertain to small wind energy systems as permitted accessory uses in certain zoning districts throughout the Township and establishing uniform bulk and performance standards for these uses.

NOW, THEREFORE, be it ordained by the Mayor and Township Committee of the Township of Kingwood as follows:

SECTION ONE. Amend §132-4 “Definitions” to include the following new definition:

SMALL WIND ENERGY SYSTEM -A wind energy conversion system, consisting of a wind turbine, a tower, and associated control or conversion electronics, that is used to generate electricity and has a nameplate capacity of 100 kilowatts or less.

SECTION TWO. Amend and supplement “Accessory uses permitted” to include “Small wind energy systems in accordance with the provisions of §132-50.D” as follows:

- a. Amend and supplement §132-30.C. by adding the following new subsection for the AR-2 Zone:
§132-30.C.(10) Small wind energy systems in accordance with the provisions of §132-50.D;
- b. Amend and supplement §132-31.C. by adding the following new subsection for the VR-1 and VR-2 Zones:
§132-31.C. (6) Small wind energy systems in accordance with the provisions of §132-50.D;
- c. Amend and supplement §132-33.C. by adding the following new subsection for the For the VC-1 and VC-2 Zones at
§132-33.C. (7) Small wind energy systems in accordance with the provisions of §132-50.D; and

- d. Amend and supplement §132-38.C. by adding the following new subsection for the VC-1 and VC-2 Zones:
- §132-38.C. (6) Small wind energy systems in accordance with the provisions of §132-50.D.

SECTION THREE. Replace §132-50., subsection D., in its entirety, with the following new Subsection D, to read as follows:

§132-50.D. Small wind energy systems.

- (1) Minimum lot size: 20-acres.
- (2) The maximum height shall be 180' including any portion of the rotor when in operation.
- (3) The minimum setback of the small wind energy system from any property line shall be 100' or 150 percent of the system height, whichever is greater, provided that the small wind energy system shall cast no shadow on adjacent property, which shall be demonstrated to the satisfaction of the reviewing / approving Board or Township Official issuing a permit for the proposed small wind energy system. The demonstration that the small wind turbine shall cast no shadow on adjoining properties shall be calculated on the shortest day of the year, when the sun's daily maximum position in the sky is the lowest of the year.
- (4) The wind generator and the tower may be located in side and rear yard areas only. Associated control or conversion electronics, wiring and utility poles that are necessary for connection and power consumption on the property shall be set back from all property lines as prescribed in §132-50.F. below.
- (5) The wind generator and the tower shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless a different color or finish is approved by the approving authority.
- (6) The small wind generator and tower shall be enclosed within a fenced compound or suitable security barrier to restrict access to all exterior ground mounted equipment and components of the small wind energy system. Such fence or security barrier shall be of sufficient height to comply with electrical and building code requirements, but in no case shall be less than 6' in height. The fence or security barrier shall be visually screened from off-site view with evergreen trees, which shall be planted in double rows, staggered 15' on center, adjacent to the fence or security barrier.
- (7) The small wind generator tower shall be fitted with anti-climbing devices or suitable barriers to prevent climbing on the tower.
- (8) The small wind generation tower shall comply with §132-54E "Performance standards for all uses." Acceptable noise levels shall be calculated through the use of computer modeling to demonstrate that sound pressure levels comply with noise limits set forth in §132-54E. Noise level modeling shall be subject to approval by the Township Engineer.
- (9) There shall be no signs visible from any public road or neighboring property posted on a small wind generator system or any associated building, except for the manufacturer's or installer's identification, appropriate warning sign, or owner identification.

- (10) Abandonment.
- (a) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to be abandoned. The Zoning Officer shall issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to be abandoned. The notice shall be sent return receipt requested.
 - (b) The property owner shall have 30 days to respond to the Notice of Abandonment from the receipt date of the Notice.
 - (c) If the property owner provides information that demonstrates the small wind energy system has not been abandoned, the Zoning Officer shall withdraw the Notice of Abandonment and notify the property owner that the Notice has been withdrawn.
 - (d) If the Zoning Officer determines the small wind energy system has been abandoned, the property owner shall remove the facility in its entirety at the owner's sole expense within 3 months after the owner receives the Notice of Abandonment.
 - (e) If the property owner fails to remove the facility in the time allowed under (d) above, then the Township may remove such system and place a lien on the property for the cost of the removal.
- (11) The small wind energy system shall not cause flickering shadows on adjoining properties.
- (12) The small wind energy system shall not be visible from any portion of the Delaware River and its Tributaries included in the National Wild and Scenic Rivers System.
- (13) The small wind energy system shall comply with all applicable building and electrical codes.

SECTION FOUR. Amend §132-50.E to repeal the following provision “except for energy-generating equipment driven by wind, including structures, towers or poles, which, if it meets the setback requirements described in Subsection D. above, may be such height as necessary to function adequately, provided that the structure, tower or pole complies with all building and electrical codes.” so that Subsection E. shall now read as follows:

“E. Height and area of accessory buildings and structures. The height and area of accessory buildings shall be as prescribed in Article II.”

SECTION FIVE. Amend §132-50.F. “Location.” to repeal the following provision: “; provided, however that energy-generating equipment driven by wind, including structures, towers or poles, may be erected in any yard, provided that it meets the setback requirement set forth in Subsection D.” so that Subsection F. shall now read as follows:

“F. Location. An accessory building may be erected in side and rear yard areas only at no less distance from the front lot line than the principal structure and shall be set back from side and rear lot lines as prescribed in Article III, and the Schedule of Lot and Building requirements located at the end of this chapter, except that, if erected on a

corner lot, the accessory building shall be set back from the side street to comply with the setback line applying to the principal building for that side street, and except further that no poultry or livestock shelter shall be erected nearer than 100 feet to any lot line.”

SECTION SIX. Amend §132-35.B. Permitted principal uses for the BP Business Park Zone, to add the following permitted principal uses, which shall read as follows:

(9) Major solar or photovoltaic energy facilities or structures in accordance with the provisions found at §132-60.A.

(10) Wind Energy Systems, in accordance with the provisions found at §132-50.D.

SECTION SEVEN - All other provisions of Chapter 132 – Zoning, of the Ordinances of Kingwood Township not modified herein shall remain unchanged and in full force and effect.

SECTION EIGHT - If the provisions of any article, section, subsection, paragraph, subdivision, clause or application of the Ordinance shall be judged invalid by any Court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any such article, section, subsection, paragraph, subdivision, clause or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

SECTION NINE - This ordinance may be renumbered for codification purposes.

SECTION TEN - This Ordinance shall take effect immediately upon final passage, publication according to law, and filing with the Hunterdon County Planning Board.

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt the foregoing Ordinance.

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

ORDINANCE

ORDINANCE NO. 17-03-2012 AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY 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 “NOISE” IN ACCORDANCE WITH AMENDED STATE NOISE CONTROL REGULATIONS N.J.A.C. 7:29,

2012 –

EFFECTIVE JULY 3, 2007 AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION MODEL NOISE ORDINANCE VOL.17, PG. 17-03

– Public Hearing and Final Adoption

Mayor Niemann read aloud the following 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 2nd day of February, 2012. The Ordinance was published in the Hunterdon County Democrat on February 16, 2012 and has been posted in the Kingwood Township Municipal Building on February 13, 2012. Copies of the Ordinance have been available for inspection by the public since February 13, 2012.

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

Comments: None

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to close the hearing to the public. **All voted Aye on Roll Call Vote.**

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adopt on final reading:

ORDINANCE NO. 17 – 03 - 2012

AN ORDINANCE OF THE TOWNSHIP OF KINGWOOD, COUNTY OF HUNTERDON, STATE OF NEW JERSEY 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 “NOISE” IN ACCORDANCE WITH AMENDED STATE NOISE CONTROL REGULATIONS N.J.A.C. 7:29, EFFECTIVE JULY 3, 2007 AND THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION MODEL NOISE ORDINANCE.

WHEREAS, the Township Committee of Kingwood Township, Hunterdon County, New Jersey is desirous of establishing consistency between local noise regulations standards in “Zoning, Chapter 132” of the Kingwood Township ordinances and the New Jersey State Noise Control Regulations found at N.J.A.C. 7:29, which became effective July 3, 2007 and established revised noise control regulations; and

WHEREAS, existing Kingwood Township Zoning Ordinance noise regulations are inconsistent with the revised State Noise Control Regulations and the New Jersey Department of Environmental Protection (NJDEP) Model Noise Ordinance; and

WHEREAS, the Kingwood Township Committee seeks to establish local noise regulations that are consistent with the New Jersey Noise Control Act, the State Noise Control Regulations and the NJDEP Model Noise Ordinance.

NOW, THEREFORE, be it ordained by the Mayor and Township Committee of the Township of Kingwood as follows:

SECTION I - CHAPTER 132 – ZONING, of the Ordinances of Kingwood Township, **ARTICLE IV, SUPPLEMENTAL REGULATIONS, §132-54. Performance standards for all uses, existing subsection “E.”** is hereby repealed and replaced with the following new subsection “E. Noise.”:

E. Noise.

(1) Declaration of Findings and Policy

WHEREAS excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life; and, WHEREAS a substantial body of science and technology exists by which excessive sound may be substantially abated; and, WHEREAS the people have a right to, and should be ensured of, an environment free from excessive sound,

Now THEREFORE, it is the policy of Kingwood Township to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life.

This ordinance shall apply to the control of sound originating from sources within Kingwood Township, Hunterdon County, NJ.

(2) Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

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"Emergency work" means any work or action necessary at the site of an emergency, including a residential site, to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

"Minor Violation" means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has June 2010 not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including, but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or
2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Noise Control Investigator” (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

“Sound production device” means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

“Sound reduction device” means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

“Weekends” means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

(3) Applicability

(a) This noise ordinance applies to sound from the following property categories:

- [1] Industrial facilities;
- [2] Commercial facilities;
- [3] Public service facilities;
- [4] Community service facilities;
- [5] Residential properties;
- [6] Multi-use properties;
- [7] Public and private right-of-ways;
- [8] Public spaces; and
- [9] Multi-dwelling unit buildings.

(b) This noise ordinance applies to sound received at the following property categories:

- [1] Commercial facilities;
- [2] Public service facilities;
- [3] Community service facilities (i.e. non-profits and/or religious facilities)
- [4] Residential properties;
- [5] Multi-use properties; and
- [6] Multi-dwelling unit buildings.

(c) Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

(4) Exemptions

- (a) Except as provided in (9) and (10) below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.
- (b) Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.
- (c) Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in (9) below.

(5) Enforcement Officers

- (a) Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.

- (b) Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.
- (c) Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

(6) Measurement Protocols

- (a) Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in VIB of this ordinance and with the definition of "real property line" as contained herein.
- (b) When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

(7) Maximum Permissible Sound Levels

(a) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in (3)(a) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in (6)(b).

(b) Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

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TABLE I
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED OUTDOORS

| | | | |
|---|--|----------------|--|
| RECEIVING PROPERTY CATEGORY | Residential property, or residential portion of a multi-use property | | Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility |
| TIME | 7 a.m.-10 p.m. | 10 p.m.-7 a.m. | 24 hours |
| Maximum A Weighted sound level standard, dB | 65 | 50 | 65 |

TABLE II
 MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
 WHEN MEASURED INDOORS

| | | | |
|--|--|------------------|---|
| RECEIVING PROPERTY CATEGORY | Residential property, or residential portion of a multi-use property | | Commercial facility or nonresidential portion of a multi-use property |
| TIME | 7 a.m. – 10 p.m. | 10 p.m. – 7 a.m. | 24 Hours |
| Maximum AWeighted sound level standard, dB | 55 | 40 | 55 |

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

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TABLE III
 MAXIMUM PERMISSIBLE OCTAVE BAND
 SOUND PRESSURE LEVELS IN DECIBELS

| Receiving Property Category | Residential property, or residential portion of multi-use property | | Residential property, or residential portion of multi-use property | | Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility | Commercial facility or non-residential portion of a multi-use property |
|-----------------------------------|--|----------------|--|----------------|--|--|
| | OUTDOORS | | INDOORS | | | |
| Octave Band Center Frequency, Hz. | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | Octave Band Sound Pressure level, dB |
| Time | 7. a.m.-10 p.m. | 10 p.m.-7 a.m. | 7 a.m.-10 p.m. | 10 p.m.-7 a.m. | 24 hours | 24 hours |
| 31.5 | 96 | 86 | 86 | 76 | 96 | 86 |
| 63 | 82 | 71 | 72 | 61 | 82 | 72 |
| 125 | 74 | 61 | 64 | 51 | 74 | 64 |
| 250 | 67 | 53 | 57 | 43 | 67 | 57 |
| 500 | 63 | 48 | 53 | 38 | 63 | 53 |
| 1,000 | 60 | 45 | 50 | 35 | 60 | 50 |
| 2,000 | 57 | 42 | 47 | 32 | 57 | 47 |
| 4,000 | 55 | 40 | 45 | 30 | 55 | 45 |
| 8,000 | 53 | 38 | 43 | 28 | 53 | 43 |

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| Receiving Property Category | Residential property, or residential portion of multi-use property | | Residential property, or residential portion of multi-use property | | Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility | Commercial facility or non-residential portion of a multi-use property |
|-----------------------------------|--|----------------|--|----------------|--|--|
| | OUTDOORS | | INDOORS | | | |
| Octave Band Center Frequency, Hz. | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | Octave Band Sound Pressure level, dB |
| Time | 7. a.m.-10 p.m. | 10 p.m.-7 a.m. | 7 a.m.-10 p.m. | 10 p.m.-7 a.m. | 24 hours | 24 hours |
| 31.5 | 96 | 86 | 86 | 76 | 96 | 86 |
| 63 | 82 | 71 | 72 | 61 | 82 | 72 |
| 125 | 74 | 61 | 64 | 51 | 74 | 64 |
| 250 | 67 | 53 | 57 | 43 | 67 | 57 |
| 500 | 63 | 48 | 53 | 38 | 63 | 53 |
| 1,000 | 60 | 45 | 50 | 35 | 60 | 50 |
| 2,000 | 57 | 42 | 47 | 32 | 57 | 47 |
| 4,000 | 55 | 40 | 45 | 30 | 55 | 45 |
| 8,000 | 53 | 38 | 43 | 28 | 53 | 43 |

TABLE III
 MAXIMUM PERMISSIBLE OCTAVE BAND
 SOUND PRESSURE LEVELS IN DECIBELS

| Receiving Property Category | Residential property, or residential portion of multi-use property | | Residential property, or residential portion of multi-use property | | Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility | Commercial facility or non-residential portion of a multi-use property |
|-----------------------------------|--|----------------|--|----------------|--|--|
| | OUTDOORS | | INDOORS | | | |
| Octave Band Center Frequency, Hz. | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | | Octave Band Sound Pressure Level, dB | Octave Band Sound Pressure level, dB |
| Time | 7. a.m.-10 p.m. | 10 p.m.-7 a.m. | 7 a.m.-10 p.m. | 10 p.m.-7 a.m. | 24 hours | 24 hours |
| 31.5 | 96 | 86 | 86 | 76 | 96 | 86 |
| 63 | 82 | 71 | 72 | 61 | 82 | 72 |
| 125 | 74 | 61 | 64 | 51 | 74 | 64 |
| 250 | 67 | 53 | 57 | 43 | 67 | 57 |
| 500 | 63 | 48 | 53 | 38 | 63 | 53 |
| 1,000 | 60 | 45 | 50 | 35 | 60 | 50 |
| 2,000 | 57 | 42 | 47 | 32 | 57 | 47 |
| 4,000 | 55 | 40 | 45 | 30 | 55 | 45 |
| 8,000 | 53 | 38 | 43 | 28 | 53 | 43 |

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

(8) Sound Production Devices

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in VI(B) of this ordinance. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

TABLE IV
 MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
 WITHIN A RESIDENTIAL PROPERTY

| | |
|--|-----------------|
| Week nights 10:00 p.m. - 7:00 a.m. Weekend nights 11:00 p.m and 9:00 a.m. | All other times |
| 3 dB(C) | 6 dB(C) |

(9) Restricted Uses and Activities

The following standards shall apply to the activities or sources of sound set forth below:

- (a) Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- (b) Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.
- (c) All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.
- (d) Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.

- (e) All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.
- (f) Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;
- (g) It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:
 - [1] Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
 - [2] Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

(10) Motor Vehicles

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

- (a) No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of way.
- (b) No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.

- (c) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.
- (d) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

(11) Enforcement

- (a) Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.
- (b) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than \$3,000. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.
- (c) Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.
- (d) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section II of this ordinance) a NOV shall be issued to the violator.

[1] The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

[2] The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Kingwood Township or Hunterdon County Board of Health. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.

- [3] If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation the violator shall be notified that if the violation is not immediately corrected a NOPA with a civil penalty of no more than \$3,000 will be issued. If a non-minor violation is immediately corrected a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.
- [4] The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.
- [5] The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.
- [6] The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.
- [7] Any claim for a civil penalty may be compromised and settled based on the following factors:
- i. Mitigating or any other extenuating circumstances;
 - ii. The timely implementation by the violator of measures which lead to compliance;
 - iii. The conduct of the violator; and
 - iv. The compliance history of the violator.

SECTION II - All other provisions of Chapter 132 – Zoning, of the Ordinances of Kingwood Township not modified herein shall remain unchanged and in full force and effect.

SECTION III- If the provisions of any article, section, subsection, paragraph, subdivision, clause or application of the Ordinance shall be judged invalid by any Court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any such article, section, subsection, paragraph, subdivision, clause or application, and to this end, the provisions of this Ordinance are hereby declared to be severable.

No provision of this ordinance shall be construed to impair any common law or statutory cause of action, or legal remedy there from, of any person for injury or damage arising from any violation of this ordinance or from other law.

SECTION IV - This ordinance may be renumbered for codification purposes.

SECTION V - This Ordinance shall take effect immediately upon final passage, publication according to law, and filing with the Hunterdon County Planning Board.

Mayor Niemann noted that there was a comment from a resident of Kingwood who was concerned about Kingwood’s ability to properly uphold the ordinance in part and also concerned with its severity. Deputy Mayor Lubitz noted that the Township is helping a resident in an action against a public utility. He explained that the Township had asked the County Health Department to come out and measure the noise, which they did. He also noted that after looking at our current ordinance they realized that it was out of compliance with the State ordinance. He noted that the State ordinance requires that the local ordinance be in compliance with it. He explained that if the Township would like to modify their ordinance so that it varies from the State ordinance, we must obtain permission from the State. He explained that this ordinance is to bring our current ordinance in compliance with the State’s ordinance. Mayor Niemann explained our adoption of this ordinance does not mean that the Township Committee will use to find violations within the Township, but that it will serve as a tool to help us resolve problems that may arise in the Township.

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt the foregoing Ordinance.

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

ORDINANCE

ORDINANCE NO. 17-04-2012 CALENDAR YEAR 2012 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14) VOL.17, PG. 17-04 – Public Hearing and Final Adoption

Mayor Niemann read aloud the following 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 2nd day of February, 2012. The Ordinance was published in the Hunterdon County Democrat on February 16, 2012 and has been posted in the Kingwood Township Municipal Building on February 13, 2012. Copies of the Ordinance have been available for inspection by the public since February 13, 2012.

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

Comments: None

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It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to close the hearing to the public. **All voted Aye on Roll Call Vote.**

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adopt on final reading:

ORDINANCE NO. 17 – 04 – 2012

CALENDAR YEAR 2012 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45.14)

WHEREAS, the Local Government Cap Law, NJSA 40A:4-45.1 et seq., provides that in the preparation of its annual budget a municipality shall limit any increase in said budget to two and one-half percent (2.5%) unless authorized by ordinance to increase it to three and one-half percent (3.5%) over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, NJSA 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the three and one-half (3.5%) percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Township Committee of the Township of Kingwood in the County of Hunterdon finds it advisable and necessary to increase its 2012 budget by up to three and one half percent (3.5%) over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Township Committee of the Township of Kingwood in the County of Hunterdon hereby determines that a three and one half percent (3.5%) increase in the budget for said year, amounting to \$18,058.05 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary;

WHEREAS, the Township Committee of the Township of Kingwood and County of Hunterdon hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget, shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Kingwood, in the County of Hunterdon and State of New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the 2012 budget year, the final appropriations of the Township of Kingwood shall, in accordance with the ordinance and NJSA 40A:4-45.14 be increased by 3.5%, amounting to \$63,203.19, and that the 2012 municipal budget for the Township of Kingwood be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within five (5) days of introduction; and

BE IT FURTHER ORDAINED that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within five (5) days after such adoption.

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt the foregoing Ordinance.

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

ORDINANCE

ORDINANCE NO. 17-05-2012 AMENDING ORDINANCE NO. 14-23-2007, 15-13-2009 AND 16-12-2011 PROVIDING FOR THE ACQUISITION OF OPEN SPACE BY THE TOWNSHIP OF KINGWOOD, APPROPRIATING \$4,500,545.88 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$950,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF – Introduction and Adoption on First Reading

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

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt on first Reading **ORDINANCE NO. 17-05-2012 AMENDING ORDINANCE NO. 14-23-2007, 15-13-2009 AND 16-12-2011 PROVIDING FOR THE ACQUISITION OF OPEN SPACE BY THE TOWNSHIP OF KINGWOOD, APPROPRIATING \$4,500,545.88 THEREFORE AND AUTHORIZING THE ISSUANCE OF \$950,000 BONDS OR NOTES OF THE TOWNSHIP FOR FINANCING THE COST THEREOF.**

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

Consideration of final adoption at a public hearing is scheduled for Monday, April 2, 2012 at a meeting beginning at 7:00 P.M. at the municipal building.

ORDINANCE

ORDINANCE NO. 17-06-2012 AN ORDINANCE AUTHORIZING THE PRIVATE SALE OF BLOCK 19, LOT 5 OWNED BY THE TOWNSHIP OF KINGWOOD TO RARITAN VALLEY HABITAT FOR HUMANITY – Introduction and Adoption on First Reading

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

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt on first Reading **ORDINANCE NO. 17-06-2012 AN ORDINANCE AUTHORIZING THE PRIVATE SALE OF BLOCK 19, LOT 5 OWNED BY THE TOWNSHIP OF KINGWOOD TO RARITAN VALLEY HABITAT FOR HUMANITY.**

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

Consideration of final adoption at a public hearing is scheduled for Monday, April 2, 2012 at a meeting beginning at 7:00 P.M. at the municipal building.

ORDINANCE

ORDINANCE NO. 17-07-2012 AN ORDINANCE AUTHORIZING THE PRIVATE SALE OF BLOCK 19, LOT 5 OWNED BY THE TOWNSHIP OF KINGWOOD TO RARITAN VALLEY HABITAT FOR HUMANITY– Introduction and Adoption on First Reading

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

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to adopt on first Reading **AN ORDINANCE AUTHORIZING THE PRIVATE SALE OF BLOCK 19, LOT 5 OWNED BY THE TOWNSHIP OF KINGWOOD TO RARITAN VALLEY HABITAT FOR HUMANITY.**

Mayor Niemann and Deputy Mayor Lubitz commented on the ordinance and details of the plans for the project and confirmed that this will only involve seven acres, not the farm.

2012 –

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

Consideration of final adoption at a public hearing is scheduled for Monday, April 2, 2012 at a meeting beginning at 7:00 P.M. at the municipal building.

RESOLUTIONS

Resolution No. 2012-25 – Recycling Coordinator

The following Resolution was introduced:

RESOLUTION NO. 2012 - 25

RECYCLING TONNAGE GRANT

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the 2011 Recycling Tonnage Grant will memorialize the commitment of this municipality to recycling and indicate the assent of the Kingwood Township Committee to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure that the application is properly completed and timely filed; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood that the Township of Kingwood hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Lynn Porter to ensure that the said Application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

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

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

NEW BUSINESS

Approve Contract for Bank to Act as Agent for Tax Payments

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to approve a contract with Fulton Bank of New Jersey to act as agent for tax payments at no charge to the Township.

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

Request from Delaware Township – Auction Jointly Owned Stone Box

RESOLUTION

The following Resolution was introduced:

RESOLUTION NO. 2012 – 26

AUTHORIZING SALE OF SURPLUS PROPERTY

WHEREAS, Kingwood Township is part of a Joint Road Maintenance Agreement with Delaware Township and Franklin Township; and

WHEREAS, the Townships of Delaware, Franklin and Kingwood jointly purchased a stone box in 2001 to utilize on road resurfacing projects; and

WHEREAS, the Township of Delaware has asked for approval to sell the stone box through an on-line auction and has provided information regarding the auction house to be utilized; and

WHEREAS, the Kingwood Township Road Supervisor recommends that the Township participate in the auction, and the Township Committee has determined that the stone box is property no longer needed for municipal use;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey that they agree to the sale of the jointly owned stone box by on-line auction, to be undertaken by the Delaware Township Director of Public Works.

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

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

Approve KTEF Announcement for Website

Mayor Niemann read aloud an announcement from the Kingwood Township Education Foundation, Kingwood Township School, which is a request that the Township post on the website. It explained that there were several recipients who were selected for awards for different categories, who are all from the Township, and the KTEF would like this information to be on the website for everyone to see.

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to approve the Kingwood Township Education Foundation announcement to be posted on the website.

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

Mayor Niemann explained that every year the Township Committee puts in approximately a half a page of an ad that has the Township’s logo and also wishes the Kingwood Township Education Foundation much success. She stated that each one of the Township Committee Members donates the money out of their own pocket towards this ad, and there is no expense to the tax payers.

2012 Cleanup Day Program Price Quotations and Letter to Residents

There was a brief discussion regarding the quotes with Deputy Clerk Keller. C.F.O. Laudenschlager Stated that this will be paid out of Clean Communities this year, therefore, the Township will be able to allow three dumpsters each month if necessary.

2012 –

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to choose Raritan Valley Disposal the lowest quote submitted for the Cleanup Program for 2012 with a total quote of \$5,693.00 for two units, and \$8,500.000 for three units.

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

COAH Funds

Mayor Niemann noted that the balance of \$84,367 is to be spent by July 2012. C.F.O. Laudenbach noted that the Township has spent \$60,000 so far and does not have the same balance. The Township Committee gave D. Laudenbach permission to contact the Township's Planner David Banisch to review the amounts with him. Mayor Niemann, and Deputy Mayor Lubitz reviewed the Ukarish property project, and explained how the funds have been spent to the Township's new Committee Member Diana Haywood.

Discuss Grass Cutting

C.F.O. Laudenbach noted that none of the workers that the Township currently has are interested in this particular work. Mayor Niemann reviewed a few suggestions and will speak to someone who may be interested in the job. C.F.O. Laudenbach suggested that the Township speak to several people before making any decision.

Discuss Rescue Squad By-laws

Mayor Niemann explained that the Rescue Squad has amended their bylaws to prevent any Fire Company members from joining the Rescue Squad. She stated that she had spoken to a member of the Rescue Squad regarding this amendment. Deputy Mayor Lubitz suggested that the Township Committee invite the Rescue Squad to their next meeting to discuss the reasons. Attorney Kopen read aloud the State Statute for the criteria for contribution of the Length of Service Award Program (LOSAP). She stated that the bylaws change would affect the criteria for eligibility for LOSAP and that our LOSAP ordinance would then require that the bylaws change be approved by a Township Committee resolution. She feels that there is an argument that could be made that one of the criteria is that only active fulltime volunteers in good standing can be eligible for LOSAP awards, so any restriction to membership eligibility would require the Township's resolution of approval. She noted that this is one of the criteria to be eligible for a LOSAP award, therefore, is currently a change in the criteria that affects eligibility. She stated that this type of by-law change would have to be approved by resolution by the Township Committee.

2012 –

She suggested that this information be provided to the Rescue Squad to let them know that this section of the Township's ordinance requires changes in the by-laws and that this needs to be approved by the Township Committee. Attorney Kopen will provide a letter to the Rescue Squad with information they need to know before coming to the Township Committee.

Correction On Agenda

Attorney Kopen noted that there is a correction that needs to be made on the agenda regarding Ordinance No. 17-06-2012 Authorizing the Private Sale of Block 19, Lot 9. The Ordinance now states that the property is Lot 9, and needs to be corrected to state Lot 5.

Discuss Park Director's Position

Mayor Niemann briefly reviewed a joint meeting that was on February 29th, between the Township Committee and the Parks and Recreation Committee to interview applicants for the Park Director's position. She noted that only one applicant was able to attend and that one of the applicants had a death in the family. The Committees together decided it would be best to reschedule another joint meeting that is scheduled next week on Wednesday, March 7th at 6:00pm to interview the individual for the position. The Township Committee feels that following the meeting on March 7th, they will select a candidate.

2012 Clean Watershed Needs Survey

Mayor Niemann noted that this was an e-mail they received from the Department of the Environmental Protection. She reviewed the survey and suggested that this be forwarded to the Environmental Commission and to the Board of Health for their review. Deputy Mayor Lubitz stated that he feels that the Board of Health should look at this survey at their next meeting.

Raffle License Applications - Big Brother & Big Sister Organization at Hunterdon Lanes

Clerk MacConnell explained License No. 2012 – 01 and License No. 2012 – 02 for Big Brother Big Sister Hunterdon Summerset Warren. She stated that the raffle is to be held on April 24, 2012, at the West Hunterdon Lanes on Route 12 in Kingwood Township from 4:00pm – 6:00pm. She noted that one raffle will be for a 50/50 cash raffle, and the other will be a prize raffle both to be on premise raffles.

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to approve Raffle License No. 2012 - 01 for an on premise 50/50 raffle, and Raffle License No. 2012 – 02 for an on premise prize raffle scheduled to be on April 24, 2012, at the West Hunterdon Lanes in Kingwood Township from 4:00pm – 6:00pm.

2012 –

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

OLD BUSINESS

Horseshoe Bend Park – Request to Designate Steering Committee

Mayor Niemann noted that this is a request from the Chairwoman of Open Space Advisory Committee, Sandra McNicol. This request was to designate additional members to the Horseshoe Bend Park Steering Committee. She noted that Mrs. McNicol was not present this evening, but that the Steering Committee is scheduled to meet on March 9th. She stated possibly following that meeting they could talk about adding addition members.

Parks & Recreation Letter Carried Over From February Mtg. – Federal Tax Exemption

Clerk MacConnell explained that this is from last month's meeting and that it was requested by the Township Committee to look at it closer for this month to discuss. Secretary to the Parks and Recreation C. Keller explained the letter that was sent to the individual that was interested in using the facilities at the park for his business. The Township Committee reviewed the letter that was sent to the party interested and stated that the Township has rules and regulations and that in order to be exempt from paying fees for the use of any of the facilities, they must submit their tax exempt 501c3 form. Mayor Niemann stated that the Township Committee will be getting back to the fee ordinance regarding the fees for use of park and facilities for the Township to review and update.

Park Director's House

Mayor Niemann noted that the Township learned from the IRS that if the Park Director is required to live in the home then there needs to be a very specific written contract provided for them to sign, in order for value of the housing to be exempt from federal income taxes. If there is no contract, then the occupant is required to pay the taxes. C.F.O. D. Laudenbach stated that she is waiting for the IRS to provide a written ruling. Deputy Mayor Lubitz felt that the Township should also look into the State's tax regulations. Mayor Niemann stated that she feels that, the contract with the park directors can be written around the job description. She explained that this is to make sure everything is done the way the Parks and Recreation Committee would like it done. Deputy Mayor Lubitz feels that the Park Directors should sign a more complete contract that includes more than just the job description. Attorney Kopen noted that any contract could incorporate as an addendum any requirements or terms from the Parks and Recreation. She stated that they will also need to sign a lease. C.F.O. D. Laudenbach stated that she will contact the State of New Jersey Division of Taxation to see what they say about taxation of the value of the housing description. She stated that a representative from the federal government told her that the Township could get a "private ruling" of some kind regarding this issue. D. Laudenbach stated that she will also be following up with them regarding the ruling.

MINUTES

February 2, 2012 Regular Meeting

The Township Committee would like to have more time to review the minutes and would like these to be tabled until next month for approval.

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to agree to table the minutes of the February 2, 2012 Township Committee regular meeting until next month’s meeting to approve.

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

EXECUTIVE SESSION – RESOLUTION NO. 2012 - 24

The following Resolution was introduced to enter into closed session at approximately 8:10P.M.:

RESOLUTION NO. 2012 –24

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:

**Contract Negotiations – Habitat for Humanity BI 19 L 5, BI 20 L 1
Personnel – Board of Adjustment**

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:

2012 –

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 Mrs. Haywood and carried to adopt the foregoing Resolution.

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

RETURN TO REGULAR SESSION

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to return to regular session at 8:24P.M. All voted **Aye** on **Roll Call Vote**.

APPOINTMENTS

Board of Adjustment Secretary Appointment

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to appoint Barbara Wilson, Secretary of the Board of Adjustment for the remainder of the year and term to expire on 12/31/2012, with salary in the amount of \$6,609.50.

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

Board of Adjustment Alternate #1

It was moved by Mr. Lubitz, seconded by Mrs. Haywood and carried to appoint Anthony Planer, as Alternate #1 to the Board of Adjustment for a term to expire on 12/31/2012.

2012 –

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

ADJOURNMENT

It was moved by Mrs. Haywood, seconded by Mr. Lubitz and carried to adjourn the meeting at 8:30pm. **All** voted **Aye** on **Roll Call Vote**.

Respectfully submitted,

Cynthia L. Keller, RMC
Deputy Clerk