

MINUTES

7:30 PM

PRESENT:	R. Dodds	ABSENT:	J. Burke
	D. Haywood		T. Kratzer
	J. Mathieu		L. Senus
	S. McNicol		
	E. Niemann		
	J. Strasser		
	M. Synchron, Alt. #1		
	D. Banisch, Planner (7:51 PM)		
	T. Decker, Engineer		
	D. Pierce, Attorney		

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:34 PM.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Express Times, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

R. Dodds and E. Niemann recused themselves from their positions on the board for the following matter.

J. Mathieu chaired the meeting for the following matter.

Laurelton Belmont – Block 22, Lots 15.01 & 16 – Hammar Road – Request for Extension of Time to File

G. Dilts, attorney, stated he had submitted a letter requesting an extension of time to file the deeds. The request is for the second one year extension of time to file for this project. He has attached a letter to the request indicating the reasons for the need for the extension. He also attached a copy of the first resolution. The extension would begin in October and run through October 9, 2011. He stated the application is not eligible for the Permit Extension Act due to certain sensitive areas.

D. Pierce stated the board has the authority to grant an extension of time to file for final approval for economic reasons.

It was moved by D. Haywood, seconded by J. Strasser and carried to grant a one year extension of time to file for the above application. All members present voted **AYE** on **ROLL CALL VOTE**.

R. Dodds and E. Niemann resumed their position on the Board.

BDAC, LLC – Block 23, Lot 17.02 – Barbertown Point Breeze Road – Request for Extension of Time to File

A. Belle was present this evening for the application. He is requesting an extension of time to file. His approval was granted in November of 2009 by Resolution No. 2009-23.

D. Pierce stated the only issue is a technical issue. The applicant has not been able to replenish his escrow account. It is his opinion that the applicant has gone to a great deal of trouble and expense for his approval. The deeds will not be released until the escrow is satisfied. The applicant has not been able to obtain D & R Canal Commission approval. There are outside agency approvals the applicant is lacking and an extension would be appropriate.

It was moved by J. Mathieu, seconded by D. Haywood and carried to grant a 190 day extension of time to file. All members present voted **AYE** on **ROLL CALL VOTE**.

Vacation of southern portion of Picnic Grove Road

R. Dodds, stated, as a background, he was approached by an individual who has property adjacent to the road as to the future plans for the road. R. Dodds requested T. Decker to do an assessment of the costs associated with the improvement of the road.

T. Decker provided the following memo to the Board:

Existing Conditions:

Picnic Grove Road is improved for approximately 900 feet from its intersection with Byram Kingwood Road as a gravel roadway varying in width from 12 feet to 15 feet. The remaining 1,900 feet of the right of way to Milltown Road is unimproved, but relatively clear of vegetation. A concrete culvert exists at an approximate midpoint as the right of way crosses the existing stream.



Improved portion of Picnic Grove Road



Typical unimproved portion of Picnic Grove Road



Existing Culvert @ Picnic Grove Road



Existing Culvert @ Picnic Grove Road

Required Improvements:

In order to complete the road to NJ Residential Site Improvement Standards requirements, the following work would be required:

1. Construct roadway for full length to a width of 18 feet with 1.5 inches of top course pavement and 5.5 inches of base course pavement.
2. Install roadside swales and drainage
3. Reconstruct existing culvert
4. Water quality treatment facilities per NJDEP requirements
5. Clearing of vegetation

Estimated Construction Cost = \$275,000

Engineering and Regulatory Requirements:

1. Assuming all NJDEP Permits have expired, apply for new permitting in accordance with the current regulations including:
 - a. NJDEP Flood Hazard Permit
 - b. NJDEP Freshwater Wetland Letter of Interpretation
 - c. NJDEP Freshwater Wetland Permit for Road Crossing.

2. Survey and Engineering Design
3. NJDEP Permitting application fees.

Estimated Engineering and Regulatory Fees = \$60,000

Culvert Ownership:

Based on our conversation with Henry Wieczorek of the Hunterdon County Engineer's office, there appears to be some confusion over the ownership of the culvert. The culvert does not appear on the official County map as a structure owned by the County. They are aware of the culvert as it has been the subject of some inspection by the County and they do have information on the structure. However, as the official map does not show the Picnic Grove Road culvert, Henry has advised that it may have been the County's at one time but believes it currently belongs to the Township.

Regardless, Henry advises that they would have no plans for the culvert unless Picnic Grove Road were to be improved. The decking for the existing culvert is cracked and spalled and is likely in need of replacement.

Future Maintenance:

The future maintenance of the road would be similar to the routine maintenance conducted on all municipal roads including among other items snow removal, tree trimming and drainage cleaning. As a newly constructed roadway, the improved pavement should have a life span of approximately 20 years without the need for chip-seal treatment.

Recommendation:

The above analysis provides a very rough and approximate idea of the costs that can be expected should the roadway construction be completed. Final costs are subject to field conditions and engineered design. The costs associated with the construction of the road should be weighed against the benefits associated with the roads completion.

It should be noted that completion of the road will require crossing a Category One Stream with significant portions located within the 300 foot Special Resource Protection Areas. As such, under current regulations completion of the road may not be approvable without demonstration of a hardship.

At this time, constructed residences along Picnic Grove Road have access to the road network via the constructed intersection with Byram Kingwood Road. The intersection along Milltown Road consists of an approximately 25 foot deep apron and does not serve any existing residence. It appears from the Tax Map that Lots having frontage along Picnic Grove Road can be accessed from either end of the right of way without the need to cross the stream.

D. Banisch entered the meeting at 7:51 PM.

D. Pierce stated it is the Township's realm to deal with public roads. He stated Lot 10.01 needs access along the southern end of Picnic Grove Road to get to the public road. If Picnic Grove Road were vacated in its entirety Lot 10.01 would have no frontage on a public road. A position could be the Township allowed it to be created with road frontage and then took the frontage away. He does not think the Township could vacate the entirety of the road in that section. If the Township does not want to improve or rebuild the culvert, it doesn't seem that there are any additional lands that would benefit from improving the culvert and making it a through street. The Township could vacate a portion of the road consisting of the area of the culvert and create two dead end roads, one from Milltown and one from Byram Kingwood Road. It would provide access for the existing Lots. The Township would need to have criteria for vacating the road. There is no apparent necessity to have a crossing of the stream. The Township Committee could find it in the public interest to vacate that portion of the road but would have difficulty to say it would be in the public interest to vacate it in its entirety. The portion from the culvert to Milltown Road is a currently improved travel way. The lot that needs access to Picnic Grove Road was created prior to the Cat 1 designation. The owner of the lot would be able to build on the lot by requesting a hardship waiver to construct a single family home. In regard to obtaining a permit from the DEP to improve or reconstruct the culvert would require the Township to show a hardship because of the fact that it has been in obvious disuse and disrepair for a number of years. Culverts that are in constant use are entitled to a general permit and subject to a more lenient standard for the issuance of a permit under the Cat 1 rules. Since the culvert is not in use, the DEP would take the position that it was abandoned and the Township would have to prove the need for the culvert.

In response to a question by a Board member, T. Decker responded the blue line on a USGS map or soil survey indicates the classification of the streams. The flood hazard determination looks at the tributaries, drainage areas and ditches. Some may or may not have riparian buffers and some may have a 150' or 300' buffer.

T. Decker stated the road is not considered impervious because it is not improved. The Township would be allowed an additional .25 acre of impervious coverage. To fulfill the state requirements for stormwater management in improving the entire length of the road, more than the allowed .25 acre of impervious coverage would be created. .25 of an acre of impervious coverage is approximately 10,000 sq. ft. The road would require approximately 38,000 sq. ft of impervious coverage. He stated anything over the allowed .25 acre will require stormwater management. The required width, per the Residential Site Improvement Standards, is 18'. There is enough area within the Right of Way. The ditches would need to be piped to provide for the required width. A permit would be required to remove the culvert. There is no obligation to remove it. Access can be provided from Milltown Road and Byram Kingwood Road. If the Township was interested in a cul-de-sac, additional Right of Way would be necessary. The road has been functioning without a turnaround for some time. The other section may not be a cul-de-sac but a "K" turn situation, if that section accesses one Lot.

J. Mathieu stated it would seem that vacating Picnic Grove Road in its entirety could be considered a taking. There is a subdivision based on it being a public road. Some time ago, there were two Planning Board members that wanted to vacate that section of Picnic Grove Road and the lower part of Warford Road, which is essentially steep slope and it did not prove to be popular. In his view, it is unfair to deny the property owner access to the lot. It is unfair to the Township and neighboring taxpayers to force them to bring the road up to Township standards. His thought would be to potentially vacate the road and at the same time grant Lot 10.01 an easement in fee from Milltown Road back to Lot 10.01. It would leave the property owner and his/her successors the responsibility of improvements. He has a concern if we improve the southern portion of the road, the property owners on the northern portion might request their portion of the road be improved.

D. Pierce stated it will depend on the status of that section of the road and whether the Township owns it fee simple, outright or an easement for public use across that section. If it owns it in fee simple, the Township can vacate or sell it. If it simply owns the right for public use, it cannot assign it to anyone in particular. Since he is not familiar with the ownership of the road, he cannot give a definite answer regarding the vacating of the road. The subdivision of Lot 10.01 was presented to the Board and it was accepted by the Board that the southern portion of Picnic Grove Road was a Township road. It is listed on the official map of the Township and designated as a public road. The map does not indicate if the Township owns the road in fee simple or if the Township has a Right of Way. In most of the Township, the property owners own to the center of the road with the Township having a Right of Way for public usage. The Township could condemn and renounce the public's rights to use the road. He will have to research it. There is a solution to it and it lies in the law. In response to a question from a Board member regarding if the road can be maintained in gravel, D. Pierce responded there is no requirement for the Township to be on a particular schedule to improve that section of the road. Once you improve the road, you must comply with the Residential Site Improvement Standards. If it is determined it is a Right of Way, half goes to Lot 10.02 and the other half goes to Lot 14.01. If the same person owns Lot 10.01 and 10.02, a flag stem to Milltown Road could be created.

R. Dodds opened the matter up for public discussion.

S. Zdepski stated Lot 10.02 has a driveway to Picnic Grove Road. No one is requesting the road be improved. He stated he also owns Lot 10.01. Shale was brought in a number of years ago, so a base already exists. In his subdivision approval, Lots 10.01 and 10.02 had to have access to Picnic Grove Road. He had obtained a driveway permit for Lot 10.02 approximately 6 or 7 years ago. He has a pipe installed for Lot 10.02 to access Picnic Grove Road. He does not expect the Township to pay for any portion of the improvements to Picnic Grove Road. He will fund the necessary clean up and gravel himself. He stated it is a non-issue.

R. Dodds read portions of the March 16, 2005 minutes regarding Picnic Grove Road and Milltown Road. S. Zdepski responded the reasoning was to correct the flooding on Milltown Road. S. Zdepski further stated the total picture was to take care of the flooding on Milltown Road. S.Zdepski stated none of the work has been done.

G. Lezak, Safety Officer of the Kingwood Township Fire Department, stated they recently had a structure fire on Picnic Grove Road. It was horrendous to get in with the fire trucks. The trucks are unable to turn around. The road is 15' in width. He had to keep the tankards out on Byram Kingwod Road. When he responded to the fire, the lights from the top of the truck were tearing off.

A. Russano stated he is seeing a lot of quad runners and dirt bikers on Picnic Grove Road. It is a liability to the Township. There are stormwater issues between Lot 14.02 and until past Lot 10.02. There were a lot of trees cut down and a Township backhoe was present on the road. There were approximately 10 to 15 loads of shale put down on the road five or six years ago. The road contains a bridge which is maintained or should be maintained. Those are the items that need to be considered when opening up the road. He is not sure how the driveway for Lot 10.01 will be installed because it will have to cross the bridge. The Township laid the shale, leveled it out and opened the road. A UPS truck followed GPS and got stuck on the road. His main concern is the stormwater issue. Lot 14.01's survey indicates 21' of Picnic Grove Road belongs to the owner of Lot 14.01. Lots 10.01 and 10.02 own 16.5' of Picnic Grove Road. At what point can the owner of Lot 14.01 install a fence on Picnic Grove Road and be utilized as pasture. He thanked the Board for the opportunity to voice his concerns. He was concerned with spending more money than is necessary in this economic climate.

Antimo Russano, residing at 18 Milltown Road, stated the shale was installed after a resident obtained some excess shale from a project they were constructing. Trees were cut down and the road was leveled. Approximately 15-20 trucks of shale were put down from Milltown Road north on Picnic Grove Road. There were no permits or any approvals obtained. No one has done anything for him in ten years with regard to the flooding. There are problems with kids using the road. His animals get scared. The developer of Lot 10.01 stated he was creating the lots for his daughters.

A. Belle stated he is S. Zdepski's son-in-law, the developer of Lots 10.01 and 10.02. A. Belle stated he was offered the lot on Milltown/Picnic Grove Road and he turned it down since he wanted more acreage.

S. Zdepski stated he was not aware J. Search brought in shale. He was on vacation at the time. Lot 10.01 was getting ready to build a house and he couldn't get back to the house. J. Search continued placing the shale because he received so much of it. Access to Lot 10.01 does need to go past the first culvert to access the lot. He stated he did not request the Township to improve the road. The ditches were higher than the road. He stated it seems as if this is politically motivated. The Board is talking about making Lot 10.01 landlocked. He inquired as to the reason why the Board was interested in vacating Picnic Grove Road.

R. Dodds stated public comment is closed.

After a brief discussion, the Board authorized D. Pierce to investigate the open questions and report back to the Board at the next meeting. The Board requested D. Pierce provide them some options and approaches to deal with the matter.

Approval of Minutes

It was moved by S. McNicol, seconded by M. Syrnick and carried to approve the minutes of April 13, 2010. All members present voted **AYE** on **ROLL CALL VOTE**, except J. Mathieu, who abstained.

Open Space and Recreation Plan

D. Banisch stated he had circulated a draft element at last month's meeting. He was not sure the Board members had an opportunity or chance to review or comment. The project plan team had met and there were a number of comments. He expects a few more comments will be forthcoming. He will then prepare a revised draft. The plan element sets the table for submitting Planning Incentive Grant applications. There are 50% grants available for open space funding. There are low interest loans for facility improvements available. The contents of Figure 2 are missing proposed open space acquisitions. If proposed open acquisitions are identified on the adopted map and submitted to Green Acres, any site that comes up for preservation can be funded expeditiously. Identifying potential open space land on the map is important. General criteria can be used to determine the qualifying parcels. A formula that could be used is taking the minimum lot size, doubling it and finding all the properties in the Township that are larger than 14 acres and mark them as potential open space acquisitions. If the parcel is missing from the map and the plan is approved, an additional application for that parcel will need to be made to Green Acres. It is his recommendation to color up the map as proposed open space acquisitions. He reviewed the different sources of funding.

The Board was requested to provide D. Banisch with their comments within the next week.

APPLICATION STATUS

CORRESPONDENCE

R. Dodds reviewed as per the agenda.

R. Dodds excused T. Decker at 9:05 PM.

PRIVILEGE OF THE FLOOR

S. Zdepski commented A. Russano was correct in that the Township does not own the road but is granted an easement. In the old days, the easement was 16.5' from each parcel.

J. MacConnell – Spring Hill Road – He thanked the Board for looking into any of the comments and previous records on Picnic Grove Road. The official documents and tapes state the difference of the opinions and some of the policies pushed in previous years. He was happy they have been looked up and not put aside.

L. Lezak stated, by law, you cannot sell a land-locked piece of land, a Right of Way must be provided.

D. Pierce stated it is appropriate to enter into Executive Session to discuss a personnel issue and at the appropriate time, the minutes will be available to the public.

Executive Session

RESOLUTION NO. 2010 -09

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 Planning Board 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:

Personnel

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 Planning Board may take additional action upon returning to regular session.

It was moved by J. Mathieu, seconded by S. McNicol and carried to adopt Resolution No. 2010-09. All members present voted **AYE** on **ROLL CALL VOTE**.

The Planning Board returned to regular session at 9:13 PM.

D. Haywood inquired if the Planning Board received a response from the comment made last month regarding the state of Route 12. R. Dodds responded business kept him away from signing the letter until last week.

E. Niemann stated the General Code Enforcement Official has been advised of the request and he will be working on reviewing the properties along Route 12. E. Niemann stated the General Code Enforcement Official will methodically visit the businesses along Route 12 and discuss the various situations that need attention. She stated the land use surveys are completed. The Township received 340 in total. One of the other items that influenced the Township in the direction of reviewing Route 12 were the many comments made on the surveys. The General Code Enforcement Official works on Tuesdays and Thursdays between the hours of 9-11. His presence in the Township is limited to those hours. The position of General Code Enforcement Official is a very part time position. The position is being done with diligence and persistence.

The Planning Board had a general discussion on possible ways to make sure businesses are complying with their site plan approval and to ascertain new uses come in for site plans.

D. Pierce suggested the Planning Board in its approval, specify a time for the completion of the improvements. The MLUL requires the Board to accept performance guarantees. The law does not permit the Board to require that all on-tract improvements be completed before the recording of the final approval. The Board can impose time limits on the installation of the improvements when it executes a developer's agreement.

E. Niemann stated the "Time of Decision" was approved and signed into law effective May 11, 2011. The Planning Board should consider reviewing matters of concern to them and addressing them before the May 11, 2011 deadline.

ADJOURNMENT

It was moved by S. McNicol, seconded by J. Strasser and carried to adjourn the meeting at 9:42 PM. All members present voted **AYE**.

Respectfully submitted,

Diane Laudenschick, Secretary