

JANUARY 7, 2005

A Special Meeting of the Kingwood Township Committee was called to order at 9:05 A.M. with Mayor Rawlyk presiding.

Also present at the meeting were Committeemen Burke and Zdepski and Clerk MacConnell. Following the salute to the flag, Mayor Rawlyk 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 Express Times on January 5, 2005 and by telefaxing copies of the notice to the Delaware Valley News, Courier News and Star Ledger on January 3, 2005. Copies of the notice were also posted in the Kingwood Township Municipal Building and Baptistown Post Office on January 3, 2005.

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.

PROFESSIONAL SERVICES AGREEMENT FOR SPECIAL LEGAL COUNSEL - RESOLUTION NO. 2005-18

Clerk reported to the committee members her conversation with Att’y. Novak regarding his following up and proceeding with several legal matters, which were discussed in closed session at the January 4, 2005 meeting. These are ongoing legal matters that Att’y. Novak has been involved with, two of which need immediate attention.

As there is no Township Attorney as of this date, the committee members reviewed a proposed Agreement for Special Legal Counsel between the Township and Att’y. Novak. The Agreement was prepared by Att’y. Novak, and specifically lists all the outstanding legal and litigation matters that he may be involved with.

It was moved by Mr. Zdepski to introduce the following Resolution to approve the Agreement:

**RESOLUTION NO. 2005 - 18
PROFESSIONAL SERVICES AGREEMENT
FOR SPECIAL LEGAL COUNSEL**

WHEREAS, the Township is in need of Special Legal Counsel services in regard to the conclusion of various negotiation and litigation matters; and

WHEREAS, N.J.S.A. 40A:11-5(1)(a) specifically exempts professional services from the Local Public Contracts Law of 1971; and

WHEREAS, Mr. Joseph S. Novak, Esq. has the qualifications and expertise in the various matters as he has served as Township Attorney beginning January 1, 1988;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon and State of New Jersey to authorize the Mayor and Clerk to execute the submitted Agreement for special, legal counsel services on behalf of the Township for the year 2005.

Mr. Burke commented that as he is unfamiliar with the matters he feels the Agreement should only be for the two items discussed at the January 4, 2005 closed session, and he would like to wait with the other items to discuss them with whoever becomes the Township Attorney for 2005. Mr. Zdepski commented that the Agreement should be approved as is, that none of the other matters listed should take very long to resolve or cost any great amount of money this year, and Mayor Rawlyk agreed with this. Mr. Burke seconded and carried the motion. **All voted Aye on Roll Call Vote.**

TOWNSHIP ATTORNEY APPOINTMENT FOR 2005

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Mr. Zdepski questioned Mayor Rawlyk about why he appointed, illegally, a township attorney review committee. Mayor Rawlyk asked why there shouldn't be a subcommittee, and he responded it was a subcommittee of different people who are in the Republican Party and were willing to review resumes, at his request. Upon further questioning from Mr. Zdepski, Mayor Rawlyk commented that he did this as a citizen and as a committeeman. Mr. Burke commented that his understanding of this is that it was strictly a review of resumes. Upon further questioning from Mr. Zdepski, Mr. Burke commented that he was aware a few weeks ago of some kind of committee that would review resumes. This led to some discussion about why the resumes were not delivered to the municipal building the other day as promised. Following this discussion, Mr. Zdepski stated his intention to go to the prosecutor as he feels the subcommittee was illegal, and he also referred to a letter received from the illegal subcommittee. Mr. Zdepski further stated interviews with the persons who submitted resumes, which he just received, should be scheduled, and he would like to add to the list of attorneys. Mr. Zdepski asked Mayor Rawlyk and Mr. Burke if they were prepared to appoint a Township Attorney today, if it's not Joseph Novak who has been the attorney for the past sixteen years and whose work is known, without interviewing them.

Mr. Burke replied he thinks with the immediacy of the need for an Attorney for the Township and the fact that the Township should be reorganized by the 9th, under the law, that the committee members should appoint someone from a recommendation from the subcommittee and from the resumes. He commented that yesterday he called the offices of the three attorneys who had submitted resumes, and he was able to talk at length with Maryann Nergaard. Mr. Zdepski commented on her experience, or lack of experience in municipal government in Hunterdon County, and the need to check all the references. Mr. Zdepski suggested if Mr. Burke feels the need to move this along quickly, they could at least appoint Mr. Novak on a temporary basis, until interviews could be conducted and references checked. Mayor Rawlyk was not in favor of this idea. A lengthy discussion followed. Mr. Burke wishes to appoint Maryann Nergaard on a temporary basis, if necessary. Mayor Rawlyk agrees on a temporary basis to cover any problems that may come up. Mr. Zdepski is not in agreement. Mayor Rawlyk left the dais with his cell phone to begin calling the three attorneys to find out if they are available to come in now to be interviewed. Mr. Zdepski objected to this, and requested the Clerk make the telephone calls.

Two of the attorneys were not available when telephoned, Maryann Nergaard was in her office and agreed to come to Kingwood Township today for an interview, if the Township Committee so desired. As two of the attorneys were not available, it was decided not to attempt to contact Mr. Novak today, not to request Maryann Nergaard to travel here from Somerville for an interview today, but rather it will be necessary to schedule interviews with each of the four attorneys on another day. Mr. Burke commented he will only agree to a temporary appointment if Maryann Nergaard is the attorney, and he is basing this on his conversation with her yesterday and on her resume, which he feels is the best of all four attorneys. Mr. Zdepski commented if you are going to appoint a temporary you would want to leave the one that's there, the one that already knows what is going on in the Township, not one who knows nothing about the Township or the County. Mayor Rawlyk agrees with Mr. Burke, so the Township is covered. Mr. Zdepski commented again on hiring someone they have never met, never checked their references.

Mr. Burke made a motion to offer Maryann Nergaard a temporary, sixty day position as Township Attorney for Kingwood Township as an employee, as per our current Ordinance which he objects to, with the intention that if she is eventually hired as permanent that it be on a fee basis as opposed to being an employee. Mayor Rawlyk stepped down from the chair, seconded and carried the motion. Mr. Zdepski commented again that he wants on the record that these two committeemen are hiring a person they never met and never checked references, and that there is collusion going on between the committeemen, and Mr. Zdepski totally objects, and wants the minutes of this meeting available to him within four hours today. Following some additional comments from Mr. Zdepski, and at his request, Clerk repeated the motion that was made. In answer to additional comments from Mr. Zdepski, Mr. Burke noted again that he has talked with Maryann Nergaard at length, and her fees would be \$140.00 per hour and \$160.00 per hour for litigation.

Roll Call Vote:	AYE	–	Burke, Rawlyk
	NAY	–	Zdepski
	ABSTAIN	–	None
	ABSENT	–	None

Some discussion followed regarding the availability of the committee members to try and schedule interviews. It was agreed Clerk should contact the four attorneys first and try to come up with a date and times.

2005 APPOINTMENTS

Mr. Burke asked Mr. Zdepski what he has come up with for the appointments that were not finished at the reorganization meeting. Mr. Zdepski noted the Township Attorney appointment has now been taken care of, and the only other one left

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open on the first page is Webmaster, and he would like to reappoint Adam Belle for another year. He feels the information going on the website is very sensitive and should go through the Township Clerk directly to the Webmaster.

Mr. Burke commented he would like to get prices from other people. He has done some investigating and although Mr. Belle's salary is only \$400.00, he also receives benefits which cost the Township \$12,539.00 per year. Mr. Burke noted he knows of another person in the Township who runs and does a similar type of business, Doug Frye, and his rate is \$60.00 per hour as last quoted to the Board of Education. He commented there are others in the Township who perform these services also and probably some of it could be done on a volunteer basis. Mr. Burke feels to serve the Township in a difficult tax situation the committee members need to save money wherever they can. Mr. Burke wished to note also that Mr. Novak's benefits cost the Township \$12,414.00 per year. In addition, Mr. Burke does not see the immediacy of it as the website has not been updated recently, so the committee members should take the time to research cost saving measures. Some additional discussion followed between Mayor Rawlyk and Mr. Zdepski regarding appointments, in past years.

Mr. Zdepski commented on the appointment of W. Wong to the Emergency Management Council. Mr. Zdepski stated he wrote the job descriptions for the various people and what their functions are on the Emergency Management Council, and that spot is for the Mayor to serve in. In response to questions from Mr. Burke, Mr. Zdepski commented on why it is important to have the Mayor be part of the Council and part of the process, and he also took exception to the appointment of the Planning Board Attorney as opposed to the Township Attorney. Mr. Burke had no problem with appointing the Township Attorney or the Mayor to those positions.

Mr. Zdepski commented on the Commercial and Industrial Committee appointments, to point out an incorrect date for one of the members. J. Zgurzynski's appointment should be corrected to indicate it ends 12/31/2005. The committee members agreed Michael DeSapio and Sam Leon are to be reappointed. He next commented on the Board of Adjustment, and the committee members agreed Peter Stepanovsky and Debra Stryker are to be reappointed. Mr. Zdepski suggested requesting the Park & Rec Committee should supply the committee members with a list of names for the Citizen Advisory Panel to the Park & Rec Committee. Mr. Burke commented that the Park & Rec members had suggested four names already, Joseph Abel, Debra Stryker, James Sherron and Richard Callanan, who are all previous members. Mr. Zdepski asked Mr. Burke to ask the Park & Rec members to come up with a list of about a half dozen suggested names of people they would like to have help them.

Mr. Zdepski commented on the Agriculture Advisory Committee and the Open Space Advisory Committee, which were discussed at the regular meeting on January 4, 2005 with J. Matthieu. He noted he has a copy of the minutes of the meetings and confirmed that they were basically formed at the same time and have always met jointly. He briefly read aloud from the Township Committee meeting minutes regarding the formation of each one, and the intent as far as meeting together, and as far as members of the governing body all serving between the two advisory committees. Following discussion of some additional names to serve on the advisory committees it was agreed to appoint A. Hauck of the Environmental Commission to Open Space. Clerk was requested to telephone A. Hauck, and also S. Leon regarding his appointment to Commercial and Industrial Committee. Some alternate suggestions were made if S. Leon should decline.

Mr. Burke commented that he would like to step down from his appointment to the Recreation Commission and Park & Recreation Committee, if Mr. Zdepski would like to continue on it. He feels Mr. Zdepski would be a better choice, he has served in that position for many years and done an excellent job for the Township. Mr. Burke was prepared to make a motion if Mr. Zdepski is willing to accept. Mr. Zdepski commented he will think it over and let the committeemen know by the February meeting.

EXECUTIVE SESSION – RESOLUTION NO. 2005 – 19

The following Resolution was introduced to enter into closed session at 10:30 A.M.:

RESOLUTION NO. 2005 - 19

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:

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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:

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

It was moved by Mr. Burke to adopt the foregoing Resolution. Mayor Rawlyk stepped down from the chair, seconded and carried the motion. **All voted Aye on Roll Call Vote.**

RETURN TO REGULAR SESSION

It was moved by Mr. Burke, seconded by Mr. Zdepski and carried to return to regular session at 10:40 A.M. **All voted Aye on Roll Call Vote.**

ADVISORY COMMITTEES MEETING

Clerk requested some clarification from the committee members regarding the above captioned. It was agreed to schedule the first joint meeting of the Agriculture Advisory Committee and the Open Space Advisory Committee on Friday, January 14, 2005 beginning at 8:00 P.M. to organize.

COUNTY CROSS ACCEPTANCE COMMITTEE

Clerk commented and read from a letter from the Hunterdon County Planning Board that was mailed in December. The County is requesting the appointment of several members of the Township to the County Cross Acceptance Negotiating Committee. Clerk reviewed the previous appointments. It was agreed the appointments will stay the same; the only change is that Mr. Burke will replace Mrs. Baum, who is now deceased.

RECYCLING COMMITTEE

Mr. Burke commented that if Mr. Zdepski would prefer not to be the recycling person on Saturdays, Mr. Burke is willing to do it. Mr. Zdepski replied he will give it some thought along with Park & Recreation and get back to the committeemen by next meeting.

2005 APPOINTMENTS – RESOLUTION NO. 2005-20

Clerk reviewed the following appointments that were discussed today:

Township Attorney	60 Days	Maryann Nergaard
Webmaster	60 Days	Adam Belle
Board of Adjustment	12/31/2008	Peter Stepanovsky
Board of Adjustment Alt #1	12/31/2006	Debra Stryker

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Emergency Management Council	12/31/2005	Maryann Nergaard
Emergency Management Council	12/31/2005	Stephen Rawlyk
Commercial & Industrial Comm	12/31/2007	Sam Leon
Commercial & Industrial Comm	12/31/2007	Michael DeSapio
Agricultural Advisory Committee	12/31/2005	Steven Zdepski
Open Space Advisory Committee	12/31/2007	Anthony Hauck
Cross Acceptance Negotiating Committee	12/31/2005 12/31/2005 12/31/2005 12/31/2005 12/31/2005	Stephen Rawlyk James Burke Michael DeSapio Diana Haywood John Mathieu

The following Resolution was then introduced:

RESOLUTION NO. 2005 – 20

BE IT RESOLVED by the Township Committee of the Township of Kingwood, County of Hunterdon, State of New Jersey that the foregoing appointments are hereby confirmed, ratified and approved, providing that all professional appointments are subject to and contingent upon approval and signing of contracts for professional services for the year 2005.

It was moved by Mr. Burke, seconded by Mr. Zdepski and carried to adopt the foregoing Resolution. **All voted Aye on Roll Call Vote.**

ADJOURNMENT

It was moved by Mr. Burke, seconded by Mr. Zdepski and carried to adjourn the meeting at 11:00 A.M. **All voted Aye on Roll Call Vote.**

Respectfully submitted,

**Mary E. MacConnell, RMC
Township Clerk**