

Mayor Kristin McCarthy called the regular meeting of the Delaware Township Committee to order on December 26, 2007 at 8:00 p.m. at Township Hall, 570 Rosemont Ringoes Road (County Route 604) in Sergeantsville, New Jersey.

PLEDGE OF ALLEGIANCE

All present recited the Pledge of Allegiance.

NOTICE REQUIREMENTS

Ms. McCarthy read a statement noting that the Notice Requirements provided for in the Open Public Meetings Act have been satisfied. Notice of this meeting was properly given by transmission to the Hunterdon County Democrat, Lambertville Beacon, Trenton Times, Courier News, and Star Ledger, by posting at the Delaware Township Municipal Building, and by filing with the Township Clerk all on January 5, 2007.

ROLL CALL

Present: Kristin McCarthy, Jim McCue, Richard Madden, Alan Johnson

Absent: Susan Lockwood

APPROVAL OF MINUTES FROM THE REGULAR MEETING ON DECEMBER 10, 2007

Mr. Madden moved to approve the minutes from the regular meeting on December 10, 2007.

Mr. McCue seconded the motion, and members unanimously approved the minutes as written.

ORDINANCE #2007-34 – AMENDS 2007 SALARY AND WAGE ORDINANCE

Ms. McCarthy read the following Ordinance by title on second reading.

AN ORDINANCE OF THE TOWNSHIP OF DELAWARE, COUNTY OF HUNTERDON AND STATE OF NEW JERSEY TO AMEND ORDINANCE #2007-09, THE MUNICIPAL SALARY AND COMPENSATION ORDINANCE FOR THE YEAR 2007. #2007-34

This Ordinance was published in its entirety in the Hunterdon County Democrat on December 13, 2007 with notice of this public hearing. It was posted on the Delaware Township bulletin board on December 11, 2007, and copies have been made available to the public since then. This Ordinance creates a salary for Phil Izzo to begin work as of December 10, 2007 as the Deputy Construction Code Official with other titles while Edward Noval continues to 1/1/08 as the Construction Code Official. It also creates the salaried position of Assistant Fire Protection Subcode Official. It also authorizes the payment of additional money to Chief Financial Officer Linda Zengel for additional hours worked in 2007 in the amount of \$2,000. It also creates an annual salary for Flood and Hazard Mitigation Administrative Assistant Diane McDaniel in the amount of \$500 retroactive to 1/1/07.

Mr. Madden moved to open the public hearing to the public, Mr. McCue seconded the motion, and members present unanimously approved the motion. There were no comments or questions from the public. Mr. Johnson moved to close the meeting to the public, Mr. Madden seconded the motion, and members present unanimously approved the motion.

Mr. Madden moved to adopt Ordinance #2007-34 on second reading, Mr. McCue seconded the motion, and members present unanimously adopted Ordinance #2007-34 on second reading by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy

Nays and abstain – none

Absent - Lockwood

ORDINANCE #2007-35 - AUTHORIZES ACQUISITION OF DEVELOPMENT RIGHTS TO ALL OR PART OF BLOCK 39, LOT 1 – STEINHARDT PROPERTIES

Ms. McCarthy read the following Ordinance by title on second reading.

AN ORDINANCE OF THE TOWNSHIP OF DELAWARE, IN HUNTERDON COUNTY, NEW JERSEY, AUTHORIZING THE ACQUISITION OF DEVELOPMENT RIGHTS OVER ALL OR PART OF PROPERTY DESIGNATED AS BLOCK 39, LOT 1 ON THE DELAWARE TOWNSHIP TAX MAP AND THE ASSIGNMENT OF THE DEED OF EASEMENT TO THE COUNTY OF HUNTERDON. #2007-35

This Ordinance was published in its entirety in the Hunterdon County Democrat on December 13, 2007 with notice of this public hearing. It was posted on the Delaware Township bulletin board on December 11, 2007, and copies have been made available to the public since then. This Ordinance authorizes the purchase of development rights on Block 39, Lot 1 owned by Steinhardt Properties, LLC, Jack and Elaine Skeuse, Principals.

Mr. Madden moved to open the public hearing to the public, Mr. McCue seconded the motion, and members present unanimously approved the motion. There were no comments or questions from the public. Mr. Johnson moved to close the meeting to the public, Mr. McCue seconded the motion, and members present unanimously approved the motion.

Mr. McCue moved to adopt Ordinance #2007-35 on second reading, Mr. Madden seconded the motion, and members present unanimously adopted Ordinance #2007-35 on second reading by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy  
Nays and abstain – none  
Absent - Lockwood

RESOLUTION #2007-102 – RETURNS TAX OVERPAYMENTS \$10 OR LESS TO SURPLUS

Members reviewed the following Resolution.

Township of Delaware  
Resolution #2007-102

Whereas, there remain certain overpayments on the 2007 tax list for Delaware Township; and

Whereas, these overpayments have been researched and should be returned to surplus in accordance with N.J.S.A. 40:A5-17.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey does hereby resolve to return to surplus the following overpayments that are in amounts of ten dollars (\$10.00) or less:

<u>Block</u>	<u>Lot</u>	<u>Owner of Record</u>	<u>Amount</u>
25	46	Seymour and Pauline Fishkin	\$ 9.00
29	1	Joseph and Linda McIntyre	\$ 5.48
33	9.01	Pamela and Jaquinley Kerr	\$ .03
51	12.01	Calvin and Elizabeth Wettstein	\$ 2.00
54	6.01	Karl and Laura Darby	\$ .55

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

\_\_\_\_\_  
Kristin McCarthy, Mayor

\_\_\_\_\_  
Brigid Pfenninger  
Tax Collector

Mr. Madden moved to approve Resolution #2007-102, Mr. Johnson seconded the motion, and members present unanimously approved Resolution #2007-102 by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy  
Nays and abstain – none  
Absent – Lockwood

RESOLUTION #2007-103 – AUTHORIZES EXECUTION OF DEVELOPER’S  
AGREEMENT WITH BELLSFLOWER FARM, LLC; REVIEW AND APPROVAL OF  
AGREEMENT

Members reviewed the following Resolution.

DELAWARE TOWNSHIP  
RESOLUTION #2007-103

RESOLUTION AUTHORIZING THE EXECUTION OF A DEVELOPER'S  
AGREEMENT WITH BELLSFLOWER FARM, LLC FOR ITS PROPOSED  
DEVELOPMENT LOCATED ON RITTENHOUSE ROAD IN THE TOWNSHIP  
OF DELAWARE, STATE OF NEW JERSEY, DESIGNATED AS LOT 19,  
BLOCK 39 ON THE DELAWARE TOWNSHIP TAX MAP.

WHEREAS, Bellsflower Farm, LLC proposes to develop Block 39, Lot 19 in Delaware Township; and

WHEREAS, the Delaware Township Committee desires to enter into a Developer’s Agreement with Bellsflower Farm, LLC.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon, State of New Jersey, that the Township Committee approves entering into a developer's agreement with Bellsflower Farm, LLC regarding its proposed development located on Rittenhouse Road in the Township of Delaware, County of Hunterdon, State of New Jersey, designated as Lot 19 in Block 39 on the Delaware Township Tax Map.

BE IT FURTHER RESOLVED that the Mayor and Clerk are authorized and directed to execute the same.

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

\_\_\_\_\_  
Kristin McCarthy, Mayor

Mr. Johnson moved to approve Resolution #2007-103 and to authorize the Mayor to execute the Developer’s Agreement with Bellsflower Farm pending receipt of the required bond, and Mr. McCue seconded the motion.

Members checked to be sure that snow removal and road maintenance are addressed in the Agreement prior to the Township’s acceptance of the new road.

Attorney Richard Traynor representing Bellsflower Farm said that the subdivision was once under contract for sale to a developer, but it not currently under contract. Otherwise, the tract is ready for development. Bellsflower Farm is completing the remaining requirements to record the final plat.

Members present unanimously approved Resolution #2007-103 and authorized execution of the Developer’s Agreement by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy

Nays and abstain – none

Absent - Lockwood

RESOLUTION #2007-104 – TRANSFER OF FUNDS IN 2007 BUDGET

Members reviewed the following Resolution.

DELAWARE TOWNSHIP  
RESOLUTION #2007-104

BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey that the following transfers be made in the 2007 budget:

Transfer from:

Police S&W	\$ 3,800.00
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Transfer to:

Finance S&W	\$ 1,800.00
Supplemental Safe Neighborhood S&W	\$ 2,000.00

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

\_\_\_\_\_  
Kristin McCarthy, Mayor

Mr. Madden moved to approve Resolution #2007-104, Mr. Johnson seconded the motion, and members present unanimously approved Resolution #2007-104 by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy

Nays and abstain – none

Absent - Lockwood

RESOLUTION #2007-105 – HONORS RETIRING CONSTRUCTION CODE OFFICIAL  
EDWARD NOVAL

Ms. McCarthy read the following Resolution.

DELAWARE TOWNSHIP  
RESOLUTION #2007-105

WHEREAS, the Delaware Township Committee initially appointed Edward J. Noval to the positions of Construction Code Official, Building Subcode Official, Building Inspector, Fire Protection Subcode Official, Fire Protection Inspector, ADA Coordinator, Substitute Electrical Subcode Official, Substitute Electrical Inspector, Substitute Plumbing Inspector, and Substitute Mechanical Inspector on May 24, 2004, and

WHEREAS, the Delaware Township Committee subsequently appointed Edward J. Noval to these positions on January 1, 2005 for a four year term expiring on December 31, 2008; and

WHEREAS, Edward J. Noval notified the Delaware Township Committee of his intention to retire effective on January 1, 2008; and

WHEREAS, the Delaware Township Committee accepted his resignation with sincere regret; and

WHEREAS, Edward Noval spent a great deal of time patiently answering homeowners' code questions; and

WHEREAS, Edward Noval handled residents and contractors respectfully and in a timely manner; and

WHEREAS, Edward Noval dependably completed all inspection requests as scheduled.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey that it extends its sincere thanks and appreciation to Edward Noval for his competent and effective service to Delaware Township.

BE IT FURTHER RESOLVED that the Delaware Township Committee and Township

residents wish Edward Noval the very best during his retirement years.

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

\_\_\_\_\_  
Kristin McCarthy, Mayor

Mr. Madden moved to approve Resolution #2007-105, Mr. McCue seconded the motion, and members present unanimously approved Resolution #2007-105 by roll call vote.

Roll Call Vote: Ayes – Johnson, Madden, McCue, McCarthy

Nays and abstain – none

Absent - Lockwood

REQUEST FROM FORESTREE CONSULTANTS ON BEHALF OF STEVE COUSSOULE  
TO IMPLEMENT APPROVED FOREST MANAGEMENT PLAN WITHIN FORESTED  
WETLANDS AND LANDS WITH A CONSERVATION EASEMENT ON BLOCK 27,  
LOT 38

Members reviewed a letter dated 12/11/07 from Andrew and Les Alpaugh of ForesTree Consultants. They are the woodlot managers for property owned by Steve Coussoule, Block 27, Lot 38. They asked the Committee for permission to implement Mr. Coussoule's State approved forest management plan within forested wetlands as filed with the Township Tax Assessor. The area is contained within a Conservation easement as required by the Delaware Township Planning Board when Mr. Coussoule subdivided the property.

Members also reviewed a letter dated 12/19/07 from the Delaware Township Planning Board recommending that Mr. Coussoule present his woodlot management plan for review and be required to follow the terms in the plan or else the terms of the Conservation easement must remain. The Board does not recommend horse pasturing in the Conservation easement area. The Board strongly recommends use of deer prevention measures to protect young trees and regenerate growth.

Members also reviewed an email dated 12/19/07 from Leslie Sauer, a member of the Environmental Commission and Stormwater Management Committee, and an Advisory member on the Planning Board. She said that she spoke at length with the Alpaughs after the 12/18/07 Planning Board meeting about Mr. Coussoule's forestry management plan. She said that forestry is permitted under State wetlands rules. Wetlands can not be converted back to pasture. They must stay forested. Tree regeneration will be protected from deer damage when it occurs in the future. Mini-exlosures are the most likely method to promote regeneration. The Township can request verification from the Forest Service if it is concerned about compliance with the forestry management plan. In her opinion there is not sufficient reason to object to this request. She supports every effort to make Mr. Coussoule conform to the ForesTree forestry management plan.

Ms. McCarthy said that Leslie Sauer spoke with the Alpaughs, and some of her questions and the Planning Board's concerns were addressed in that conversation.

Mr. Johnson said that he reviewed the Planning Board minutes from 12/4/07 in which Mr. Coussoule and the Planning Board discussed Mr. Coussoule's plan for forestry management in the wetlands area. At that meeting Mr. Coussoule had agreed to determine whether forestry is permitted in wetlands. He would like to receive something in writing from the State confirming that forestry management is permitted in wetlands areas. He recommended holding approval to use the area under the Conservation easement for forestry management until the Township receives notification from the State that this is an exempt activity. Members present agreed.

Mr. Madden moved to hold approval for Mr. Coussoule's proposed use of land in a Conservation easement on his property for forestry management until the Township receives something in writing from the State confirming that forestry management is permitted in wetlands areas. Mr. Coussoule must secure the State's authorization and provide it to the Township. Mr. Johnson seconded the motion, and members present unanimously approved the motion.

REVIEW OF PROPOSED AGREEMENT BETWEEN DELAWARE TOWNSHIP AND DELAWARE TOWNSHIP HISTORICAL SOCIETY

Members reviewed a letter dated 12/14/07 from Township Attorney Kristina Hadinger enclosing a draft Agreement for the Documentation of Early Farmsteads with the Delaware Township Historical Society.

Stuart Wisse said that he is acting as President of the Delaware Township Historical Society due to the resignation of Charles Frischmann who has moved out of the area. He said that the Society's secretary just received this draft Agreement on Saturday. He would like to bring it to the Society's 1/17/08 meeting for its review prior to approval. The Society appreciates the Township's proposed match of money and the Committee's support of the Society.

Mr. Wisse said that there are a few items that need further review. The Society will provide a mailing address by opening a post office box. There are some stipulations in the proposed Agreement over and above the Hunterdon County Cultural and Heritage Commission's grant expectations. He said that it is almost impossible to complete three full sets of building documentation in a year. The Commission only requires the professional and volunteer hours and the dollar match. It is not looking for completed documentation. He said that the Society is happy to agree to some accountability, but it will probably not be completed documentation.

Mr. Wisse said that the proposed Agreement states that the Township will own the documentation. He understood that the Society will own it. The Society supports public access to the documentation. It is educational in nature and available for the public good. He said that the information will be provided to the Township and the Hunterdon County Library, but the Society will own the documents.

Mr. Wisse said that the Society will come back to the Township Committee after it reviews the draft Agreement.

Mr. Madden said that the Township Committee had agreed to this match informally in previous years. Township Attorney Kristina Hadinger felt that because the Township is giving money to a private organization, it must address the arrangement in a formal document. He was certain that the issues raised by Mr. Wisse can be resolved.

Ms. McCarthy said that according to Ms. Hadinger, there must be some kind of receivable. Ownership of the documents is not the issue. The issue is to make the information available to residents at the Township Building. She asked Mr. Wisse to think about what the Society can reasonably provide.

Members invited Mr. Wisse to return to a Township Committee meeting after the Society meets to review the proposed Agreement.

YEAR-IN-REVIEW REPORT FROM QUARRY COMPLIANCE COMMITTEE

Members received a Year-in-Review Memorandum dated 12/19/07 from the Delaware Township Quarry Compliance Committee (QCC). Attachments to the memo included the Delaware Township Quarry Inspection Checklist, the Quarry License Short Form Renewal Application, the Quarry License Comprehensive Renewal Application, the Delaware Township Quarry Application Review Procedures, and the Quarry Application Administrative Completeness Review Checklist.

QCC member Kathy Katz thanked the Committee for the establishment of the QCC in January 2007. The QCC fosters communication among the Township, the quarry neighbors, and Trap Rock Industries. Trap Rock has two members serving on the QCC. She said that the QCC is well on its way to setting up standard operating procedures by the Township Clerk, the Township Engineer, and the Chief Financial Officer in handling quarry license renewal applications. The product that the QCC completed far exceeded her expectations. She thanked Mr. Johnson for his assistance serving on the QCC.

Ms. McCarthy said that the Township Committee appreciates the QCC's hard work and Trap Rock's cooperation.

Ms. Katz said that if Township Committee members have any suggestions or recommendations for the annual license renewal process, they should notify the QCC.

REQUEST FROM TRAP ROCK INDUSTRIES TO EXTEND DEADLINE FOR SUBMISSION OF A SCHEDULE FOR THE IMPLEMENTATION AND SUBMITTAL OF THE OPERATIONS/RECLAMATION PLAN OUTLINE FROM DECEMBER 31, 2007 TO MARCH 31, 2008

Members reviewed a letter dated 12/19/07 from Trap Rock Industries, Inc. Secretary George Conway asking for an extension of time from December 31, 2007 to March 31, 2008 to facilitate preparation of the final outline and submission of the implementation schedule for the quarry operations/reclamation plan that will have to be reviewed and approved by both the Planning Board and Township Committee.

Members also reviewed a Memorandum dated 12/19/07 from the Delaware Township Quarry Compliance Committee reporting on the conditions of Trap Rock's quarry license renewal from the Quarry License Renewal Hearing on 10/29/07. The memo listed quarry license conditions that are still outstanding.

Members also reviewed a letter dated 12/19/07 from the Delaware Township Planning Board recommending to the Township Committee that it approve an extension request and set a new deadline of 1/31/08 requiring as a condition of the extension that Trap Rock apply for a Letter of Interpretation and Flood Hazard Permit to the appropriate State agency by March 31, 2008.

Kathy Katz said that she just saw Trap Rock's letter tonight requesting an extension of the deadline to March 31, 2008. She thought the letter was supposed to request an extension of the deadline to January 31, 2008.

Attorney Vincent Gentile said that the new deadline of 1/31/08 is not possible, practically speaking. He asked that the deadline be extended to 3/31/08. Mr. Gentile said that the Planning Board made its recommendation based on the recommendation of the Quarry Reclamation Plan Subcommittee of the Planning Board.

Ms. Katz said that the Board's recommendation for 1/31/08 is based on the last meeting of the Quarry Reclamation Plan Subcommittee (QRPS) of the Planning Board with Trap Rock on 12/5/07. The QRPS was under the impression that an additional thirty days to complete the outline was sufficient once Trap Rock received Planning Board Attorney William Sutphen's memo dated 12/14/07. Mr. Sutphen's memo stated that in his opinion the reclamation plan represents a development application to the Planning Board. Now Trap Rock is asking for an extension to 3/31/08.

Ms. McCarthy clarified that Trap Rock is asking for an extension of the time in which to submit the outline and the implementation schedule, not the actual reclamation plan.

Mr. Gentile said that there is disagreement between the QRPS and Trap Rock over elements of the outline. He hoped that this will not be an impediment to the process because the parties have been working together constructively. He just received Mr. Sutphen's memo last week in which Mr. Sutphen outlines his rationale why the outline is so extensive. He disagrees with Mr. Sutphen's analysis. He would like to run it past the incoming Planning Board attorney, Steven Goodell. He did not want this to be an impediment. He wants to explain the disagreement to Mr. Goodell.

Mr. Gentile said that the Quarry Ordinance has very specific requirements for the reclamation plan. He said that the proposed outline for the submission of the reclamation plan goes far beyond the specifications in the Quarry Ordinance. According to Mr. Sutphen, the Planning Board shall require in addition to all Ordinance requirements such maps and other documents as it may deem necessary. Mr. Gentile said that language authorizes a radical expansion of the elements of the outline. He disagrees with that view. He would like to talk to Mr. Goodell to try to come up with a mutually acceptable format of the outline.

Mr. Gentile said that the other element of the extension request is the QRPS's recommendation that Trap Rock submit applications for a Letter of Interpretation (LOI) and a Flood Hazard Permit to NJDEP by 3/31/08. He said that the permits would potentially be required if Trap

Rock constructs a berm in the section of the quarry near Seabrook Road near Lot 14. Trap Rock intends to construct a berm there, but not for a long time. That section of the berm will not be installed for many years, between ten and twenty years. NJDEP may not grant an LOI now for a project that will not happen for such a long time. If it does grant approval, the permit will expire before the berm is constructed. Additionally, environmental scientists and NJDEP do not want work done for LOIs during the winter dormant time. It should be done in spring, summer or fall.

Ms. McCarthy said there is a concern that NJDEP will not permit construction of the berm in this area. The residents expect a berm in this area. She asked what would happen in that case. Mr. Gentile said that the berm may have to be relocated around the stream. Ms. McCarthy said that the Township needs some better safeguards about the berm location and what it will look like. Mr. Gentile said that the berm, its location, and its appearance will be part of the reclamation plan.

Mr. Johnson said that the QRPS prepared a memo dated 12/18/07 recommending that the Township Committee approve an extension to submit the outline by 1/31/08. He asked whether there were any Trap Rock representatives at the 12/5/07 QRPS meeting when this extension was discussed and agreed to by participants. Trap Rock Industries Secretary George Conway said that he was at the meeting, but he did not have the same recollection about the extension date, nor did Trap Rock's professionals. He said that regardless of the date discussed that day and based on the LOI application recommendation, Trap Rock can not meet a 1/31/08 deadline. It will do everything it can to complete the outline and schedule by 3/31/08.

Ms. McCarthy said that three months for two attorneys to reach an agreement on the outline is a long time.

Ms. Katz said that the outline from 11/21/07 drafted by the Planning Board's professionals is complete from the Planning Board's standpoint. In Mr. Sutphen's opinion, that outline could be used. If Mr. Goodell agrees with Mr. Sutphen's legal opinion, then the outline is done. The schedule would still be needed. Trap Rock has prepared an outline. If Mr. Goodell's opinion differs from Mr. Sutphen's, Trap Rock has two outlines that it has proposed - an intermediate outline dated 10/10/07 and a slimmed down version dated 12/5/07. Combined with the 11/21/07 outline, there are now three outlines. The question is deciding which outline the attorneys agree will be used. Preparing the outline is pretty much done. Then a schedule is needed to implement the outline.

Ms. McCarthy said that Trap Rock wants the submission of the outline and the schedule postponed to 3/31/08. Mr. Gentile said that the Township could use Trap Rock's outline with a 1/31/08 deadline. Ms. McCarthy declined that offer.

Mr. Madden moved to extend the deadline for the outline and schedule to March 31, 2008.

Mr. Conway said that Ms. Katz is here. The members of the Quarry Compliance Committee and QRPS have been working hard. Ms. McCarthy said that the Committee does not want to receive extension request after extension request. She knows that the QCC and QRPS have been working hard. Mr. Madden said that Trap Rock has built up good faith in his estimation. That is why he is making this motion.

Ms. McCarthy said that this motion does not address the recommendation for Trap Rock to apply for an LOI and a Flood Hazard permit.

Ms. Katz said that Mr. Gentile talked about an LOI for the northeast portion of the quarry. The concern that Mr. Conway and she talked about is with Lot 4 where Trap Rock indicated it will immediately start working on the berm. At a site visit on Lot 4 in August 2007 by Planning Board professionals and her, no wetlands were observed, but there may be a stream corridor in the exact area of the berm that requires review under the Flood Hazard regulations. If the berm must be moved, it would be moved closer to Lot 3. She said that the installation of this berm is tied into the Settlement Agreement with Trap Rock, the neighbors, and the Township. She said that there is a stream corridor along old Lot 4 and Lot 10 parallel to the fence line heading east to west.

Ms. Katz said that the berms are required by the Settlement Agreement, so there is no question about the Planning Board overstepping its boundaries. Trap Rock agreed at the 12/5/07 QRPS meeting that anything in the Quarry Ordinance and Settlement Agreement is fair game. The berm requirement is in the Settlement Agreement. Trap Rock must submit the berm details and construction scheduling. The Planning Board must know what it is approving if the berm can not be built where it was originally planned. Will it be moved further back on Lot 3 or must another alternative be sought? There may be other solutions to a berm. She said that a solution should be determined sooner rather than later. The Township does not know whether NJDEP will allow a berm in this location or something else in its place. NJDEP has its own schedule. That is why the QRPS is recommending the application now to NJDEP.

Mr. Gentile said that Trap Rock's professionals can not do the field work in the winter to apply for the permit. The condition to submit an application to NJDEP would have to allow a longer period of time to allow completion of the field work in the spring to get any chance of approval by NJDEP.

Ms. Katz said that she was not able to confirm that the survey work should not be done in the winter. She did ask the Planning Board's professionals for a time frame to prepare the application and was told that three months is sufficient time for the entire site to be surveyed, even allowing time for inclement weather. They did not address the winter season for surveying purposes. There is a difference of opinion about whether or not the work can be done in the winter. That should be confirmed with NJDEP before Trap Rock states that it can not meet a 3/31/08 application deadline.

Ms. McCarthy thought that Trap Rock should apply for the LOI and Flood Hazard permit by 3/31/08. If NJDEP says that Trap Rock can not do the field work, the Committee will reconsider the deadline on the 1/31/08.

Ms. Katz thought that the Committee should require Trap Rock to submit the applications by 3/31/08. The Committee can ask the Planning Board to check with NJDEP to see whether field work can not be done in the winter. If NJDEP says that the work can not be done in January, then the Committee can reasonably grant further extensions past March 31<sup>st</sup>. If NJDEP says that the field work can be done any time of year, then the March 31<sup>st</sup> deadline is reasonable.

Ms. McCarthy suggested making two motions – one to extend the deadline for submission of the outline and schedule to March 31<sup>st</sup> and the other to set a March 31<sup>st</sup> deadline for the NJDEP applications conditioned on being able to do field work in winter.

Mr. Conway said that Trap Rock wants to get the most positive review by NJDEP that it can. It needs the ideal time to prepare the application. If Trap Rock prepares the survey now, it will not get the results it would like.

Mr. Johnson said that statement runs contrary to Trap Rock's earlier statement that the survey work can not be done in winter. He does not want Trap Rock to come back to the Committee later with another extension request, for example, citing an extremely wet spring. The Committee needs a commitment from Trap Rock for completion of the application. He asked what representation Trap Rock will make that there will not be additional extension requests or extraordinary problems.

Mr. Gentile said that Trap Rock has been working with the Township in good faith. It is trying to do something workable and not have a requirement that is unworkable. NJDEP is beyond Trap Rock's control.

Mr. Johnson asked what is being done now to meet the January 31<sup>st</sup> outline deadline and March 31<sup>st</sup> deadline for the submission for the LOI. Are Trap Rock's professionals working on them at this time?

Mr. Gentile said that he will talk to future Planning Board Attorney Steven Goodell about the elements of the outline. He can not guarantee the outcome of that discussion. If the Committee agrees to set March 31<sup>st</sup> as the deadline for submission of NJDEP permits, he did not think that is a good idea based on what Trap Rock's professionals have told him about surveying in winter.

He said that everyone has the same goals – to build the berms around the quarry to satisfy the neighbors as planned.

Mr. McCue said that is reasonable.

Ms. Katz voiced her concern to move the process along. She has been working diligently to keep the process moving. Trap Rock was to have submitted the complete operations/reclamation plan by June 1, 2007. It missed that deadline. It is not easy to try to keep on schedule. It has been hard for her. Waiting for a response from Mr. Goodell will cause another delay. She asked how the process is moving forward in the meantime. She asked will it be 2009 when Trap Rock finally has the reclamation plan in place. At the October 9, 2007 meeting with the professionals, Trap Rock said it would take almost a year to prepare the reclamation plan once the outline was in place. She did not want too many extensions without controls. There seems to be a difference of opinion between the Planning Board's environmental specialists and Trap Rock's professionals about when one can do the survey work and application to NJDEP. She suggested that the Committee give Trap Rock an extension to the Committee's first meeting in January or January 31<sup>st</sup> by which time both parties will have reviewed NJDEP's position on surveying in winter. Mr. Gentile will have talked to Mr. Goodell. The parties will know whether they are closer to or further from submitting the outline. If the Township is agreeable and it takes only a little tweaking of the outline, extending the deadline to March 31<sup>st</sup> is too much time. Perhaps an extension to sometime in February is preferable or a very short extension with no conditions to keep the process moving. She recommended an extension to the second Township Committee meeting in January. That will give the Planning Board QRPS time to make phone calls. The outline would not be due then, just a report back on progress.

Mr. Gentile said that is not a productive use of Trap Rock's time. The QRPS could work on these issues. He would prefer a new extension and work toward it.

Ms. Katz said that deadlines have come and gone.

Mr. Madden said that there is the LOI issue and the outline issue. Resolution of the outline question between Mr. Gentile and Mr. Goodell should not take three months. He suggested an outline deadline extended to February 29<sup>th</sup>, but the Committee expects a report from the QRCS whether that deadline is reasonable or not. He had a question about the LOI.

Ms. Katz would like a report by the second meeting in January. The QRPS can interact with NJDEP about the appropriate time to do the survey by then. If NJDEP says that the survey can be done now, then the QRPS recommendation will stand on submitting the LOI.

Mr. Madden asked whether submission of the LOI is holding up development of the reclamation plan. Mr. Gentile did not think so. It depends on the level of detail. He said that to get the LOI first, Trap Rock must do the field work, submit the application, and work with NJDEP. It will take some period of time. That will impact submission of the final reclamation plan. He did not know whether the stream will impact the berm.

Ms. Katz said that is why she wants Trap Rock to submit the LOI application by 3/31/08 to keep the process moving.

Mr. Johnson asked when was the last time Trap Rock submitted an extensive reclamation plan. Mr. Conway said that it was sometime between 1979-1983.

Mr. Madden said that the reclamation plan used to take into account lots that are no longer affected by quarrying due to the Settlement Agreement.

Mr. Johnson said that it has been quite a while since a new reclamation plan has been submitted. He wants to be sure a new one is done right. The Township has not been pushing Trap Rock too hard for a new submission. He would like a report from Trap Rock that forward progress is being made.

Ms. Katz said that based on the report by the QRPS, the Planning Board unanimously recommended at its 12/18/07 meeting to require the LOI application and Flood Hazard permit to be submitted by 3/31/08 to keep the process moving and the outline submitted by 1/31/08.

Mr. Johnson said that he is reluctant to overrule the Planning Board's recommendation. He asked Trap Rock what information it can provide by the Committee's second meeting in January to keep the process moving forward. He has a problem with continuing extensions. For example, it can report on the discussion between Mr. Gentile and Mr. Goodell.

Mr. McCue said that Trap Rock appears to be making the effort.

Mrs. Allen said that the Planning Board does not reorganize until 1/15/08. That is when it will appoint its professionals. Mr. Gentile and Mr. Goodell could not really speak until then. Ms. McCarthy said that January 31<sup>st</sup> as a deadline is therefore too short a timeframe.

Mr. Madden suggested giving Trap Rock an extension to the second Township Committee meeting in February on February 25<sup>th</sup>. The Committee will get an update from the Planning Board QRPS and Trap Rock by then. That is a reasonable amount of time to have the outline agreed upon, for Mr. Gentile to talk to Mr. Goodell, and to work out the question with NJDEP. He would expect an agreement on the outline by then.

Mr. Johnson preferred an extension to the Committee's second meeting in January, January 28<sup>th</sup>.

Ms. Katz said that Trap Rock has Mr. Sutphen's review memo, so there is already an indication of the Planning Board's position. There are already three outlines. There should be phone calls by Mr. Gentile and Mr. Goodell between 1/15/08 and 1/27/08. There is a lot of idle time from 12/15/07 until February 25<sup>th</sup>.

Mr. Johnson said that the Township Committee can get an answer on how much more time is needed by the second meeting in January. He asked whether it is reasonable to get a timeframe by the second meeting in January.

Mr. Madden said that the Township Committee is trying to get results by 2/25/08. It wants to see an agreement on the outline, an established schedule, some movement on the LOI and Flood Hazard permit, and further, a timeline for completion of the reclamation plan. The outline and schedule are important so that everyone is on the same page. Trap Rock will provide its best estimate of the timeframe so that everyone will know if the process is on schedule.

Ms. McCarthy suggested getting a recommendation from the QRPS. If its recommendation is for Trap Rock to proceed on the LOI, if doable, based on discussions with NJDEP, the Committee should not wait until February 25<sup>th</sup> for further discussion. In addition, the QRPS could give its recommendation on preparation of the LOI application. She suggested requiring the agreed upon outline and schedule by February 25, 2008. At the January 27, 2008 Township Committee meeting, the QRPS will give a recommendation to the Township Committee about the LOI. The Committee will let Trap Rock know whether it wants the LOI done immediately or in a specified timeframe.

Ms. Katz said that the Planning Board's professionals agreed that ninety days is a reasonable timeframe to prepare and submit the LOI application. The Planning Board will discuss it at the 1/15/08 meeting. By then the QRPS will have discussed the timing of the survey with NJDEP, so there will be input. The QRPS will make its recommendation to the Planning Board on 1/15/08. The Board will then make its recommendation to the Township Committee for the 1/25/08 meeting. Then the Committee can rule on the NJDEP permits, if doable, and set a ninety day deadline for submission of the applications by April 30, 2008.

Mr. Gentile asked who will contact NJDEP. He would like Trap Rock's professionals to contact NJDEP. Mr. Johnson suggested that both sets of professionals contact NJDEP. All agreed that the Planning Board's and Trap Rock's professionals will contact NJDEP.

Mr. Madden moved to grant Trap Rock an extension to February 25, 2008 at which time it will have the agreed upon outline and agreed upon schedule. Mr. McCue seconded the motion, and members approved the motion by roll call vote.

Roll Call Vote: Ayes – McCue, Madden, McCarthy, Lockwood

Nays and abstain – none

Present – Johnson

Mr. Madden said that the second issue is preparation of the LOI. Members unanimously agreed that the QRPS, the Planning Board's professionals, and Trap Rock's professionals will resolve the question about surveying for the LOI and come back with a recommendation by 1/28/08.

REVISIONS TO CONTRACT WITH THE NJ OFFICE OF SMART GROWTH

Ms. McCarthy said that she spoke with the Office of Smart Growth about revisions to the proposed contract with the Office of Smart Growth for the OSG grant. They are still working out the final language.

POSSIBLE RESOLUTION #2007-106 SUPPORTING TAX APPEAL TO THE HUNTERDON COUNTY BOARD OF TAXATION TO REINSTATE THE 2007-2008 TAX OBLIGATION ON BLOCK 6, LOT 17.01 TO THE AMOUNT THAT WOULD BE LEVIED UNDER FARMLAND ASSESSMENT

Members reviewed the following draft Resolution to support a tax appeal to the Hunterdon County Board of Taxation to reinstate the 2007-2008 tax obligation on Block 6, Lot 17.01 to the amount that would be levied under farmland assessment.

DELAWARE TOWNSHIP  
RESOLUTION #2007-106

WHEREAS, Gina Tackett, owner of Block 6, Lot 17.01, timely filed her farmland assessment documents with Delaware Township in 2007 and in all previous years; and

WHEREAS, Gina Tackett forwarded the required documentation to the State of New Jersey, but due to a change of mailing and physical address, the documentation was not received by the State of New Jersey; and

WHEREAS, the State of New Jersey declined her farmland assessment status for the tax year 2007-2008; and

WHEREAS, the approach for Tax Relief is an appeal to the Hunterdon County Board of Taxation.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey that it does hereby support Gina Tackett's appeal to the Hunterdon County Board of Taxation to reinstate her 2007-2008 tax obligation to the amount that would be levied under farmland assessment.

ATTEST:

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Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

\_\_\_\_\_  
Kristin McCarthy, Mayor

Mr. Madden said that he spoke with Ms. Hadinger about Gina Tackett's property tax problem. Ms. Hadinger informed him that the Township Committee could affirmatively state its support of Ms. Tackett's appeal by passing a resolution supporting her tax appeal. He also indicated that Ms. Hadinger expressed concern that the deadline had, however, already passed.

Ms. McCarthy said that according to Ms. Hadinger, Ms. Tackett should consult with an attorney before pursuing the matter. The Township Committee will support her position before the Tax Board.

Mr. Johnson said that Ms. Tackett can represent herself.

Mr. Madden moved to approve Resolution #2007-106 pending review by Ms. Hadinger, Mr. Johnson seconded the motion, and members present approved Resolution #2007-106.

REVIEW OF MEETING DATES

Members reviewed upcoming meeting dates.

COMMENTS OF COMMITTEE MEMBERS

Mr. Johnson said that he obtained a proposal from Raritan Valley Disposal to provide office paper recycling pickup from the Township Building for \$30 per month. It will provide a container for the loose paper.

Mr. Madden said that Kathy Klink had proposed an office paper recycling program through Delaware Township School. Ms. McCarthy said that program requires tying the papers. Mr. Madden said that he will try to fit the proposal into the 2008 budget.

Mr. Johnson said that recycling tonnage reporting in the Township is not accurate. Not all recycling is getting counted now.

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Mr. McCue said that Trap Rock is earnestly working with the QCC. Mr. Johnson agreed that there is progress, but he did not want to expect continual extension requests from Trap Rock.

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Mr. Madden said that 2007 was a productive year for the Committee. He complimented Mayor McCarthy on her hard work. Mr. McCue agreed.

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Ms. McCarthy said that it was a joy serving as Mayor. She thanked the Committee for its good work.

MEETING OPENED TO THE PUBLIC

There were no comments or questions from the public.

APPROVAL OF BILL LIST

Members reviewed and approved the following vouchers for payment at the Regular Meeting of the Delaware Township Committee held on December 26, 2007. Mr. Johnson moved to approve payment of the bills on the bill list. Mr. Madden seconded the motion. Members present approved the motion to pay the bills by roll call vote.

BE IT RESOLVED by the Township Committee of the Township of Delaware, County of Hunterdon and State of New Jersey that the December 26, 2007 vouchers be paid.

Roll Call Vote: Ayes – Johnson, Madden, McCarthy

Nays – none

Abstain - McCue

Absent – Lockwood

The bill list is attached to the end of these minutes.

RESOLUTION TO GO INTO EXECUTIVE SESSION TO DISCUSS ITEMS OF PERSONNEL

Members reviewed the following Resolution to go into Executive Session to discuss items of personnel.

RESOLUTION AUTHORIZING CLOSED SESSION  
DELAWARE TOWNSHIP COMMITTEE

WHEREAS, Section 8 of the Open Public Meetings Act N.J.S.A. 20:4-12(b)(1) et seq. permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Delaware Township Committee is of the opinion that such circumstances exist.

NOW, THEREFORE, BE IT RESOLVED by the Delaware Township Committee as follows:

1. The public shall be excluded from discussion related to the closed session on December 26, 2007.

2. The general nature of the subject matter to be discussed involves personnel matters related to the employment, appointment or termination of current or prospective public employees, unless all individuals who could be adversely affected request, in writing, that the

matter be discussed at a public meeting. The Committee will discuss possible appointments for 2008.

3. Any matter involving personnel may be discussed in closed session pursuant to N.J.S.A. 10:4-12(b)(8).

4. Where permissible by law, the results of this discussion shall be released to the public within six months or as soon as possible thereafter.

5. This resolution shall take effect immediately.

ATTEST:

\_\_\_\_\_  
Kristin McCarthy, Mayor

\_\_\_\_\_  
Judith A. Allen, RMC  
Township Clerk  
December 26, 2007

Mr. Madden moved to approve the foregoing resolution, Mr. McCue seconded the motion, and members present approved the resolution with Mr. Johnson voting no.

Members discussed the possible appointment to the position of Township Engineer.

No action was taken in Executive Session.

RETURN TO OPEN SESSION

Mr. Madden moved to return to open session, Mr. McCue seconded the motion, and members unanimously approved the motion.

ACTION TAKEN FROM EXECUTIVE SESSION, IF ANY

No action was taken from Executive Session.

ADJOURNMENT

Members moved, seconded and unanimously approved a motion to adjourn the meeting at 9:45 p.m.

Respectfully submitted,

Judith A. Allen, RMC  
Township Clerk

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