

**SPECIAL MEETING OF THE TOWNSHIP COUNCIL  
TOWNSHIP OF FRANKLIN, COUNTY OF SOMERSET, NEW JERSEY  
NOVEMBER 22, 2004**

The Special Meeting of the Township Council of the Township of Franklin, County of Somerset, New Jersey was called to order by the Mayor at 7:00 p.m.

The Mayor read the following statement: "In accordance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975, be advised that adequate notice of this Special Meeting of the Township Council of the Township of Franklin, County of Somerset was made by the posting on the bulletin board at the Municipal Complex and by faxing to the officially designated newspapers, a notice indicating that the Special Meeting would take place at the Franklin Park School at 7:00 p.m. on November 22, 2004. In addition, a copy of this notice is and has been available to the public and is on file in the Office of the Municipal Clerk."

Everyone present participated in the salute to the flag.

The Township Clerk called the roll.

Present: Ms. Ashley-Williams (arrived at 7:17 pm), Mr. Chivukula, Ms. Eberle, Mayor Levine, Deputy Mayor McKenzie, Mr. Regan, Ms. Ritchie

Absent: Ms. Danile, Mr. Sumter

Also Present: Kenneth W. Daly, Township Manager and Ann Marie McCarthy, Township Clerk.

**PRESENTATION BY NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Robert Gallagher from the NJ Department of Environmental Protection (NJDEP) acknowledged the following representatives from the NJDEP: Karen Clue; Laura Frederico, Rocky Richards and Paul Bowers.

Mr. Gallagher gave a brief status report of the Franklin Park Water Contamination. He stated that a public meeting similar to this meeting was held on April 28, 2004. In June, 2004, forty (40) well samples were taken. During the months of June and July, the Health Department took seventy (70) well samples. In August, additional samples were taken and results were completed in September. One more round of sampling is needed.

Mr. Gallagher explained that samples were taken from homes in the affected area. He stated that the Department needs to define the project area and fund the funding. The NJDEP will fund only potable water sources, not hydrants. A condition of the NJDEP funding is to require the Township to adopt a mandatory connection and well sealing ordinance. There are

water lines in place. He noted that residents could reject funding if they choose. The next round of samples will determine who is and who is not in the project area. He stated that the next round of sampling will begin around December 1<sup>st</sup>. They have sent out eighty (80) letters and between 26-28 responses have been received. The Department would like about 40 samples to be taken. The project area would be called the “area of concern”.

At this time, Ms. Ashley-Williams arrived at 7:17 p.m.

Mr. Gallagher stated that after they have concluded with the sampling, they will define the area of concern and work with the Township for funding. He briefly explained spill fund regulations and spill claims.

### **HEALTH DEPARTMENT PRESENTATION**

Walter Galanowsky, Director of Health made the following presentation:

#### **Franklin Park Water Contamination History**

##### **Do-Rite Cleaners – 1984**

- Do-Rite Cleaners admitted an accidental spill of the dry cleaning solvent Perchloroethylene.
- 434 parts per billion (ppb) Perchloroethylene found in Do-Rite’s well.
- 47,683 ppb Perchloroethylene found in soil samples around property.
- A judge found Do-Rite Cleaners guilty of polluting the aquifer and assessed a fine of \$175.

Franklin Township filed civil against Do-Rite to recover water line construction cost estimated at \$300,000.

##### **Carneglia (Sunoco)**

- 1986 Allegations of leakage
- 1991 Leakage confirmed when tanks removed and contaminated soil found. Sunoco began remedial investigation and installed monitoring wells.
- 1992 High levels of gasoline components found in these monitoring wells.
- 1995 NJDEP issued directives:
- complete additional tank closures
  - perform a receptor evaluation
- 1998 NJDEP issued another directive:
- failure to complete an adequate remedial investigation.
- 2002 NJDEP pressed for more information so remediation could move forward.

##### **Raceway (Len’s Mobil)**

- 1989 Complaints of water in gasoline
- 1992 NJDEP issued order for remedial investigation and to register the tanks

Some work on piping was done about this time.

1996 Franklin Township Health Department & NJDEP received complaints Raceway tanks were leaking.

NJDEP issued directive to Raceway:

- register tanks
- perform pressure testing
- file plans to upgrade tank system

Subsequent pressure tests showed no leakage.

#### 2002 Private Well Testing Act

- Requires homeowners to test wells for resale.
- Two (2) wells near Bennington Parkway found trace contamination of MTBE (Methyl Tert-Butylether).

#### NJDEP Investigation/January 2003

NJDEP found leaks in the gasoline distribution systems at Raceway and BP.

NJDEP ordered stations closed until:

- piping repaired
- contaminated soils removed
- receptor investigation initiated to see if contamination had spread

#### NJDEP Investigation/May 2003

Stations hired consultants.

Consultants tested 22 residential wells within 1000 feet of stations.

Results:           1 well MTBE  
                      3 wells over 50% Maximum Contaminant Level (MCL)  
                      14 wells with trace contamination of MTBE

#### NJDEP Investigation/November 2003

- 26 homeowners tested wells under this program. Most houses “non-detected”. 2 houses had traces of MTBE.

#### NJDEP Investigation/July 2003

DEP expanded the study radius to 1500 feet.

### NJDEP Investigation/September 2003

- Franklin Township held a meeting for Bennington Parkway area residents.
- Created a reduced cost-testing program for homeowners.

### NJDEP Investigation/April 2004

Franklin Township & NJDEP sponsored another Community Meeting to discuss:

- Solvent-contaminated wells
- Testing regimens
- City water hookups
- Spill Fund eligibility
- Health effects
- Economic effects

### NJDEP Investigation/May 2004

- Franklin Township offered free well water testing for Franklin Park residents.
- 154 letters sent.
- 76 wells tested.

### 76 Total Tests reviewed by NJDEP

- 23 with detectable substances.
- 8 with substances over action level
- 4 over the action level for TCE
- 3 above the action level for 1,2,3 trichloropropane
- 1 just below action level for TCE

### Further NJDEP Testing

- 3 of the tests for 1,2,3 trichloropropane did not agree with the Department's tests.
- Franklin Township Health Department sent a letter to all participants and included a copy of their results.
- This history is an overview of our files. It is not inclusive of all incidents that may have lead to this groundwater contamination.

### Present Status

- NJDEP is conducting another round of testing to determine the Contamination of Known Extent (CKE). This CKE will not be finalized until 2005.
- Franklin Township has a history of being proactive on health issues.
  - Sulfate tests on all new wells.
  - Testing on all soils imported into the Township.

### Recommendation

- Establishment of a “Zone of Involvement” to include any area where contaminated detected.
- In this “Zone of Involvement” any area without an existing water line should have one constructed.
- The Township Council can develop an ordinance requiring that anyone in the “Zone of Involvement” hook up to the public water line.
- Anyone without a water line outside the “Zone of Involvement” can petition all residents on their street.
- If almost everyone on the street is willing to hook up to public water, the Township can elect to run a water line down that street.
- The health of Franklin Township is our paramount concern.

### PRESENTATION BY TOWNSHIP MANAGER

Kenneth Daly, Township Manager, reported that the DEP expanded the cycle of tests to find more contamination in the expanded area. He stated all houses in the project area will be mandatory. The Township will waive all Township fees. The DEP will address private fees.

Mr. Galanowsky stated that the Area of Involvement is roughly on the east side of Route 27 and the west side of Garden Street. He stated that after the Area of Involvement is defined an ordinance would be adopted to mandatory hook-ups and sealing of wells. Within the Project Area defined by the NJDEP, the Township hopes that most of the Area of Involvement is included. Most people in the Area of Involvement would be hooked up to Township water with little or no costs.

Outside of the Area of Involvement, results show some contamination but not enough to trigger NJDEP requirement of mandatory hook ups. Three plumes of pollution remain in the area.

Funding for hook-ups in and out of the Area of Involvement would come from the Spill Fund and State/Other Grants. The Township would pursue other grants as well as recover any Township costs from the polluters.

Mr. Daly reported that the initial round of tests has been conducted. Nothing has been decided. The Zone of Involvement is only a recommendation.

When the Township decides mandatory hookups and well sealing, the Township will propose to waive fees to connect as well as permit fees. The cost of hookups without connection and permit fees is still between \$3000 and \$4000. The question most residents ask if why they have to pay when they did not create the situation.

Mr. Daly reviewed how the connections and the water lines could be funded. He stated that property values would increase after a homeowner connected to Township water. He stated that those outside the Area of Involvement are recommended to hook up to Township water on a voluntary basis. It would also be recommended to waive fees for those outside the Area of Involvement. However the costs are funded, the homeowner will bear the costs and the Township would work to find ways to decrease costs such as joint bids, standard bids and contractor comparison.

### **PUBLIC DISCUSSION**

Richard Link, 78 Lynwood Avenue, asked when all the necessary decisions would be made. Mr. Daly replied it is the Township's intent to introduce the ordinances in January with adoption in February. There is \$400,000 appropriated in the Capital Budget and it is scheduled to be adopted on December 14<sup>th</sup>. A bond ordinance would have to be adopted. The Township would try to work out everything simultaneously and hopefully by June 2005 – the ordinances, design and financing will be in place.

Mr. Gallagher stated that he hopes the Project Area would be defined by June. He stated that they are collecting the last round of samples. This definition will establish where the contamination is and isn't. He expects the sample results in January. He noted if they are all clean, no more testing would be conducted. If they find more contaminations, another round of sampling would be conducted, with results in March. Then the Project Area would be defined.

Madeline Michaylin, 107 Bennington Parkway, asked if the Township would offer more free testing to continue monitoring. Mr. Daly replied that the Township does not plan to do since they are moving forward with the hook ups. She asked that the brook through the back of her property be tested. She asked that there not be negative publicity regarding the wells in the newspapers because it would decrease the value of their homes. She stated that residents in the Franklin Park area should consider a class action suit against the pollutants.

Mr. Galanowsky reported that the Zone of Involvement's test area is not the area the NJDEP is testing. It extended to Block 48 and did not find any contamination. Some other areas there were minor hits. He reported that Somerset County looked into the streams in the area and found no evidence. He stated that streams are under the jurisdiction of the NJDEP.

Mr. Daly explained in connection with class action suits, the source of non-gasoline station pollutants has not been identified with certainty. He stated that the Township is not waiting on legal action. He stated that the publicity did not come from Township sources and he was not interviewed.

Walter Sanders, 3 Clover Place, disagreed with the results of Block 48. He stated that his property as of June registered 46.4 MTBEs. He disagreed that he should spend any money to correct this problem since he did not create it.

Teresa Michalick, 43 Clover Place, asked where the water lines were. She stated she was diagnosed with MS in 1999, which was three (3) years after she moved into the area. She had two (2) cats die of cancer. She agreed that she should not have to pay. Mr. Daly stated that Clover Street is within the Township's proposed Area of Involvement.

Irene Sudah, 19 Clover Place, stated she would like to be retested in January and asked if she should continue to use water, Mr. Richards replied that they have sampled over 100 wells and only 15 homes showed chlorine solvents. He stated that the MTBE level standard was higher years ago (700 MTBE); it is presently 70. The water is safe to drink under that level. Mr. Gallagher stated that they have been very thorough and saturated this area with testing.

Mr. Sanders asked for a letter that guarantees that his water is safe to drink. Mr. Richards stated that the letter would only state that the water meets the standards for drinking water.

Brian Hokesley, 60 Clover Place, asked who picks up the expense of the hook up. Mr. Gallagher stated that if it is in the NJDEP's project area, the State would pay. There are also outside grants that can be applied.

Mayor Levine left the meeting at 8:11 p.m.

Bob Meszaros, 31 Central Avenue, asked why the wells have to be sealed. Mr. Gallagher stated the wells need to be sealed to avoid further exposure of contamination. Mr. Meszaros asked what if they only use well water to water their lawn or fill their pool. Mr. Gallagher stated that mandatory connections will require sealing the wells to eliminate further contamination.

Michael Kish, 26 Lynwood Avenue, asked if one files a Spill Fund claim does that waive their rights to sue the pollutants. Mr. Gallagher with concurrence from Mr. Richards, a Spill Fund claim waives the applicant's right to sue the NJEP not the pollutants.

Mr. Kish asked what the connection process would be. Mr. Daly explained that the connections would not be individual but contracted with the Township with joint bids for the connection and well sealing with some of the billing to the NJDEP.

Ms. Frederico asked everyone interested in testing to sign the sign-up sheet.

Viviano Martin, 40 Evelyn Avenue, stated that he has had his water tested twice and there was no high numbers and no water problem. He asked if he is forced to connect why does he have to seal his well when it is not contaminated. He asked if he had to seal his well if he pays for the connection himself. Mr. Gallagher replied the well would have to be sealed because it is a requirement of the mandatory hook ups. He explained that there are two areas – one is the Township's and the other is the NJDEP's. It would be a condition to be funded by the

NJDEP and it is up to the Governing Body for the Township's area. He asked what happens with a neighbor who has city water and it was not mandatory to seal his well at the time he connected. Mr. Richards stated that the NJDEP is reviewing the wells in the area and the wells in the area would be sealed and paid for by the NJDEP.

James Hyland, 27 Garden Avenue, asked what happens if the pattern of contamination changes in the future and enters an area outside the Area of Involvement. Mr. Daly asked why would they recommend those outside the Area of Involvement to hook up. Mr. Regan stated that the NJDEP zone is smaller than the Township and it is not a direct overlay or subset.

Ken Jones, 84 Central Avenue, questioned Central and Meadow Avenues and if they are still checking wells. Mr. Galanowsky replied that the Township has completed testing this year.

Gary Waclawski, 38 Claremont Road, asked what kind of physical conditions have been reported. Mr. Galanowsky replied none have been reported.

Gary Sivco, 43 Central Avenue, stated that when the connections are completed, property values will increase as well as taxes.

Edward Modzelewski, 32 Garden Avenue asked what the next step is after the land is cleaned up. He asked how will the people responsible be held accountable and how to avoid this happening again.

Sam Nelson, 65 Lynwood Avenue, had questions regarding filed claims and if the three (3) pollutants been notified. Mr. Gallagher stated that the source of contamination has not been formally identified and they do not consider the gas station as the source.

Betty Martin, 40 Evelyn Avenue, stated that two (2) neighbors have volunteered to connect and are in the Area of Involvement. She asked if they would be reimbursed for the connection costs. Mr. Daly replied that is an issue to be discussed by the Township Council.

Chris Brosius, 28 Central Avenue, asked how do we know other violations are not adding to the contamination. Mr. Gallagher stated that if someone observes a violation is occurring they can call the NJDEP hotline or the local health department.

Catherine Murphy, 85 Bennington Parkway, asked for clarification of the Spill Fund claim application process. Mr. Gallagher outlined the Spill Fund claim application process.

Don McCauley, 82 Lynwood Avenue, asked if the depth of the well was a concern. Mr. Gallagher explained that the more shallow the well, the more susceptible it would be. He asked would there be help for those outside the project area. Mr. Gallagher replied in the negative.

Mr. O'Brien asked if there were maps the show where the pipes and water mains are located. Mr. Daly replied that the maps to the side of the Council show where these are located.

Mr. Gallagher stated that the next round of testing would start around December 1<sup>st</sup> and letters were sent to homeowners in Blocks 46, 47, 48 and 50. He stated that they have heard back from some and noted there are a dozen spots opened. He stated interested homeowners in this area should contact Laura Frederico.

Bob Jensen, 26 Bennington Parkway, suggested one person be the contact person at the State.

Joe Fry, 39 Clover Place, recommended a Disaster Fund for future problems.

Deputy Mayor McKenzie thanked everyone for coming. He stated that the Council will keep all their concerns in mind and will keep everyone involved in the process.

### **ADJOURNMENT**

Motion was made by Mr. Chivukula and seconded by Mr. Regan to adjourn the meeting at 8:58 p.m. The motion was carried unanimously upon voice vote.

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**Brian D. Levine, Mayor**

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**Ann Marie McCarthy, Township Clerk**

Approved: *As Submitted.*

Date: *December 14, 2004.*