

SPECIAL TOWN BOARD MEETING

JUNE 16, 2007

Supervisor Pagones opened the special town board meeting at 9:30am, Town Hall, 807 Route 52, Fishkill, New York and led the audience with the “Pledge of Allegiance”.

Present: Supervisor Joan A. Pagones; Town Board members, Steve Ferguson, Ronald Leenig, Heather Malvarosa, Dennis Zack; Town Attorney – Ronald Blass; Town Engineer – John Andrews; Elected Officials - John Hickman – East Fishkill Supervisor; Allison MacAvery, Marge Horton – Dutchess County Legislators, John Darcy – Assistant Housing Director, Robert Wheeling – Comptroller, Christopher Colsey – Municipal Development Director, Nancy Lecker – ZBA Secretary, Audience – Azem Albra, Debra Hall, Kenneth Stenger, Fred Cantor, Joe Petinella, Peter Rostenberg, Jay Ballo, Kevin Cromer, and Town Clerk – Darlene Bellis

PUBLIC HEARING

Local law adding new Chapter 11 entitled “Private Well Testing”

Supervisor Pagones read (**copy attached to original minutes**) the public hearing notice to introduce the local law adding a new Chapter 11 entitled “Private Well Testing”.

Public hearing opened at 10:03 am

Town Attorney, Ronald Blass, reviewed the local law for the private well testing. This law has two levels; the single family home – testing will be at time of sale and the commercial / two or more unit residencies – mandatory testing will be accomplished no later than June 01, 2008

Supervisor Pagones introduced the elected officials – John Hickman, Supervisor Town of East Fishkill, and County Legislators – Marge Horton and Allison MacAvery

Supervisor Pagones read (**copy attached to original minutes**) a letter from Town of Wappinger Supervisor, Joseph Ruggiero. She then stated she would take comments from residents who are served by private wells and then those residents who are served by public systems are welcomed to come up and make comments.

Fred Cantor

Stated he is a resident and real estate broker, he is all for well testing but against the method of doing the testing, he is concerned about what chain effect it would have if tied to the sale of the house, he has always been for it but feels there should be mandatory well testing for everyone, asked why at point of sale, if people are concerned about their water they should have it tested anyway, a lot of the contaminants we’re looking have the people do it on a voluntary basis and not tied to the real estate which will have a real negative impact on the real estate industry.

Kenneth Stenger

He stated he has been drinking well water since he's been drinking water in Fishkill, he is in the same industry as Fred but he takes a different position on the impact of this bill, he likes the embrace of the two concepts, the needs of the Town of Fishkill are different than the needs of the Town of Dover – Town of Clinton, it is commonality of regional goals, he likes what the Town is doing on this level because we are not allowing this to be a partisan issue to run on a county wide race, here these three towns are looking towards a common resolution / solution, what he likes about the bill is that it allows the market to look to a solution for a public issue, he feels this law does two things for the consumer – 1) it exempts any house from resale testing in three years (the market place does not give you that) and 2) it coordinates and has the effects to look for hot spots in the township. He does agree with Fred Cantor in that there will be inconveniences but it is not an inconvenience that by large that isn't already built into the system.

Peter Rostenberg

He stated that he is the president of the Fishkill Ridge Caretakers, and he has been speaking primarily for critical environmental areas. He commends the board for taking this action that will benefit the public. He is a practicing physician for over 30 years; he has been a director of health and has written health codes, he shared a few of experiences with the board.

State regulations are generic

Counties develop their own health code to their needs

New York home rule, what this board is doing is the best and highest use of the home rule

He suggested that the Board stick to their guns, be patient and decide on the message you are going to give

When you arrive at a reasonable local, municipal or inter-municipal health code (which is what this law is) the courts will not go against you

What you are going to be doing is going to be very powerful and he commended the board again.

John Hickman

It has been a pleasure working on what is a very necessary bill.

2/3 of the residents of East Fishkill are on wells, and water contaminants are very important to them. He thanked the doctor who spoke before him and stated he recognized the repercussions to the industries.

Debra Hall

She stated she is very glad the board is doing this legislation as her well has been contaminated for at least 30 years. She brought up items that might bring the cost of testing down to the residents. Just because two people live side by side does not mean they are necessarily getting their water from the same aquifer, there is no way to know whose water is contaminated and whose isn't. She feels the best thing to do is to test; people need to think about their health and protect their health.

Joe Petinella

Stated he is the Chair for the Dutchess County Association of Realtors and he read (**copy attached to original minutes**) his prepared presentation and handed to the board for the record. He state that well testing is important but in the way the testing is done should be mandatory testing on everyone.

Azem Albra

He stated that he read the proposal and heard the comments and the one question he had was what is the procedure afterwards when the well is found contaminated.

Town Attorney, Ronald Blass, answered as far as the testing law this is not a mandatory remediation law. The requirement of the law is to test and obtain laboratory certification of results to file with the Town and to distribute the result to all people who is interested in the real property.

Marge Horton

Thanked everyone for the work and the thought and consideration that was put into the process. She stated she was distressed that is was thrown on the laps of the town when it should have been on the county level and stated that perseverance is important. Thursday, June 14th, was Flag Day which reminded her that our forefathers took their blood, sweat and tears founded this country. She asked if you knew that 79% of blood is composed of water, those children and senior citizens (over 60) immune system is compromised and that contaminated water is a killer to those two groups of people. She stated that vigilance and perseverance is what we need to protect the health of citizens, children, and senior citizens.

Jay Ballo

He stated that he is the third realtor here today. He feels that the legislation is flawed, that full implementation could take over 50 years and it is not fair to consumers. This is about remediation because those houses found contaminated will not be able to sell unless the problem is remediate, the burden is often fallen on the seller, he would like to see that everyone is mandated to test their wells and not have it tied to the sale of real estate

Debra Hall

Stated she has spoke to geologists and every single one has told her that testing at sale is working.

John Hickman

He addressed Mr. Ballo's comments and stated that the Towns are looking for a mechanism, which is a difficult thing, a state / county wide testing is good a thing but this is just a mechanism to find a place where we can actually require testing.

Kevin Cromer

Stated this is not a by partisan issue, this is not an economic issue, but it is a quality of life issue. The burden to home buyer to have the testing done is far diminished to the burden of having your child drinking contaminant water.

Azem Albra

He mentioned that others stated they thought this was a remediation law and he didn't understand how there could not be remediation in place with such a law.

Ronald Blass

He answered that this is a Notice law as where it puts people on notice to exercise whatever self interest they are driven by and the Town is making a policy decision at this juncture that if people are warned, people are smart enough to respond.

Supervisor Pagones

Commented that if the town had a bad testing situation and it went to the health department, the health department can then bring action, that house would not close unless the health department gave it okay. The more information you have the better you can deal with it. If you don't know it exists, you cannot address it.

Motion made by Councilwoman Malvarosa **to close the public hearing.**

Seconded by Councilman Ferguson

Pagones (aye), Ferguson (aye), Leenig (aye), Malvarosa (aye), Zack (aye)

Motion Carried unanimously 5-0

Public hearing closed at 10:57 am

Respectfully submitted,

Darlene Bellis
Town Clerk