

**Water Quality Committee  
Village of Millbrook  
April 30, 2012**

**In attendance:** Trustee Mike Herzog, Stanley Morse, Emma Rossi-Marshall, Dr. William Augerson, Scott Osborne, Howard Schuman, newest member Town of Washington Board member Karen Mosca and Clerk Linda Wiltse.

**Call to Order**-Trustee Herzog at 5:03 PM

Council member Karen Mosca was introduced as a volunteer liaison from the Town of Washington Board to the committee.

Trustee Herzog questioned if the Town of Washington has a specific form and/or permit to complete for a change of use on a property affecting the Village of Millbrook's water shed area. It was added that the Dept. of Health regulates this. The Town of Washington has no involvement in the permit process. The Health Dept. determines if there is a safe distance between water, wells and septic systems. It was stated there is no way to determine water consumption for Town of Washington residents.

No meeting has been scheduled with Russell Urbin-Mead to date. One purpose of this meeting is to generate questions for him. The committee has concerns such as the zone 2 map is not adequate for the water shed area. They will have Russell look at a draft of the local ordinance for accomplishing goals the Village has. Dr. Augerson questioned that if they redraw the zone already in an official document would a public hearing be needed if any for example.

Stanley Morse asked about the Village budget and funds for Russell to cover his services or to pay for the writing of a new law. Trustee Herzog responded the Village has some limited funds for consultation fees but there is no funding to pursue a deep rock well. Howard requested having the committee minutes posted on the website. Clerk Linda Wiltse stated this can be accomplished but the Village is pursuing a new website manager so it will take some time to add the minutes to the website.

The model ordinance from the Town of Amenia and the Dept. of Health rules & regulations were reviewed. Zone 1 is the well field, zone 2 encompasses zone 1 and zone 3 encompasses both zones 1 & 2. Dr. Augerson stated they should be sparing to forbid things in these regulations. There is a long shopping list of concerns. He added it is not clear as to what would the process of evaluating for a special permit be. It would be wise to have an idea of the process to analyze the special permit application. Howard added they may want to rewrite the application process. The committee is using the Amenia ordinance as a starting block. Several items mentioned were missing in the 1992 law such as the effect of a new well on existing wells. Also missing in the 1992 law is the effect on streams by the drilling of a new well.

The committee was directed to page 28 which references to some statewide laws but is extremely vague. Dr. Augerson stated home rule provisions do permit towns and villages to act more restrictive than those laws applied from the NYS law but it cannot be less restrictive. The Town of Washington must pass this local law since the entire water shed area is located in the Town of Washington. The Town of Amenia had no provisions for inspections or no adherent to a local law. Emma stated that according to the NYS law the Village must conduct annual inspection before January 30th which has not been done. She added the Commissioner of Health can issue a variance but in the Town of Amenia the Planning Board issues a variance for exceptions being granted. Dr. Augerson stated it is not very bright to use the home rule argument to supersede the Dept. of Health exceptions issuance. The local ordinance should be used as a reminder to the Dept. of Health. There may be circumstances where a local government may want control over certain variances issued. The 5 year versus the 1 year inspection process was discussed. Inspections must be conducted every 5 years but violations must be reported annually.

Emma stated they need to figure out the gaps in our current 1992 NYS law then they can write a model ordinance. It may be wise to reach out further for zone 3 than currently exists. The NYS law is pretty robust for zones 1 & 2. The map was originally drawn to prevent Dutchess County from putting an ash dump at the Town of Washington transfer station location. The NYS law comments on oil and gas but they may not need to say something in addition on these 2 topics. Questions were asked about the need to redraw zone 3 and the local law to protect this zone. The committee can borrow 40% to 50% of the Amenia law. Cautionary remarks were given in using the Amenia law as a basis for our local law and they may find they are not able to use a large portion of the Amenia law. The Amenia law may provide ideas. Suggestions were made in reference to the definition section which may need removal of items that do not apply to the Village. Specifically they referred to the definition of parcels and natural recharge along with the need for clarification. The committee will be asking for Russell to provide information and language to fill in the gaps in the 1992 law. Dr. Augerson reminded the committee about modern drilling done laterally and some thought needs to be given on the Town level in regard to such issues. Drilling boundaries and access drilling boundaries should be looked at as well. Existing wells may not adequately be replenished under natural and normal conditions.

Howard stated that at some point they need to look at what they have to implement. The next meeting agenda item suggested is to evolve a plan to comply with the NYS law. A list of questions will be devised for Russell and submitted to committee members before meeting with Russell to make sure they are complete. Emma suggested bringing compliance with the 1992 NYS law higher up on the priority list and this may provide an educational opportunity as well. The committee may look to codify the 1992 NYS law and the local ordinance which will plug the holes in the 1992 law. The committee must send a clear signal to the Village Board as to their obligation to produce reports required in the 1992 NYS law. Council member Karen Mosca asked if other communities in NYS are creating a local ordinance.

**Future Meeting Scheduled**-The committee will continue to examine the model ordinance during the next meeting scheduled for the last Monday in May on the 21st at 5 pm. They will also discuss the recommendations concerning what was discussed today.

The meeting concluded at 6:08 p.m.

Respectfully Submitted,

Linda T. Wiltse  
Village of Millbrook  
Clerk/Treasurer