A regular meeting of the Northampton County Council was held on the above date with the following present: Ann McHale, President; Ron Angle; John Cusick; Charles M. Dertinger; J. Michael Dowd; Margaret Ferraro; Lamont G. McClure, Jr.; Diane Neiper; Leonard N. Zito, Solicitor to Council and Frank E. Flisser, Clerk to Council. Absent was Wayne Grube, Vice President.

Prayer

Mr. Dowd led County Council in prayer to open the meeting.

Pledge of Allegiance

Mrs. McHale led County Council in the pledge of allegiance.

Approval of the Minutes

Mrs. McHale advised there were several corrections to the September 18, 2008 minutes. She noted on page 19, paragraph 2, the individual speaking was Mr. McClure and not Mr. Dertinger, and the section referred to should be Section 812 instead of 912. Further, she noted the following statement should be added after paragraph 3 of page 20: “When Mrs. McHale asked if it was possible to maybe amend the wording of that motion to a vote of no confidence rather than ask for the resignation, several members of County Council answered in the negative”.

Mr. Angle made the following motion:

Be It Moved By the Northampton County Council that the amended minutes of the September 18, 2008 meeting shall be approved.

Mrs. McHale seconded the motion.

Mrs. McHale called for the vote on the amended minutes:

The minutes were adopted by a vote of 8-0.

Courtesy of the Floor

Ms. Kate Riker, 242 North 9th Street, Allentown, PA (Center City Historical District) – stated she wanted to express her support for the railroad and would like it in Allentown.

Ms. Vanessa Williams, Network of Young Professionals – telephoned the office of County Council and indicated she wanted her statement to be made part of the record. She noted her organization was a nonprofit economic development organization and she was calling to state that she and members of her organization were very much in support of rail transportation.

Mr. Jay Goldstein, 1718 Crownwood Street, Allentown, PA – advised he wanted to speak with regard to the Lehigh-Northampton Airport Authority (LNAA) and distributed several documents (see Attachment #1). He further advised he was a retired businessman and lobbyist. He noted he made a presentation before the LNAA about three years ago and was treated very disrespectfully. He further noted he wanted to compliment County Council for their willingness to challenge the airport’s operation.

Mr. Goldstein stated he wrote to County Council about a year or two ago asking consideration be given to firing everyone on the LNAA. He further stated he did not believe there was a problem with everyone, but if there were problems with enough of them and changes were not made, he did not see how things could improve.

Mr. Goldstein advised he personally wanted to commend Councilman Angle for comments he had made with regard to the LNAA. He further advised he spoke before the Lehigh County Commissioners and explained to them that he was now prepared to start acquainting them with information he had been collecting over time.

Mr. Goldstein stated, referring to the ABC news article he presented, that it revealed having a successful commercial
airport was critical for a region, especially one that was going to have a casino.

Mr. Angle advised he agreed with Mr. Goldstein that the problems lie with the LNAA because they were not overseeing the airport. He noted Mr. George Doughty simply did what he wanted to do and his reward for not doing a good job was a contract extension.

In answer to Mr. Angle’s question, Mr. John Stoffa, County Executive, stated the Northampton County members of the LNAA were doing a better job of looking out for the taxpayers of Northampton County.

After Mr. Angle commented that County Council did not approve the money for a study, Mr. Stoffa indicated they found the $50,000 for Northampton County’s portion of the funding in the budget.

Mr. Angle advised there was a whole row of offices for executives whose job it was to know how to manage the airport, but the two Counties were now going to spend $100,000 of taxpayers’ money to figure out what was wrong. He noted what was wrong was the LNAA was not cleaning house in that row of offices.

Mr. Troy Reynard, 1815 Ironwood Drive, Easton, PA - stated he owned and operated the Cosmic Coffee Cup, served as the President of the Easton Business Association and was on the board of the Sustainable Business Network of the Lehigh Valley. He further stated he was in favor of bringing rail transit to the Lehigh Valley and funding a study to explore the project should be done now and not next year. He noted the question was not whether it was affordable, but whether the area could afford not to do it with escalating gas prices and costs to maintain roadways. He further noted the sooner a study could be done, the sooner the funding could be put together to make this happen.

Mr. Reynard advised small businesses in Easton, as well in many other small towns, were suffering and a passenger rail station in downtown Easton would encourage economic growth. He further advised many of his customers and neighbors either drove their cars or took a bus to New York City or northern New Jersey
virtually every day and passenger rail would take these cars off the road, which would save gas and road wear.

Mr. Reynard stated when there was passenger rail in the Lehigh Valley many years ago, the downtowns were vibrant, economic and cultural centers, however, when it left, they took a down turn. He further stated no one knew if passenger rail would be a good idea until a study was done, therefore, as a taxpayer, business owner and an active volunteer in the community, he encouraged County Council to approve a rail study now and not wait until next year.

Mr. Bernie O’Hare, 68 South Main Street, Nazareth, PA congratulated Mr. Zito on his recent nomination by Governor Edward Rendell for the vacancy created by former President Judge Robert Freedberg.

Mr. O’Hare advised he followed Northampton County Council for many years and never had he seen such a mean spirited and ugly display as the little circus that took place two weeks ago when Ms. Connie Sutton-Falk, Director of Human Resources, was ignominiously asked to resign. He further advised it was totally uncalled for to ambush her and not allow her an opportunity to be heard, noting a lot of false statements were heard that evening.

Mr. O’Hare stated Mr. Dertinger remarked that she had taken just about every effort to either be condescending to County Council and did not answer their questions or skirted them. He further remarked having witnessed this abrasiveness of this Director toward Council, who were elected to sit here, he could not imagine what it was like for those who were working here. Additionally, he indicated he thought it was not only within County Council’s purvey, but their responsibility, to call out when something of this magnitude occurred rather than sit idly by and let it continue.

Mr. O’Hare advised he attended just about every County Council meeting and had never seen Ms. Sutton-Falk act disrespectfully toward any member of County Council. He further advised her attendance at these meetings, up and until tonight, was in and of itself a sign of respect to County Council and their response was to abuse her disgracefully. He noted not only was she ambushed, but it was an ambush planned in advance
because the Union knew what was going to occur. He added the real victims were the County Executive and the people of this County.

Mr. O’Hare stated AFSCME did not run this County, the County Executive ran this County and County Council legislated. He further stated Mr. McClure asked for her resignation because she violated the Home Rule Charter and County Council must take a strong stand and let the Administration know that County Council did not believe it was their job to clean up the mess that they create by their extralegal activities.

Mr. O’Hare commented that Mr. McClure and Mrs. McHale, themselves, violated the Home Rule Charter by not allowing Ms. Pat Strunk, a County employee and an individual who served on one of the committees that drafted these rules and regulations, an opportunity to be heard. He further commented Section 1.6-602e stated whenever there was a public hearing about an ordinance, a public hearing must be held in which all persons interested in shall be afforded a reasonable opportunity to be heard.

Mr. O’Hare advised any County Council member who knowingly and willfully violated any provision of the Home Rule Charter could be removed from office, therefore, Mr. McClure should be asked to step down.

Mr. Angle stated he was not present at the last meeting and he felt what took place was deplorable and felt some members of County Council owed Ms. Sutton-Falk an apology. He further stated it disturbed him to learn that an individual who wanted to talk was not afforded the opportunity because that was one thing that was drastically important to him was the peoples’ right to address their government.

Mrs. McHale advised another County employee was at the microphone answering a question posed by Mr. Dertinger and the previously mentioned employee walked up and tried to talk and was informed she would have to wait her turn. She further advised this individual never raised her hand to be recognized.

In answer to Mr. Angle’s question, Mr. McClure stated he thought about what took place at the last meeting and tonight
confirmed for him that he did the right thing. He further stated Mr. Angle just called for the dismissal of all the people who managed the airport due to mismanagement and it was his view there was mismanagement going on here so he called for a dismissal.

Mr. Rubin Justiniano, 701 Ferry Street, Easton, PA - advised he worked in New Jersey and he believed passenger rail would be a benefit to this area, therefore, he supported bringing passenger rail to the Lehigh Valley.

Mr. Troy Shuman, 1808 Cherry Avenue, Easton, PA - provided County Council with a letter describing the difficulty he had experienced trying to collect restitution from a criminal act (see Attachment #2). He stated his home was broken into September 11, 1990 and just started getting some restitution within the last two years. He further stated he was here tonight to find out what the County's policy was with regard to restitution collection. He noted more than $40,000 was ordered by three judges for each of three individuals to make restitution to him. He further noted these three individuals have served jail time and were now in the area and should be paying him the restitution that was ordered.

Mr. Shuman advised he had talked to the Criminal Division, but had received different stories with regard to how they handled restitution collection. He further advised Ms. Jean Kosalko, an employee of the Criminal Division, had done a tremendous job and if was not for her, he would not have collected any restitution.

Mr. Shuman stated he wanted to know what action would be taken in the future because he did not believe turning this over to a collection agency was a solution.

Ms. Shuman advised he had spoken with Ms. Leigh Ann Fisher, Clerk of Courts, who informed him the policy was if the defendant was 30 days late in payment, a letter would be sent giving him 30 days to make that payment and if a payment was not received, it would be turned over to a collection agency.

Mr. McClure stated he had been working on this issue and asked Mr. Zito if an individual was not under the jurisdiction of the Court, what happened.
Mr. Zito advised if the individual was outside the sentencing component, it became a collection matter.

Mr. Robert Pfenning, 2830 Linden Street, Bethlehem, PA - stated the Gambling Impact Committee met on September 8, 2008. He further stated Mr. Robert DiSalvio, President of Bethlehem Sands, and a few of his co-workers, were the guest speakers and they spoke primarily about their addiction program, which they must have under the law.

Mr. Pfenning advised they reviewed a judge’s ruling from Erie County Common Pleas Court dealing with a lawsuit under Section 1403 of Act 71, Distribution of Gaming Revenue. He further advised the judge ruled there were only certain eligible entities to receive grants from the monies designated for municipal grants within the County. He noted for Northampton County, this meant they must be continuous municipalities with the City of Bethlehem and then the County itself.

Mr. Pfenning stated the judge also ruled there was a list of items for which these grants could be used, and at the end of that list was the phrase “expenses associated with the operation of the licensed facility”. He further stated the judge’s opinion was that phrase applied to the entire list of eligible grant usage.

Mr. Pfenning advised the third thing that was discussed was that at the end of the year if there were not enough eligible grants, the money reverted to the County’s grant maintaining authority to be dispensed within the County to be used as it saw fit.

Mr. Pfenning stated their next meeting would be held on October 13, 2008, at 6:30 p.m., in this room and Mr. Ross Marcus, Director of Human Services, would be giving an update on the internal County’s Human Services Task Force that was looking at the issue of gambling addiction and how the County wanted to deal with it.

Ms. Jean Kosalko, Deputy, Criminal Division - advised there had been so much controversy with collection of restitution over the years and she tried to do everything possible to help these victims receive their money. She further advised in the case of
Mr. Shuman, she was able to locate the defendants with his help and sent them letters providing them 15 days to either pay the restitution in full or make arrangements or they would have to appear in Court, which usually provided an incentive for action.

Ms. Kosalko stated she received a call recently from Mr. Shuman who indicated he was not receiving his money. She further stated she was no longer as involved in this matter due to other obligations and after speaking with the individual who took over, learned they were now sending out 30-day letters instead of 15-day letters and there was no longer mention of being brought to Court, but that it would go to a collection bureau.

Ms. Kosalko advised she did not know if notifying them it would be sent to a collection bureau would provide the same results as the threat of appearing in Court. She further advised she did not know if this was a new policy because if so, her way of collecting would now come to a complete stop.

Mrs. McHale stated that would be an issue to be discussed with either her supervisor or the Director of Court Services.

In answer to Mr. Angle’s question as to the total dollars of outstanding restitution, Ms. Kosalko advised she was not privy to that information.

Mrs. Ferraro stated this was not the first time this issue was brought before County Council and felt this matter needed to be treated as aggressively as possible.

Ms. Bea Kemmerer - advised her husband worked for the County for 26 years and she had been fighting his pension for four years, but that was not the reason she was present. She further advised she was allowed to buy secondary insurance, noting it went from Colonial Healthcare to Blue Cross. She noted when she purchased this insurance, Mr. Dan Polanski, former Director of Human Resources, informed her she could buy it forever unless they changed the plans. She further noted she had approximately four letters from the insurance companies stating she was in arrears, however, she was not and she could prove it.
Ms. Kemmerer stated she received a letter in July that indicated her premiums were doubled without prior notice so she went to see Mr. Stoffa about it and he agreed with her that it should never have happened. She further stated he had his secretary come in and take copies of what she had and then a meeting was held with Ms. Lorraine Cordaro, Deputy Director of Human Resources, and Ms. Sutton-Falk, who was not very nice to her nor receptive to anything she said.

Ms. Kemmerer advised on August 8, 2008, she received a letter indicating that she was terminated as of July 31, 2008. She further advised she again spoke with Mr. Stoffa and asked for her $300 back and he asked her if she was given the $300, would she stop fighting for the pension and she said she would not. She noted she was then told he had the authority to give the money back to her, but he would not do it.

Ms. Kemmerer wanted to know if this was the way the County treated the widow of a man that was employed for 26 years. She was very angry and she did not understand how one individual could do this to another individual.

Ms. Kemmerer stated when she told Ms. Sutton-Falk about it, she was told she did not have to pay the premiums so she asked Ms. Sutton-Falk what did she expect her to do because she was without insurance. She further stated Ms. Sutton-Falk also told her the actuary could legally raise the premiums and there was nothing she could do about it.

Ms. Kemmerer advised no one in the County had ever informed her or her husband that she would not get a cost of living when he died.

Mrs. McHale stated it was her understanding that only employees were entitled to a cost of living. She then asked Ms. Kemmerer to attend the next Retirement Board meeting to discuss this matter.

Ms. Radene Harwick, Business Agent, Local 1265 - advised Ms. Lorraine Parry was the President of that Local and they represented 300 employees. She further advised she felt it was unfair and unfounded that Mr. O’Hare accused Ms. Parry for what
happened two weeks ago. She noted they were present at the last meeting to support that ordinance and what happened after the fact was of interest to them, but it was not pre-empted in any way and felt Mr. O’Hare owed Ms. Parry an apology.

Mr. Mark Wirth, Lower Saucon Township, PA - stated his father and grandfather owned property located in the southwestern corner of Northampton County, which consisted of 28 acres. He further stated approximately 20 years ago, 13.62 acres of the upper part of this property was turned over to the State to enable them to build the southern corner of I-78. He noted they were informed, at that time, that they would be able to repurchase the property after the highway was completed, but it was never presented to them. He further noted they were also told that it was going to be turned into a wildlife refugee so it could never be developed.

Mr. Wirth advised in September 2007, an article appeared in the Legal section of the Morning Call notifying the State was selling a piece of this property, however, they were never given notification. He further advised in 2007, Mr. Andrew Werner, the Chief Executive Officer of the Lower Saucon Country Club, purchased that property in a closed bid for $151,200. He noted if he had known it was for sale, he would have put a bid on it because he had maintained that property for the last 30 years of his life.

Mr. Wirth stated he wanted to know why that piece of property was not offered to him or the other homeowners who were now concerned about a road being put on it.

Mrs. McHale advised this appeared to be an issue for the State and not the County. However, if he was concerned about the water run off, he could contact the County’s Conservation District.

Mr. McClure instructed Mr. Wirth to contact his State legislators.

Mr. Noel Jones, 800 Ferry Street, Easton, PA - stated she supported the rail study and bringing rail transportation back to this area.
Ms. Julie Zondo Dennis, Lehigh Street, Easton, PA - advised she also supported the rail study. She further advised this was the only affordable housing within an hour and half of New York City and it would allow people a unique opportunity to take advantage of the economic opportunities in New York and New Jersey.

Mr. Patrick Poladian - stated he supported the rail study as it would provide a more economic opportunity forum of traveling.

Consideration of the County Executive’s Veto of the Ordinance Providing for Amendments to Northampton County Administrative Code Article XIX Department of Human Resources, Sections 19.01 Organization, and 19.02 Duties

Mrs. McHale advised the ordinance amending Administrative Code Article 19 was introduced by Mr. Dertinger, Mr. Cusick and herself at the meeting held September 4, 2008. She further advised the ordinance was adopted at the Northampton County Council meeting held September 18, 2008 and presented to the County Executive on September 19, 2008. She noted the County Executive vetoed the ordinance on September 25, 2008 and returned it to the Northampton County Council on September 26, 2008. She further noted a resolution was prepared which provided for an override of the County Executive’s veto, indicating a vote in favor of the resolution was a vote to override the veto.

Mr. Dertinger introduced the following resolution:

R. 63-2008 WHEREAS, the Northampton County Council duly enacted the ordinance titled, “AN ORDINANCE OF THE COUNCIL OF THE COUNTY OF NORTHAMPTON, PENNSYLVANIA (“COUNTY”) ENACTED UNDER 1.2-202(7) OF THE NORTHAMPTON COUNTY HOME RULE CHARTER (348 PA. CODE 1.2-202(7)) AMENDING ARTICLE XIX OF THE NORTHAMPTON COUNTY ADMINISTRATIVE CODE PERTAINING TO THE DUTIES OF THE DIRECTOR OF HUMAN RESOURCES DEFINING POLICIES AND REGULATIONS APPLICABLE TO NORTHAMPTON COUNTY EMPLOYEES; CONFIRMING THE PROCEDURE FOR THE APPROVAL BY NORTHAMPTON COUNTY COUNCIL OF NORTHAMPTON COUNTY CAREER SERVICE REGULATIONS AND ESTABLISHING A PROCEDURE TO
WHEREAS, the duly adopted ordinance was presented to the County Executive on September 19, 2008; and

WHEREAS, on September 25, 2008, the County Executive vetoed the ordinance (a copy of the veto message is attached) and returned it to County Council on September 26, 2008.

NOW, THEREFORE, BE IT RESOLVED By the Northampton County Council that the County Executive’s veto of the ordinance titled, “AN ORDINANCE OF THE COUNCIL OF THE COUNTY OF NORTHAMPTON, PENNSYLVANIA (“COUNTY”) ENACTED UNDER 1.2-202(7)OF THE NORTHAMPTON COUNTY HOME RULE CHARTER (348 PA. CODE 1.2-202(7))AMENDING ARTICLE XIX OF THE NORTHAMPTON COUNTY ADMINISTRATIVE CODE PERTAINING TO THE DUTIES OF THE DIRECTOR OF HUMAN RESOURCES DEFINING POLICIES AND REGULATIONS APPLICABLE TO NORTHAMPTON COUNTY EMPLOYEES; CONFIRMING THE PROCEDURE FOR THE APPROVAL BY NORTHAMPTON COUNTY COUNCIL OF NORTHAMPTON COUNTY CAREER SERVICE REGULATIONS AND ESTABLISHING A PROCEDURE TO VALIDATE NORTHAMPTON COUNTY EMPLOYEES POLICIES MANUAL(S) AND CAREER SERVICE REGULATIONS,” shall be overridden this 2nd day of October 2008. The ordinance shall become effective, as originally enacted by the Northampton County Council on November 1, 2008.

Mr. Dertinger stated at the last meeting, County Council was given a history lesson, which was not accurate as it indicated Northampton County had been adopting personnel policies in the manner described and there was no evidence to the contrary. However, he had ten examples of where the policies and procedures under Section 805 had been changed by resolution by Northampton County Council. He further noted it came to his attention that as of the end of the month, Mr. Stoffa signed a total of 66 changes.

Mr. Dertinger advised there had been an argument that this was not County Council’s responsibility and it was over stretching its job. He further advised Mr. Stoffa, in his veto message, made the argument that County Council was trying to illegally change the Home Rule Charter, which it was not.

Mr. Dertinger stated this had been going on for quite some time and Mr. Zito indicated that this was not only in County
Mr. Dertinger asked the members of County Council for their support on this resolution to override the veto so that the power which was dedicated to County Council by the Home Rule Charter remained with them.

Mr. McClure advised it was argued by the Administration that County Council’s adoption of the ordinance at the last meeting was illegal, unlawful and outside the scope of the Home Rule Charter. He then asked Mr. Zito if he had an opinion with regard to that argument.

Mr. Zito stated he filed his opinion on October 1, 2008 and concluded the ordinance was essentially an amendment to the Administrative Code and it did not amend or modify the Home Rule Charter.

Mr. Angle asked Mr. Karl Longenbach, Northampton County Solicitor, why the Administration disagreed with County Council overriding this veto.

Mr. Longenbach advised for the reasons set forth in the return of the veto because it had been the Administration’s position from the beginning that the Home Rule Charter and the Administrative Code set forth and defined the various powers of the County Executive and the Administrative branches and there was a distinction and a procedure to be followed which they believed they observed.

Mr. Longenbach stated in the instance of the Career Service Regulations, the County Executive came up with an idea which was then forwarded to the Personnel Commission, who reviewed it and passed on their recommendation to County Council. He further stated County Council then either modified it and/or accepted it by ordinance or not accept it.

Mr. Longenbach advised in the Career Service Regulations
that existed, it identified a power in the County Executive and that was to issue personnel policies, procedures and rules without the approval of the Personnel Commission or County Council. He further advised the County Executive’s only obligation was to ensure those policies, procedures and rules were consistent with any existing regulation.

Mr. Longenbach stated the Administration felt the 61 or 66 policies that were being identified had been procedurally and properly considered, adopted and approved. He further stated they were recommended by a committee headed by the Director of Human Resources, sent to the County Executive and approved by him. He noted they believed the procedure they followed was required under the Home Rule Charter, Administrative Code and the Career Service Regulations.

Mr. Longenbach advised what they believed was happening here was an attempt by County Council to invade the powers of the County Executive. He further advised they also believed that by imparting an additional responsibility to the Personnel Commission, that did not exist under the Home Rule Charter, County Council was violating the Home Rule Charter.

Mr. Longenbach stated if the ordinance was an amendment to a Career Service Regulation, by the terms of the Home Rule Charter, that proposed ordinance should have been reviewed by the Personnel Commission. Therefore, by its very nature, it was a defective ordinance. In conclusion, the Administration would encourage County Council not to override the veto, however, if County Council was prepared to do so, they would have a Court of law make the decision.

In answer to Mr. Angle’s question, Mr. Longenbach advised under the existing rules, regulations and Home Rule Charter, it was the County Executive’s clear cut, singular power to issue rules, policies and procedures without further approval by the Personnel Commission or County Council.

Mr. Angle asked Mr. Zito where he disagreed with Mr. Longenbach regarding rules, policies and procedures.

Mr. Zito stated he did not disagree with Mr. Longenbach’s position that the County Executive and the Administration exclusively controlled policies, however, the law recognized there was a difference between policy and regulation. He
further stated it was clear the Personnel Commission was intended, in the Home Rule Charter, to play a gatekeeper role in what the County Executive and the Administration may pose as policies, which were regulations and there was the problem.

Mr. Zito advised the Home Rule Charter required the Administration to prepare and submit to the Personnel Commission proposed regulations for its consideration and recommendation. He further advised it also required the Personnel Commission to consider and make recommendations to the Administration and to County Council on these regulations and finally it required the Administration to submit the proposed regulations to County Council for its approval.

Mr. Zito stated the uncertainty and the insecurity of the enactment of these policies, as regulations, was what formed the genesis of the problem currently because there were no check and balance for the employees to determine whether or not what was being presented to them as a policy was, in fact, a regulation. He further stated they contended they were and the ordinance was intended to at least provide an opportunity for the employees to be assured that Section 1.202 of the Powers of County Council to review the Administrative Code and to amend it had been properly enacted because it provided a method for which the Personnel Commission advised both County Council and the Administration that what was being proposed was essentially a regulation or a policy.

Mr. Zito advised if it was a regulation, it must come before County Council, but the problem was that there was no method by which the employees could make that determination and this ordinance provided that method. Therefore, he concluded the ordinance was beneficial to the employees and provided a measure for them to be assured that what was being put before them as an employee condition was essentially either a policy or regulation.

In answer to Mr. Angle’s question as to where the Administration disagreed and why they were so adamantly opposed to it, Mr. Longenbach stated they believed when the County Executive issued a policy, rule or procedure, one could readily identify whether or not it was, in fact, a policy, rule or procedure.
Mr. Angle asked what if there was a dispute as to whether it was a rule, policy or procedure and not a regulation, noting all the ordinance was providing was a mechanism for that dispute to be heard.

Mr. Longenbach advised first the question should be posed to the Administration to be reviewed and if they were wrong, they would be willing to correct it. However, in most instances, these were clear cut and this was an arduous process by a group of people over the past year to revise policies, rules and procedures that had not been reviewed in a long time. He further advised the next logical step was to have an equally detailed review of the Career Service Regulations themselves, but in the interim, to take a basic example, if the regulation stated County employees shall have holidays, the County Executive had the power to identify the number and the dates of those holidays. He noted that was a rule, policy or procedure putting into effect a regulation.

Mr. Angle asked Mr. Longenbach to state specifically what was wrong with Mr. Zito’s comment as to what if there were a disagreement, noting he did not agree that this ordinance hindered the County Executive.

Mr. Longenbach stated he did because it took away the power from the County Executive because it required review by a non-elected body and it ignored the clear-cut provisions in the Home Rule Charter, the Administrative Code and the existing Career Service Regulations.

Mr. Angle advised he did not see where this would infringe upon the power of the County Executive and the Administration could take the matter to Court, but he did not see how they would win.

Mr. Longenbach stated if, in fact, what County Council had done was modify the Career Service Regulations and it was referenced by Mr. Zito, the Home Rule Charter required it to be first passed by the Personnel Commission.

In response to Mr. McClure’s question as to whether this presented a judicial disagreement, Mr. Zito answered it did not. He advised the power of the governing body was not being abused
by providing a mechanism for the employees to understand and determine what was binding on them in the course of their employment as to whether it was policy or regulation.

As there were no further questions or comments, Mrs. McHale called for the vote.


The resolution was adopted by a vote of 8-0.

Public Hearing on the Ordinance Providing for Approval of the Appointment of the Northampton County Members of the Joint Northampton-Lehigh County Department of Health

Mrs. McHale stated this ordinance was introduced by Mrs. Neiper and Mr. Dowd at the meeting held September 18, 2008.


WHEREAS, on December 7, 2007, Northampton County Council enacted Ordinance No. 475, effective January 6, 2008, adopting a resolution of Northampton County Council creating and providing for the establishment of the Joint Northampton-Lehigh County Department of Health, under the Local Health Administration Law of the Commonwealth of Pennsylvania, 1951, Aug. 24, P.L. 1304, §1, 16 P.S. 12001, et seq.; and,

WHEREAS, the Joint Northampton-Lehigh County Health
Commission has recommended for approval by Northampton County Council the following appointees to the Joint Northampton-Lehigh County Department of Health.

NOW, THEREFORE, BE IT ENACTED UNDER THE NORTHAMPTON COUNTY HOME RULE CHARTER §1-602 (14) AND RESOLVED AS LAW THAT:

1. The appointment of David G. Beckwith is approved and confirmed for the initial term of two (2) years from the second Monday in January 2009 in accordance with §12007 of The Act (16 P.S. 1200).

2. The appointment of Carol A. Kuplen is approved and confirmed for the initial term of two (2) years from the second Monday in January 2009 in accordance with §12007 of The Act (16 P.S. 1200).

3. The appointees shall serve and conduct meetings and be compensated only as provided for as specified in the Local Health Administration Law of the Commonwealth of Pennsylvania, 1951, Aug. 24, P.L. 1304, §1, 16 P.S. 12001, et seq., as amended.

4. This Ordinance is a companion to Ordinance No. 475 of Northampton County Council enacted December 7, 2007 and constitutes legislative action under paragraph 4 of that ordinance.

Mrs. McHale asked if there were any questions or comments from the public. There were no respondents.

Mrs. McHale then asked if there were any questions or comments from the members of County Council.

Mr. Angle advised it concerned him that this forum was stacked with health care individuals and he did not see any financial, bank officials or Chief Operating Officers individuals. He further advised Mr. Stoffa had indicated no taxpayer money, only money from the State and gambling, would support this endeavor. He noted this health bureau would become another layer of government and it would be a money pit because these individuals would want higher and higher levels of health care. He further noted the resumes of these individuals were outstanding from a health care prospective, but he wanted to see
at least one individual with financial expertise.

Mrs. McHale stated she believed both County Executives were working on that issue.

Mr. Stoffa advised these individuals were not only medical individuals, but hospital individuals and that was a very important distinction because the hospitals would be part of this and would be asked for money.

Mr. Angle stated he was not aware of any signed documentation from any hospital indicating they were making any commitment to any dollars.

Mr. Stoffa advised a contract could not be drawn up until the health bureau was established.

Mrs. Neiper stated the committee was happy to see the two additional names and they would shortly be presenting the last joint individual. She further stated Mrs. McHale and Mr. Percy Dougherty, Chairman, Lehigh County Commissioners, would be meeting to review these resumes and submit a recommendation.

Mrs. McHale advised she informed Mr. Marcus that Mrs. Neiper would be a better representative because she had been involved in this matter on a regular basis. Mrs. Neiper indicated she would accept to be the representative.

As there were no further questions or comments, Mrs. McHale called for the vote.

The vote: Neiper, “yes”; Dowd, “yes”; McClure, “yes”; McHale, “yes”; Angle, “no, noting it did not have to with these individuals’ qualifications, but with the make up of the board”; Cusick, “yes”; Dertinger, “yes” and Ferraro, “yes”.

The ordinance was adopted by a vote of 7-1.

Public Hearing on the Ordinance Providing for the Conveyance of an Easement on County-owned Real Property, in East Allen
Mrs. McHale stated this ordinance was introduced by Mrs. Ferraro and Mr. Dowd at the meeting held September 18, 2008.

AN ORDINANCE PROVIDING FOR THE CONVEYANCE OF AN EASEMENT ON NORTHAMPTON COUNTY-OWNED REAL PROPERTY IN EAST ALLEN TOWNSHIP TO PPL ELECTRIC UTILITIES CORPORATION

WHEREAS, Northampton County Home Rule Charter Article 602 (a)(6) provides that the Northampton County Council shall enact an ordinance for any act which “conveys or leases or authorizes the conveyance or lease of any real property of the County.”; and

WHEREAS, PPL Electric Utilities Corporation has requested an electric and communication lines easement, across County-owned land in East Allen Township; and

WHEREAS, in accordance with the provisions of the Northampton County Administrative Code, Article XIII Procurement and Disposition of County Property, Section 13.15 Purchase, Sale and Lease of Real Estate a. and b. the Northampton County Executive presented two (2) sealed appraisals on the subject property (copies of both are attached hereto and labeled as Exhibits “A” and “B” respectively).

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED, by the Northampton County Council that it does hereby agree to grant, in consideration of Two Thousand ($2,000) Dollars, an easement, on Northampton County-owned lands located in the Township of East Allen, County of Northampton, Commonwealth of Pennsylvania (as further described in certain deed dated December 23, 1980 and recorded in the Office for Recording of Deeds in and for Northampton County in Deed Book 622, Page 1030, being further described as Tax Identifier Number K6-15-1 PKB 0508C), to the PPL Electrical Utilities Corporation according to the terms and conditions of the easement agreement (a copy of which is attached and labeled as Exhibit “C”).

Public Hearing

Mr. Michael A. Galio, 528 Linden Street, Bethlehem, PA - advised he was the Business Agent for the Lehigh Valley
Carpenters Local 600 and was present to speak against granting the easement to PPL, which would directly benefit Keystone Cement. He further advised he had a packet of information which would shed some light on the caliber of workers that these big out-of-state contractors brought into the Lehigh Valley (see Attachment #3).

Mr. Stephen Hayden, Plant Manager, Keystone Cement Company, East Allen Township, PA - stated he had been employed there for approximately 30 years and they have been producing cement in the Lehigh Valley since 1928. He further stated they currently employed approximately 200 employees, 130 of which were hourly employees that were represented by the United Steelworkers International Union, and the balance was salaried employees.

Mr. Hayden advised due to the current economic situation and cost increases had made their existing facility not viable for long term operation. Therefore, in 2006, their parent company decided to make an investment of approximately $250 million to modernize the facility. He further advised that modernization included an upgrade in capacity and that capacity would be provided by the latest in technology. He noted the modernization would ensure the jobs of their current employees and long term success of the company for approximately 50-60 years.

Mr. Hayden stated as part of this modernization project, they had to install an electrical distribution substation, which would provide power to the new facility and those power lines would come from PPL. He further stated those lines would cross their land and provide power to the substation, which would then be distributed to their facility, however, in the route to get to the substation, there was a small landlocked parcel that the County owned.

Mr. Hayden asked County Council to approve the easement so PPL could provide power to their new facility.

Mr. John Crawsley - asked if Keystone Cement was doing such a good job to upgrade this facility to keep this facility as top line, why they did not do it with American money. He stated if they were getting their money from Mexico, he asked why they did not run a pipe line for electric from Mexico.
Mrs. McHale asked if there were any other members from the public who wished to speak. There were no respondents.

Mrs. McHale then asked if there were any questions or comments from the members of County Council.

Mr. Angle commented the only issue he had was if it was a land locked piece of property, why not sell the whole piece of land instead of providing an easement.

Mr. Angle then made a motion to table this matter so it could be discussed at a Finance Committee meeting.

Mr. Dowd seconded the motion.

Mrs. McHale asked for the vote on the motion to table the ordinance.

The vote: Angle, "yes"; Dowd, "yes"; Cusick, "yes"; Dertinger, "yes"; Ferraro, "yes"; McClure, "yes"; McHale, "yes" and Neiper, "yes".

The motion was passed by a vote of 8-0.

Mr. Stoffa stated selling the whole piece of land was not a good idea because the Nor-Bath Trail ran through it. He further stated this property was bought with Pennsylvania Department of Conservation and Natural Resources money and he did not know if they would allow it to be sold.

Response to Comments Made During Courtesy of the Floor

Mr. Dertinger advised after sitting patiently while Mr. O’Hare accused him of making false accusations against Ms. Sutton-Falk, he wanted to state that his accusations were not false because Ms. Sutton-Falk had been abrasive here. He further advised on several occasions, with his degree being in Industrial Labor Relations, she had directed her comments to him that if he understood the law, which he found to be argumentative and abrasive. Therefore, he believed his comments stood and he was standing by them. He noted Mr. O’Hare came to these meetings and made up a collection of lying statements time and again either here or when he crawled home to his computer to
say things that were, in fact, that we violated the...

Mr. Angle interrupted at this time to ask for a point of order because he did not feel it was appropriate for Mr. Dertinger to say Mr. O’Hare crawled home.

Mr. Angle and Mr. Dertinger spoke over each other with a bitter exchange of words and Mrs. McHale asked if they wanted to take a five minute recess.

As the bitter exchange of words continued, Mrs. McHale asked if there was motion to adjourn, however, Mr. Dowd indicated there were citizens present who came to hear a presentation regarding railroad transportation.

Mr. Dertinger stated he would suspend his remarks in respect to Mr. Marin.

Mrs. McHale apologized for the behavior by some of the members of County Council and continued with the meeting.

Presentation of the Railroad Service Proposal

Mrs. McHale introduced Mr. Paul Marin, Chairman of the Lehigh Valley Economic and Development Corporation (LVEDC) Transportation Committee, who had been giving presentations throughout the area, including LVEDC and the Lehigh Valley Industrial Park organization. She advised this presentation was very well received at LVEDC, noting they had committed $100,000 for a grant to move forward with this study. She noted it was hopeful that Lehigh and Northampton Counties would also commit to a contribution.

Mr. Murin provided a power point presentation pertaining to the railroad service proposal (see Attachment #4).

Mr. Murin advised Congress was creating new sources of funding for transit. He further advised vehicle travel was down, Sports Utility Vehicles sales were plummeting, airlines were reducing services, however, rail ridership was increasing and new funding was possible.

Mr. Murin stated a rail network was essential for personal mobility in the future as fuel prices increased and it offered
Mr. Murin advised the Lehigh Valley was one of the fastest growing regions. He further advised they were looking at a rail network of five rail corridor proposals. He noted they were considering a rail network instead of individual corridors because large ridership gained greater number of origin-destination pairs, a shared fleet would save money and it would provide greater mobility per unit of investment. He further noted downtowns would flourish, rail would become a realistic alternative to flying and driving, it would provide a broader political coalition to lobby for funding and a common ticketing and route planning infrastructure could be deployed which would dramatically increase ridership.

Mr. Murin stated Transit Oriented Development (TOD) was considered the best bet because empty nesters and young families were looking to escape congestion and commuting and were more likely to ride transit.

Mr. Murin advised these proposals were compatible with Governor Rendell’s economic development initiatives for midsize cities, it would economically benefit downtowns and appropriate zoning and agricultural programs could preserve open space. He further advised the potential funding was available.

In conclusion, Mr. Murin stated the first step was to move forward with the Pennsylvania portion of the CNJ/Raritan Valley Transit Study. Further, he would like Northampton County to contribute to this study to create a state rail plan.

Mr. Angle advised Mr. Mike Kaiser, Lehigh Valley Planning Commission, had stated, before the $700 billion bailout, that he could not imagine in his dreams, the Federal government would find money for this with the current problems they were facing. Therefore, he asked if Mr. Murin felt this endeavor had a chance.

Mr. Murin stated he believed it did and the current situation actually increased the odds. He further stated at this time, he was only proposing to move forward with the study.

In answer to Mr. Cusick’s question as to how much this
whole project was going to cost, Mr. Murin replied he did not have a number.

Mr. Cusick advised he believed this was going to be another study that would be put on the shelf and forgotten.

In response to Mrs. McHale’s question, Mr. Stoffa stated the $75,000 for this study was put in the 2009 Proposed Budget.

In answer to Mr. Dertinger’s question, Mrs. McHale advised she wanted to know if the money was in the budget before issuing a resolution of support.

Messrs. Dertinger and Dowd indicated they would like to be co-sponsors of such a resolution.

Mrs. McHale stated two documents were received by the County Council Office from the Lehigh Valley Association of Realtors supporting this proposal (see Attachments #5 and #6).

Consideration of the Conservation District 2009 Fee Schedule Resolution

Mrs. McHale advised the Northampton County Conservation District, at its meeting held September 16, 2008, voted to increase the existing Erosion and Sedimentation Pollution Control Plan Review Fee Schedule and asked County Council to approve the new fee schedule.

Mrs. Ferraro introduced the following resolution:

R. 64-2008 WHEREAS, Northampton County Council Ordinance No. 17-79 provides that the Northampton County Council shall set fees, charged by various County agencies by means of a resolution; and

WHEREAS, the Northampton County Conservation District Board of Directors, at its meeting held September 16, 2008, voted to increase the existing Erosion and Sediment Pollution Control Plan Review Fee Schedule.

NOW, THEREFORE, BE IT RESOLVED, By the Northampton County Council that effective January 1, 2009, Northampton County
County Council Minutes -26- October 2, 2008

Conservation District Erosion and Sediment Pollution Control Plan Review Fee Schedule shall be as indicated hereafter:

I. FEE SCHEDULE

A. The following fees will be charged by the Northampton County Conservation District for Erosion and Sediment Pollution Control Plan Review. Applications cannot be accepted or processed for review without the appropriate fee, complete application form and the required number of plans.

1. Residential Development

<table>
<thead>
<tr>
<th>Number of Lots</th>
<th>General Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.........................</td>
<td>$ 130.00  $ 160.00</td>
</tr>
<tr>
<td>2-4......................</td>
<td>715.00  930.00</td>
</tr>
<tr>
<td>5-10...................</td>
<td>1,400.00  1,820.00</td>
</tr>
<tr>
<td>11-25..................</td>
<td>2,180.00  2,840.00</td>
</tr>
<tr>
<td>26-40...................</td>
<td>2,830.00  3,680.00</td>
</tr>
<tr>
<td>41-55..................</td>
<td>3,560.00  4,630.00</td>
</tr>
<tr>
<td>56-70..................</td>
<td>4,320.00  5,620.00</td>
</tr>
<tr>
<td>71 and above...........</td>
<td>4,320 + $50.00  5,620.00 + $65.00/lot over 70 lots</td>
</tr>
</tbody>
</table>

2. Industrial/Commercial (including apartments and townhouses)

<table>
<thead>
<tr>
<th>Number of Acres</th>
<th>General Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-0.99..............</td>
<td>$ 715.00  $ 930.00</td>
</tr>
<tr>
<td>1-4.99..............</td>
<td>1,400.00  1,820.00</td>
</tr>
<tr>
<td>5-9.99..............</td>
<td>2,180.00  2,840.00</td>
</tr>
<tr>
<td>10-14.99............</td>
<td>2,830.00  3,680.00</td>
</tr>
<tr>
<td>15-19.99............</td>
<td>3,560.00  4,630.00</td>
</tr>
<tr>
<td>20-24.99............</td>
<td>4,320.00  5,620.00</td>
</tr>
<tr>
<td>25 and above........</td>
<td>4,320.00 + $50.00</td>
</tr>
<tr>
<td></td>
<td>5,620.00 + $65.00/acre over 24.99 acres</td>
</tr>
</tbody>
</table>

3. Timber Harvesting/Mining/Farm Ponds/Chapter 105 Permit Activities
II. WAIVER OF FEES

A. Fees will be waived only for an application filed under the name of a governmental agency of the United States, Commonwealth of Pennsylvania, or the County of Northampton. This exemption does not apply to municipalities, school districts or special purpose authorities or to any private, nonprofit organization or supersede Title 25, Chapter 102, Erosion and Sediment Control Regulations. For erosion and sediment control plan reviews, municipalities, school districts and authorities shall pay 50% of the applicable commercial fee. Only Commonwealth agencies are exempt from the NPDES fee.

III. PROJECT AREA DELINEATION

A. The entire parcel, including off-site improvement area, shall represent the basis used for the fee schedule. Open space area shall be included in the total project area.

IV. APPLICABILITY OF FEE SCHEDULE

A. The fee schedule shall apply to those plans that are submitted to the Conservation District requesting determination of Erosion and Sediment Pollution Control adequacy. Each resubmission of a different project on the same tract of land
B. Plan revisions requesting determination of adequacy, resubmitted within thirty (30) days after the District determined the original plan to be adequate, shall be subject to a $100.00 processing fee. To be eligible for this provision, a cover letter must be included with the resubmitted plan that outlines and details the extent of the revision.

C. Plans resubmitted that do not meet the requirements of Section B and where major revisions do not occur, shall be subject to 25% of the original fee.

D. Inadequate/deficient plan reviews - If, after the second review, the plan is deemed inadequate, the third submission is subject to a charge of 25% of the original fee. Each subsequent submission will continue to be charged 25% of the original fee.

E. Letters of adequacy issued by the District are valid for four (4) years from the date of issuance. Failure to begin earthmoving within four (4) years of accepted plan will invalidate the review and require a resubmission, which is subject to an additional fee, not to exceed the review fee schedule in effect at the time of resubmittal.

F. Plans that are revised and resubmitted more than two (2) years from the date of the last deficiency letter will require a new application and fee, which will be charged according to the fee schedule at the time of the latest submission.

V. ADMINISTRATIVE PROCEDURES

A. The applicant shall submit a check or money order payable to the Northampton County Conservation District, one complete set of Erosion and Sedimentation Pollution Control Plans and one copy of the review application.

B. The Northampton County Conservation District will accept the application when all the necessary information and fees are supplied. The maximum review time will be thirty (30)
C. Pennsylvania Department of Environmental Protection NPDES Permits and ESCP Permits will be administered under the Bureau of Watershed Management administrative guidelines.

VI. PUBLICATIONS AVAILABLE FOR FEE

A. Northampton County Soil Survey (USDA, 1974)
$20.00

As there were no questions or comments, Mrs. McHale called for the vote.


The resolution was adopted by a vote of 8-0.

Consideration of the Resolution Regarding the Confirmation of Leonard N. Zito to the Northampton County Court of Common Pleas

Mrs. McHale stated at the request of Mr. Angle, a resolution was prepared which called upon the Pennsylvania State Senate to confirm Governor Rendell’s nomination of Mr. Zito to the Northampton County Court of Common Pleas.

Mr. Angle introduced the following resolution:

R. 65-2008  WHEREAS, The Honorable Leonard N. Zito was nominated by the Governor of the Commonwealth of Pennsylvania to fill the vacancy on the Northampton County Court of Common Pleas, which was created when former President Judge Robert Freedberg was sworn in as a Judge on the Pennsylvania Superior Court; and

WHEREAS, Leonard N. Zito has had a successful and varied private legal career that spans the past 37 years and has included being the Solicitor to the Northampton County Council since January 2006.
WHEREAS, Leonard N. Zito previously served on the Northampton County Court of Common Pleas and has developed a well-deserved reputation as a seasoned jurist with a work ethic that is to be admired.

NOW, THEREFORE BE IT HEREBY RESOLVED By the Northampton County Council that it strongly and enthusiastically supports the confirmation of Leonard N. Zito to fill the current vacancy on the Northampton County Court of Common Pleas. Further, the Northampton County Council calls upon the Senate of the General Assembly of the Commonwealth to confirm Leonard N. Zito to serve on the Northampton County Court of Common Pleas.

Mrs. McHale asked if there were any questions or comments. As there were no respondents, she called for the vote.


The resolution was adopted by a vote of 7-1.

Wind Gap Issue

Mr. Angle asked if there was any update on the Wind Gap matter to schedule an Executive Session.

Mr. Zito advised there may be some issues that would have to be discussed in an Executive Session, however, a lot of the information had been made public because several conferences have been held and pleadings had been filed by those involved. He further advised Wind Gap still desired to settle, but the snag was that if they settled, there was the potential that the developer may sue the County and the Authority at which time they would have to join Wind Gap as an additional defendant. He noted he personally did not believe there was a likelihood that would happen, but that was the snag right now for the County in settling with Wind Gap.

Mr. Zito stated he suggested to the Wind Gap solicitor last week that he could prepare a petition to appear before County Council to be heard publicly on this matter so that at least one
component of that litigation could be resolved.

Human Services Committee Report

Mrs. Neiper advised the format of how the Gracedale window project was going to be handled changed. She further advised they now planned to do it a floor at a time, noting the tenth floor was totally vacated with those residents being placed in the section that was just remodeled.

Prison Liaison Report

Mrs. McHale stated the County Prison now had a website that provided general information and information for those families who could not make regular visiting hours. She suggested everyone take a look at it.

Council Solicitor's Report

Mr. Zito provided a copy of his Solicitor’s Report for this meeting (see Attachment #7).

Adjournment

Mr. Dertinger made a motion to adjourn.

Mr. McClure seconded the motion.

The motion passed by acclamation.

Frank E. Flisser
Clerk to Council