A regular meeting of the Northampton County Council was held on the above date with the following present: Ron Angle, President; John Cusick, Vice President; Thomas H. Dietrich; J. Michael Dowd; Margaret L. Ferraro; Bruce A. Gilbert; Lamont G. McClure, Jr.; Ann McHale; Barbara A. Thierry; Philip D. Lauer, Solicitor to Council, and Frank E. Flisser, Clerk to Council.

Prayer

Reverend Paul Cronin, New Creation Church, Easton, led County Council in prayer to open the meeting.

Pledge of Allegiance

An unnamed Veteran led County Council in the pledge of allegiance.

Approval of the Minutes

Mrs. McHale made the following motion:

Be It Moved By the Northampton County Council that the minutes of the September 2, 2010 meeting shall be approved.

Mr. Dowd seconded the motion.

The minutes were approved by voice acclamation.

Courtesy of the Floor

Ms. Mary Ann Schmoyer, 480 Rabbit Road, Bath, PA - stated she was at yesterday’s Personnel and Finance Committees meeting and listened to the gentlemen talk about the Dauphin County nursing home. She further stated that facility was different from Gracedale in that they provided mostly rehabilitation where Gracedale did very little. She noted Gracedale was a long term facility and most of the residents were beyond rehabilitation where they could go home again. She further
noted a lot of them had been to other private nursing homes and after their money was gone, had 30 days to find somewhere else to live so they came to Gracedale.

Ms. Schmoyer advised Gracedale had 725 beds with 124 beds vacant and 100 beds for Alzheimer patients, who needed more care than regular patients. She further advised there were 70 patients that required skilled nursing, which meant they had to be taken care of by either a Registered Nurse or Licensed Practical Nurse. She noted Gracedale had 300 alternative beds for patients who had a variety of ailments.

Mr. Joseph Mammana, 800 Frutchey Hill Road, Easton, PA - advised the gentlemen from Dauphin County were gracious enough to talk to them for a short period after the meeting and they indicated they did not have an Alzheimer facility. He further advised a few weeks ago, he attended an Upper Nazareth Board of Supervisor meeting at which the guest of honor was Mr. Angle and the discussion was going to be about the sale of Gracedale.

Mr. Mammana stated Mr. Angle indicated he had conducted his own survey and the finding was that an overwhelming number of people preferred the sale of Gracedale to the raising of taxes. He would be interested in the results, the random sampling and how the survey was conducted.

Mr. Angle advised the poll was proprietary in nature, which he paid for, was for his benefit and was conducted in District IV, which were the people he represented.

In answer to Mr. McClure’s question as to why he would not release the results of the survey, Mr. Angle stated he paid for the poll and it was for the benefit of him and his district.

Mr. Mario Martinez, Forks Township, PA - advised he was representing the Coalition of Alzheimer Patients and provided a petition of names of people who did not want Gracedale leased or sold (see Attachment #1). He further advised he found some of the behavior at some of these meetings atrocious because everyone was supposed to behave like professionals.

Ms. Donna Barney, 40 Rodeo Drive, Kunkletown, PA - stated if Mr. Angle paid for the survey for his private use, then he should have kept it private and not used it as a tool to get
what he wanted. She further stated a survey was only as good as
the method used to collect the information.

In response to Ms. Barney’s question as to whether the
nursing facilities Mr. Dietrich visited knew in advance of his
visit, Mr. Dietrich advised his presence was kept secret until
the day of his arrival.

Ms. Barney stated Medicare rated facilities on three items:
health inspections, staffing and quality measures. She further
stated Gracedale’s overall rating was 2, with 2 for health
inspections, 3 for staffing and 4 for quality measures. She
noted Lackawanna received an overall rating of 1, with 1 for
health inspections, 4 for staffing and 1 for quality measures.
She further noted Carbon County had an overall rating of 1, with
1 for health inspections, 2 for staffing and 1 for quality
measures. Additionally, Dauphin County had a rating of 1, with
1 for health inspections and 1 for quality measures.

Ms. Barney asked where were the residents of Northampton
County going to go when they needed care and Gracedale was no
longer a County home and no longer accepted Medicaid like most
privately owned facilities.

Ms. Barney advised at the meeting held on September 2\textsuperscript{nd},
there was a lot of hype about the actions and a YouTube video of
Northampton County Controller Stephen Barron and representative
of T-Mobile. She further advised at that meeting Mrs. Thierry
had called Mr. Barron’s behavior bullish, however, members of
County Council should be concerned about the behavior of
President Angle at meetings and on television shows, such as
that displayed this past Monday on Business Matters.

Ms. Deborah Hunter, 901 Frost Hollow Road, Easton, PA –
stated the resolution that was passed at the last meeting
pertaining to Gracedale said, “It shall be clearly understood
that the requests for proposals shall indicate that any future
alternate ownership will, without qualification or exception,
assure the highest quality of patient care for all current or
future Gracedale residents”. Therefore, she would like to know
what legal mechanism would assure that was going to happen.

Mr. Angle advised the members of County Council had to make
a tough decision as to what was best not only for the residents
of Gracedale, but the citizens of the County.

Mr. Lauer stated in response to Ms. Hunter’s question, standards to be met could be written into any agreement, as well as consequences for failure to meet those standards. He further stated at this time, he was not prepared to define what those standards might be.

Ms. Hunter advised the resolution also stated Gracedale “serves the medically and financially indigent residents of Northampton County and their relatives. The mission of Gracedale is to rehabilitate its residents to their highest practical level of medical, social and psychological well-being”. She further advised selling Gracedale would kill its mission because there would no longer be a County facility that was going to be the place where people who were indigent could go.

County Executive’s Report

Mr. John Stoffa, County Executive, stated the Legal Request for Quotations (RFQ) for Gracedale were due Monday. He further stated he was forming a committee to review them and he would like someone from County Council to participate.

When Mr. Angle asked if any member of County Council wished to be on the committee, Mr. Dietrich, Mr. Gilbert and Mrs. Thierry volunteered.

Mr. Stoffa advised 8,000 cars passed on Washington Street daily and he was working with the City of Easton to provide safety for the pedestrians as one employee was already struck by a car, which thankfully was not serious.

Mr. Stoffa stated on January 1, 2011, the cap will come off major medical for approximately 700 County retirees and it was not known what impact that was going to have on the County finances.

Mr. Stoffa advised Ms. Louise W. Moore Pine recently passed away and left $2 million to the County, which was in addition to the $1 million that was given years ago. He further advised he
was concerned because the County did not have good oversight of these trusts and someone should be appointed to manage them.

Mr. Stoffa stated he wanted to reinstate the Records Improvement Committee to look at Archives and requested that Mr. Cusick be appointed to it. Mr. Cusick agreed to serve.

Mr. Steve DeSalva, Director of Public Works, advised an investigation and assessment of the County’s mechanical and electrical systems was done to look for opportunities to save money under an energy efficient contract. He further advised Request for Proposals went out for an energy savings company and were due at the end of the month. He noted the contract would be for a 10-15 year term. He further noted he wanted to act on this quickly and if any members of County Council wanted to participate in the evaluation of the proposals to let him know.

Mr. Dowd and Mr. Angle volunteered to participate in the evaluations.

In response to Mrs. McHale’s question as to where the funds would come from to do the renovations on the farmhouse if the Delaware and Lehigh National Heritage Corridor was to lease it, Mr. Stoffa indicated the money would come from the estate funds.

In answer to Mr. Dietrich’s question as to whether he had received correspondence regarding the institution of a County-wide no burn policy, Mr. Stoffa replied he did receive an e-mail.

In response to Mr. McClure’s question that the RFQ was to hire attorneys to begin the process of advising the County on how to sell Gracedale, Mr. Angle stated that was correct.

Mr. McClure advised he was concerned that as the County was contemplating getting out of the nursing home business, it was getting into the prison business because an editorial in the Express Times indicated the ruling from the lawsuit indicated there was an agreement between Bethlehem Township and Mr. Abraham Atiyeh wherein the County would run the facility, the township would not be legally responsible for anything that occurred there, which he felt meant the County would, and the County would reimburse the township for any medical emergency service related fees. Mr. McClure further advised the County was not a party to the lawsuit and did not, verbally or in
writing, agree to these terms so it was just two parties imagining the County would agree to them.

   Mr. Stoffa stated it was a good faith effort to try to move forward with alternatives to the situation at the Prison.

   In answer to Mr. McClure’s question as to whether these entities were given the impression that the terms of their agreement were agreeable to the County, Mr. Stoffa replied he believed so through discussions at the various meetings.

   Mr. McClure advised the editorial also reported that the Prison was overcrowded and vulnerable to lawsuits and this center would free up needed space in the Prison and would provide low level offenders with a suitable place to get therapy, job counseling and commute to employment. He further advised the problem with that was the County was going down one of two paths and that was having excess capacity and thereby needing to take prisoners from other Counties in order to pay the bills that would eventually accrue or the type of punishment that occurred in the County would no longer be incarceration because if there were two facilities that would hold 400 people then the people who would have been in prison were now going to be on Work Release and in the community during the day.

   Mr. Stoffa stated that was not true, but he did not want to discuss the matter at this time, noting he planned to have a recommendation within the next few weeks.

   Mr. Angle advised the County had made no commitments whatsoever to go to Bethlehem Township. He further advised they had discussions, but no commitments were ever made.

   In response to Mr. Dowd’s question as to whether any decision was made as to when the rate cap came off Met-Ed in January if it was going to be made part of the contract that was put into place when the rate cap came off PP&L, Mr. Vic Mazziotti, Director of Fiscal Affairs, stated they were in the process of redoing the bid process for both entities. He further stated they had to enter into a contract with PPL because the rate cap came off, but it was only a one year contract so they could look at incorporating the two of them.
Confirmation of Appointments

Mrs. McHale advised a vote would be taken first on all the appointments, except for the Farmland Preservation Board which would be done separately as all the recommendations, except for the Farmland Preservation Board, were approved unanimously by the members of the Personnel Committee present at yesterday’s meeting.

Mrs. McHale introduced the following resolution:

R. 83-2010  RESOLVED, by the Northampton County Council that the following individuals shall be confirmed in their appointments/re-appointments as indicated hereafter:

AREA AGENCY ON AGING
ADVISORY COUNCIL

Appointment:  Term to Expire: 7/1/12
Arjanna G. Frank
1613 Butler Street
Easton PA 18042

DRUG & ALCOHOL ADVISORY BOARD

Re-appointments:  Terms to Expire: 6/30/12
John R. Judd
548 North New Street
Bethlehem PA 18018
Bonnie S. Coyle, M.D., M.S.
5984 Kesslersville Road
Nazareth PA 18064

Mary Tirrell Enslin
189 Treeline Drive
Pen Argyl PA 18072

Sally M. Gillispie
3130 Center Street
Bethlehem PA 18017-1106
Frank E. Stanton
614 East Washington Avenue
Bethlehem PA 18017
Mr. Angle called for the vote on all the appointments except for Farmland Preservation Board.


This portion of the resolution was adopted by a vote of 9-0.

With regard to the appointment for Farmland Preservation Board, Mrs. Ferraro asked if there was any ruling regarding a spouse of a County Council member serving on an authority, board or commission.

Mr. Gilbert stated in this instance he did not see a perception of impropriety nor did he see that any impropriety would occur, therefore, he completely supported the nomination.
In answer to Mr. Angle’s question as to whether he thought there was a conflict with Mr. Thierry serving on the Farmland Preservation Board and Mrs. Thierry being a Council person, Mr. Lauer advised he did not know of any facts about Mr. Thierry or Mrs. Thierry that would cause him to believe that there was a conflict. He further advised he felt the mere fact that someone was married to a Council person, disqualified them from serving on an authority, board or commission.

Mr. McClure stated he did not see any conflict, at this time, with Mr. Thierry’s appointment, but he would not be voting for him.

As there were no further questions or comments, Mr. Angle called for the vote on the recommendation for the Farmland Preservation Board.


This portion of the resolution was adopted by a vote of 6-2, with 1 abstention.

Therefore, resolution, in its entirety, was adopted.

Consideration of the Resolution Regarding the Tatamy Interchange

Mr. Dowd advised this resolution would further advance the proposed Route 33 Interchange and economic development in the County and enable a request for money from the State budget for this project.

Mr. Dowd introduced the following resolution:

R. 84-2010    WHEREAS, the Tatamy Interchange is Northampton County’s top economic development priority; and

WHEREAS, the interchange, proposed between Route 248 and Stockertown exits of Route 33, recently received Point of Access approval by the Pennsylvania Department of Transportation; and
WHEREAS, when completed, the full interchange will provide access to over 800 acres of undeveloped land for potential commercial and industrial development in Palmer Township and Tatamy Borough; and

WHEREAS, the existing interchanges cannot provide the necessary access nor can they be improved to accommodate traffic demands; and

WHEREAS, the new transportation improvements will help establish the Chrin Commerce Center which will be one of the largest industrial parks in Northampton County, and provide improved access to the Forks and Palmer Industrial Parks, as well as the Forks Business Center; and

WHEREAS, the Northampton County Industrial Development Authority is leading the development of a Tax Increment Financing District to fund the $25 million project; and

WHEREAS, a $14 million funding request for the interchange was included in Act 41 of 2008, the Capital Budget Project Itemization Act of 2007-2008.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council supports the Capital Budget funding request to the office of the Honorable Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, for the proposed Route 33 Tatamy Interchange.

Mrs. McHale stated she attended a luncheon with the Secretary of Transportation and he indicated this was not on the State’s radar and would not be for another ten years.

Mr. Dowd advised the Chrin Development Company and hopefully in cooperation with the three taxing bodies and the State Capital Budget, would be able to move this project forward. He further advised they had received permission to move forward with the final design study, which came from the Secretary of Transportation, and as such, they were able to apply for the State grant.

As there were no further questions or comments, Mr. Angle called for the vote.

The resolution was adopted by a vote of 7-2.

Review of the Court’s Personnel Requests – DUI Program

Mrs. McHale stated this resolution would eliminate the outsourcing of the Alcohol Safety Program and bring it in house, which would generate funding for the County. She then introduced the following resolution:

RESOLVED, by the Northampton County Council that the following personnel transactions shall be approved for Court Administration, Northampton County Court of Common Pleas, effective January 1, 2011:

1. The one new full-time position of DUI Probation Officer II, pay grade CP-25, salary range $39,982 to $54,411, shall be created in the DUI Division, Court Administration, Northampton County Court of Common Pleas.

2. The one new full-time position of Clerical Specialist, pay grade CR-16, salary range $26,419 to $35,953, shall be created in the DUI Division, Court Administration, Northampton County Court of Common Pleas.

3. The one full-time position of Juvenile Probation Officer II, pay grade CP-25, salary range $39,982 to $54,411, shall be abolished in the Juvenile Probation Division, Court Administration, Northampton County Court of Common Pleas.

4. The one part-time position of Judicial Secretary pay grade CS-19, salary range $32,236 to $46,875, shall be abolished in the Court Administration Division, Northampton County Court of Common Pleas.
In answer to Mr. McClure’s question as to whether they had the money in their budget, Mrs. McHale advised they did not, but it would be in next year’s budget, however, they wanted to start the process because they had to notify the incumbent carrier that they were terminating their contract.

Mr. Angle stated he liked the program, but he could not vote for it because it was for next year’s budget and he did not have next year’s budget.

In response to Mr. McClure’s comment that they were creating new jobs, Mrs. McHale advised they were eliminating two and creating two and the anticipated net revenue to the County’s General Fund on an annual basis would be $170,000.

Mr. Dowd stated County Council should take a look at the success of the program now and the recidivism to determine whether the County could do better.

Mr. Dietrich made a motion to table this resolution until the first meeting in October which would be after the budget was received.

Mr. Dowd seconded the motion.

Mr. Angle called for the vote on the motion to table.


The motion passed by a vote of 6-3.

Review of the County Executive’s Requests to Fill Vacancies

Mrs. McHale advised the members of the Personnel Committee present at yesterday’s meeting unanimously voted to recommend these positions to the whole of County Council. She further advised the County Executive also approved of these positions.

Mrs. McHale introduced the following resolution:
R. 85-2010  RESOLVED, by the Northampton County Council that it does hereby concur with the recommendation of the County Executive to fill the following vacant positions: (1) Sheriff’s Department - two (2) full-time Deputy Sheriff Sergeant positions, pay grade CS-24, annual salary range of $40,580-$59,008; (2) Criminal Division, Department of Court Administration - two (2) full time Clerical Technician positions, pay grade CR-13, annual salary range of $23,009-$31,311; (3) Area Agency on Aging Division, Department of Human Services - one (1) Aging Care Manager III, pay grade PS-37, annual salary range $40,173-$63,713; (4) Gracedale, Department of Human Services - 4.75 FTEs - Dietary Aide or Dietary Utility positions, pay grade GU-01, annual salary range of $22,489-$28,613 and (5) Gracedale, Department of Human Services - 2.50 FTEs - Therapeutic Recreation Aides, pay grade GU-02, annual salary range of $23,160-$29,482.

As there were no questions or comments, Mr. Angle called for the vote.


The resolution was adopted by a vote of 9-0.

Mrs. Ferraro stated she talked to Ms. Holly Ruggiero, Clerk of Courts-Prothonotary who informed her they were down four positions in her division. However, she wanted to make it clear that Ms. Ruggiero did not lobby for any positions, it was a comment made in passing.

In answer to Mr. Dietrich’s comment regarding the Prison needing more Correction Officers, Mrs. McHale advised the Prison should have their full complement.

Mr. McClure stated he was going to continue to support positions that have already been budgeted that were brought before County Council.

Consideration of the Read the Constitution Resolution
Mr. Angle introduced the following resolution:

R. 86-2010  WHEREAS, the United States Constitution is the oldest written national constitution still in continuous use; and

WHEREAS, the United States Constitution protects the liberty of the American people by limiting the Federal government to a very few specified powers, leaving the general power of government to the several States; and

WHEREAS, the United States Constitution recognizes in the Ninth Article of Amendment the Natural Rights of man referred to in the Declaration of Independence; and

WHEREAS, the people of the United States are less familiar with the history and text of the Constitution than previous generations of Americans; and

WHEREAS, this wonderful inheritance can be lost through indifference and ignorance, allowing those in power to trespass on the Constitution and the liberties of the people; and

WHEREAS, the public reading of the text of the United States Constitution is an effective way for a community to appreciate the providential gift of the Constitution and the way it protects them from tyranny; and

WHEREAS, the Constitution was approved by the Constitutional Convention in Philadelphia on September 17, 1787 and sent to the States for ratification.

NOW, THEREFORE, the Northampton County Council does hereby declare September 18, 2010, the first Saturday following the anniversary of the close of the Constitutional Convention, as Read the Constitution Day in Northampton County.

Mr. McClure read several of his favorite amendments to the constitution.

As there were no further questions or comments, Mr. Angle called for the vote.

The resolution was adopted by a vote of 9-0.

**New Jersey Highlands Water Protection and Planning Act**

Mr. Angle advised the New Jersey Highlands Water Protection and Planning Act enabled the State to take land so it could not be developed.

Mr. Angle stated the farmers of Lower Mount Bethel Township asked that their assessments be lowered 90% as Lower Mount Bethel Township took 90% of their land. He further stated he talked to the Assessment Division and he was informed even though land was zoned industrial, commercial, farming, etc., all land was considered the same until a subdivision plan was submitted and then they determined the value of the land. However, he asked Mr. Stoffa if he could look into the matter to determine if this request was justified.

**Economic Development Committee Report**

Mr. Dowd advised the Economic Development Committee would be meeting on October 7, 2010 and he hoped to have information regarding the Palmer Tax Increment Financing proposal.

**Human Services Committee Report**

Mr. Dietrich stated the Human Services Committee met today and the Veterans Affairs Division was discussed, noting it was a very informative meeting. He further stated one of their main purposes was to help Veterans work through governmental red tape.

In response to Mrs. McHale’s question as to whether Veteran Affairs had enough money in their budget to replace flags at the cemetery, Mr. Dietrich advised that was not handled on the County level, but local non-profits, such as the American Legion or the Veterans of Foreign Wars, took care of that.
Northampton County Historical and Genealogical Society

Mr. Dowd stated he attended a meeting of the Board of Trustees of the Northampton County Historical and Genealogical Society and he learned the Just Born exhibit was now moving in. He further stated the Northampton County map should be available by the end of the month. He noted that they had a remarkable opening and their membership had grown.

Fire Chiefs Meeting

Mr. Dietrich advised he attended the Fire Chiefs meeting and some of them were concerned about the dry conditions and they found out some of the municipalities did not have the authority to enforce a burning ban. Therefore, he wondered if the County Executive could do a 30-day County-wide burning ban.

Consideration of the Economic Development Study Resolution

Mr. Angle stated at yesterday’s Finance Committee meeting, a discussion was held regarding the hotel tax and whether the County could do a better job in handling it and economic development, in general.

Mr. Angle then introduced the following resolution:

R. 87-2010   WHEREAS, in accordance with PA House Bill No. 157, Printer’s No. 2428, Session of 2005, the County of Northampton duly enacted ordinance No. 440 of 2005, the ordinance titled, “AN ORDINANCE IMPOSING A HOTEL ROOM RENTAL TAX AND PROVIDING FOR THE COLLECTION AND ENFORCEMENT OF THE PAYMENT OF SAID TAX”; and

WHEREAS, 68.75% of the hotel tax collections are distributed to Discover Lehigh Valley (formerly known as the Lehigh Valley Convention and Visitors Bureau); and
WHEREAS, Discover Lehigh Valley entered into a fifty-year agreement to pay to the Lehigh Valley Economic Development Corporation 36.4% of the hotel tax collections it receives; and

WHEREAS, the current funding arrangement lacks direct accountability to elected officials, and, in turn, to the public; and

WHEREAS, questions have arisen as to whether or not hotel tax funding should be diverted toward economic development purposes; and

WHEREAS, questions have arisen as to whether or not the citizens of Northampton County are best served by the current economic development programs and policies and whether or not hotel tax revenues should be a prime funding mechanism for the County’s economic development program.

NOW, THEREFORE, BE IT RESOLVED By the Northampton County Council that the Northampton County Council authorizes the Council President to initiate an analysis of the County’s economic development programs, the hotel tax collections and the role the County should play directly in economic development initiatives. It shall be understood that any study should include, but not be limited to: (1) an examination of the current process and procedures for the distribution of hotel tax revenues in Northampton County, (2) an analysis of whether or not hotel tax revenues should be used for economic development programs, (3) an examination of the County’s economic development programs and a determination made if the County’s economic development needs are best served with the current arrangement through the Lehigh Valley Economic Development Corporation and (4) whether or not the Northampton County Department of Community and Economic Development should be the comprehensive economic development entity for Northampton County. It should be clearly understood under such an initiative, the Northampton County Department of Community and Economic Development would act as Northampton County’s prime entity in all matters related to economic and community development activities and initiatives.

IT IS FURTHER RESOLVED that the economic development study should be undertaken with the clear understanding that the County must be able to measure and benchmark the County’s
economic development priorities through prospect development, market analysis and business attractions. It shall also be clearly understood that any existing and/or future economic development initiative must have a high level of accountability to the citizens of Northampton County.

Mr. McClure advised he was not going to directly address this resolution, but the procedure of its introduction. He further advised at the last meeting, a resolution originally calling for Controller Barron’s resignation was not on the original agenda, but was introduced during the meeting and the same thing is happening again with this resolution. Therefore, he was very concerned about the last minute inclusion of issues because it did not allow the members of County Council time to fully review the matter.

Mrs. Ferraro agreed with Mr. McClure and asked who would be doing the study and at what cost.

Mr. Angle stated the study would be done internally by the County’s Department of Community Economic and Development. He further stated that he felt anyone had a right to introduce a resolution at any time and if it was felt that more time should be allowed for review, then it could be tabled for another meeting.

Mr. Gilbert advised he would support this resolution because at yesterday’s meeting, Mr. Cusick brought up some very good issues about accountability and the measurement of success. He further advised he was also in favor of it because it was a study that had already been started, but was never completed.

Mrs. McHale made a motion to table this resolution until the next meeting.

Mr. McClure seconded the motion.

Mr. Angle called for the vote on the motion to table.

The motion failed by a vote of 4-5.

Mr. Cusick stated in reviewing the House Bill regarding the hotel tax, he found no reference to using tourist promotional agency monies for the purpose of economic development.

Mr. Angle advised as he stated numerous times, this was a “sweetheart” deal between certain powerful people in the Lehigh Valley and the Pennsylvania State Senate.

Mr. Lauer stated he was asked to take a look at the law and what options the County had. He further stated in 2000, the General Assembly enacted the Hotel Room Rental Tax Act which allowed the Counties to enact a 3.5% hotel tax. He noted Northampton County then enacted an ordinance proposing that tax.

Mr. Lauer advised the way the legislation read was that of the money that was collected in that tax, a certain percentage went to the County and the rest of it went to a regional tourism based promotional agency. He further advised the County selected the Lehigh Valley Convention and Visitors Bureau, now known as Discover Lehigh Valley, to be that agency.

Mr. Lauer stated there was a stipulation in the Act that the promotional tourism agency must be an agency serving more than one County. He further stated that agency, on its own, entered into a contract with the Lehigh Valley Economic Development Corporation (LVEDC), which indicated how the money was going to be divided.

Mr. Lauer advised in 2005, the legislature enacted amendments to the Act whereby they renamed it and increased the percentage to 4%. He further advised Northampton County Council enacted an amendment to increase it to a 4% tax.

Mr. Lauer stated with respect to where the money went, it was covered by State legislation where it stated it must go to a tourism agency and it had to be an agency that served more than one County. He further stated the County’s options were to repeal the tax or designate another tourism agency that met the requirements of the State statute.
Mr. Angle advised he thought another option was to have the three State Senators come to a public meeting and tell them what the County now chose to do with the hotel tax.

Mr. Lauer stated as he read the ordinance and the statute, the County was pretty limited to what it could do under what was currently provided.

In answer to Mr. McClure’s question as to whether Mr. Lauer was stating that the hotel tax could not be used for economic development, he replied that was his understanding. He noted the latest version that was adopted specified exactly what it could be used for.

Mr. McClure commented just recently Mr. Angle and Mr. Stoffa had indicated that things were getting better with LVEDC so he wondered what changed.

Mr. Angle advised when, in his position as President of County Council, he became a member of the Executive Committee at LVEDC in January, he told himself he was going to go in with an open mind and let the past go. He further advised that LVEDC began to make a lot of presentations, but presentations were not accountability. He noted he went to the Bangor Area School District Economic Development Authority, which had been working with LVEDC for more than ten years and asked how were their results. He further noted they indicated a representative of LVEDC had been coming up there for ten years and got them nothing, but they keep sending them a bill.

Mr. Angle stated he went to some other places as well and he came to the conclusion that the County could have gotten 90% of what they did without LVEDC. He further stated even though the people at LVEDC have changed, he believed the good old boy from the backroom was still running the show.

Mr. Lauer advised in the ordinance that was enacted by County Council in 2005, there was a requirement part of the money collected in Northampton County had to be retained for the further development of tourism facilities and for community development initiatives within the County that enhance regional tourism. He further advised the ordinance further indicated the County should retain 12.5% of the money for the further development of facilities and for marketing purposes within the
Mr. McClure stated the common understanding was the hotel tax money could not be used for economic development. He then asked Mr. Stoffa, with the County’s short term fiscal difficulties, if he thought the County could bring economic development in house and do as good a job as LVEDC.

Mr. Stoffa advised he felt at this time, there were excellent people at LVEDC and the County would need to hire three additional people if it was to bring economic development in house. He further advised he thought LVEDC had been trying to work with the County and he felt one of the problems with LVEDC was they were never given a clear directive of what was to be accomplished.

Mr. Dowd stated he was not prepared, at this time, to repeal the hotel tax because it had been very beneficial in many ways to both Counties. However, he was not opposed to looking at what the County’s options were to determine what things, if any, could be done better. He further stated it was important to determine exactly what the County wanted to do before deciding who was going to do it.

As there were no further questions or comments, Mr. Angle called for the vote.


The resolution was adopted by a vote of 7-2.

Consideration of the Bethlehem Tax Increment Financing Resolution

Mr. Angle asked Mr. Lauer to bring everyone up to date on this issue.

Mr. Lauer advised a TIF agreement provided a method of financing for massive improvements with part of the deal being the taxing bodies would give up a chunk of their taxing
authority for a limited period of time in anticipation that, down the road, the taxing bodies would be rewarded with higher taxes in the future.

Mr. Lauer stated the Bethlehem TIF was in its tenth year of a 20 year TIF and there was some concern about the fact that the project had strayed from what was initially anticipated in several ways. He further stated some of the development that everyone initially talked about doing had not occurred and conversely there was massive development that no one thought anything about when the TIF came into play in the form of a casino.

Mr. Lauer advised the County asked for a meeting with representatives of the Bethlehem Redevelopment Authority and the City of Bethlehem to discuss where the TIF was headed because of the concern that it was not headed in the right direction and the possibility of litigation against the Bethlehem Redevelopment Authority, which entity ran the TIF.

Mr. Lauer stated at some of the earlier meetings, the consensus was a lot of good had been done by the TIF even though some of the things had not been anticipated and a lot of good was coming in the future so maybe the discussion should be turned to how the money could be more equitably distributed going forward because the Bethlehem Area School District, as well as the County, had experienced some financial reversals.

Mr. Lauer advised discussions were held to determine how to remedy that in a way that would help the taxing bodies and at the same time allow the TIF to go forward with what was being done. He further advised it came down to the extra money coming into the TIF as certain projects came on line would be divided in such a fashion that the TIF would retain 65% of those monies and 35% would be turned over to the taxing bodies and distributed among them according to their millage percentages and that was what this document would accomplish.

With regard to Mr. McClure’s statement regarding items coming before County Council last minute, Mr. Lauer stated this information was just received today and he was requesting it be considered this evening because the Bethlehem Redevelopment Authority had indicated that some of their projects were at a point in time where they needed to move forward with additional
financing and as the weather was about to change, there were certain projects they wanted to get started on so they were on a time limit.

Mr. Lauer advised the concern was these very substantial financial concessions were being brought to the County, school district and city because the Bethlehem Redevelopment Authority would like to put the TIF out for financing and if there was either litigation or even public discussion of litigation, it could affect whether the bonds were saleable and at what rate they were saleable so as a result, the financing would not occur unless it could do so in a meaningful fashion. He further advised the problem was if that financing were to occur and there was no agreement as to any of this, none of these monies, the $500,000 in the first year coming to the County over and above what would ordinarily come, and all the rest of it, would not happen at all.

Mr. Lauer stated the language of the resolution was created by the bond counsel for the Bethlehem Redevelopment Authority who was requesting that the resolution be adopted in this form. He further stated there had been an objection by Mrs. McHale, who indicated that a threat of litigation by County Council may be meaningless in that County Council did not handle litigation. He noted his response was she was correct in that he would not be able to handle the litigation on behalf of the County because the Home Rule Charter specifically provided that litigation was conducted by the solicitors of the County. However, that was a different issue from deciding whether there would be litigation. He further noted a statement of intent could be made, however, who would carry it out, whether it would be carried out by the County Executive and how this body would vote on it was another issue.

Mr. Lauer advised the terms of the document itself essentially provided that the monies that were not being used by the TIF, which would, under the old agreement simply sit there, earn interest and wait until the TIF wanted to use it, were now being refunded, or at least 35% of them were being refunded, to the County on a regular basis. He noted that amount had been estimated at various numbers, but could be as much as $4 million.
Mr. Lauer stated the original proposal was that the County, the school district and the city would receive these monies on a periodic basis, however, the school district, wanted to receive money up front. Therefore, the agreement provided that for the year 2010, the taxing bodies would not remit to the TIF all of the tax revenues that would be required under the TIF to remit and in fact, hold back a portion of fiscal year 2009-2010 casino assessment to be retained.

In response to Mr. McClure’s question as to language referring to litigation, Mr. Angle advised it was felt if the agreement was not signed by the date indicated then the County would be losing money so it would provide a recourse.

Mr. Lauer stated the concern expressed and the reason for the inclusion of this language was that everyone was assuming that it would be worked out and part of the language was that no such notice would be given if the agreement was signed or the Bethlehem Redevelopment Authority agreed to extend the date. Therefore, it was included as a safety valve and to indicate the County would not tolerate simple inaction.

In answer to Mr. McClure’s comment that the County Council President could not execute anything on behalf of the County, Mr. Lauer advised he did not disagree with that and if the language had to be changed, he did not have a problem with it. He further advised he agreed that the County Executive had to be a signatory, but it was before County Council for approval and it needed County Council’s approval.

Mr. McClure stated he was taking the agreement on faith because he did not have a chance to review it, but he felt the resolution was hopelessly defective which could be a problem for the overall agreement. He further stated there was language in it that County Council would allow the County Council President to make any changes and he did not think they had the power to do that.

Mr. Lauer advised he believed it was in County Council’s power, but it would have to decide if it was a wise thing to do. He further advised the concern was that the school district might make some minor changes and there was not another County Council meeting scheduled before the expiration of the date on which the Bethlehem Redevelopment Authority could issue bonds. He noted he was assured by the bond counsel that even if they
were to begin the implementation of the issuance of the bonds on October 5, 2010, it would take several weeks before the financing would actually be concluded.

In response to Mr. McClure’s comment that this did not have to be voted on tonight, Mr. Lauer stated he asked the bond counsel to extend the time frame that the Bethlehem Redevelopment Authority wished to issue bonds and he was informed that if the deadline was extended, the negotiations could go on forever. He further stated it was their idea to include the language regarding minor changes that might occur at the demand of some other party.

In answer to Mr. McClure’s question whether it was Mr. Lauer’s recommendation to approve a document that had yet to be executed by any party, he replied that was correct and he shared Mr. McClure’s concern, but the process had to start somewhere.

Mr. McClure advised this would only work if there was no aggrieved party because the agreement needed to be ratified by County Council, but there was no agreement before County Council. Therefore, if there was an aggrieved party, it was a defective action.

Mr. Angle stated all this resolution was saying was if the school district were to make some small changes to the agreement, there had to be someone who could say the changes were acceptable and then there would be an agreement. He further stated it appeared that the school district was now ready to accept the agreement.

Mr. Cusick and Mrs. Thierry introduced the following resolution:

R. 88-2010 WHEREAS, counsel for the Redevelopment Authority of the City of Bethlehem has prepared and submitted to the County Council of the County of Northampton the document titled, “REBATE AGREEMENT, BETHLEHEM WORKS TAX INCREMENT DISTRICT (Agreement)” (a copy of which is attached hereto and labeled as Exhibit “A”).

NOW, THEREFORE, BE IT RESOLVED By the County Council of the County of Northampton that: [1] the Northampton County Council approves the Agreement submitted by counsel for the Bethlehem
Redevelopment Authority in substantially the form presented, and authorizes the President of Northampton County Council (President) to accept, upon advice of counsel, final changes to the form approved, such approval being conclusively evidenced by the execution of the final agreement by the President, and authorizes the President to execute the document on behalf of County Council and [2] because of the need for a timely resolution of this matter, if the agreement is not fully executed by all parties, the President may, at any time after October 5, 2010, direct counsel for County Council to notify counsel for the other parties to the agreement of its intention to commence litigation seeking to forestall any additional TIF financing until resolution of the issues addressed in the agreement and leading to its execution. It is understood that said notice will not be given if either (i) the agreement is signed or (ii) the Redevelopment Authority of the City of Bethlehem provides written notice deferring the original October 5 notice date.

As there were no further questions or comments, Mr. Angle called for the vote.


The resolution was adopted by a vote of 7-2.

Adjournment

Mr. McClure made a motion to adjourn.

Mr. Angle seconded the motion.

The motion passed by acclamation.

Frank E. Flisser
Clerk to Council