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

Prayer

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

Pledge of Allegiance

Ms. Thierry led County Council in the pledge of allegiance.

Approval of the Minutes

Mr. Angle made the following motion:

Be It Moved By the Northampton County Council that the minutes of the January 20, 2011 meeting shall be approved.

Mrs. McHale seconded the motion.

The minutes were approved by voice acclamation, with Mrs. Ferraro abstaining.

Courtesy of the Floor

Mr. Jim Gregory, 1502 High Street, Bethlehem, PA - read the following statement:

Honorable members of Northampton County Council. My name is Jim Gregory. I’m a case manager for mental health services at the Bechtel building and am also one of the newly elected shop stewards at the building. I am also a Northampton county taxpayer. As of yesterday I have worked for the county for 7 years. In all honesty I’d rather not be here. I don’t relish
challenging our division head’s decision to abolish our department and outsource our clients. As of Wednesday we were told that our department will be terminated and we were given three weeks to notify our clients that they will, as we will be, reassigned to private agencies and elsewhere.

Some of you might remember in 2003 Mr. Heckman came to you with a proposal to outsource our department. After hearing from clients and caseworkers, council chided (his words) him at the time for considering the move and restored the funds so the department could continue. Since then the director has whittled us down to bare minimal staff by reassigning a staff member elsewhere in the past year. Now our supervisor Deb Nunes, has been appointed head of health choices for the County and another caseworker is slated to retire in April of this year. Rather than ask the Administration to fill these budgeted vacancies they are outsourcing many of our 50 clients and transferring us to other positions within the county. They have a continuing grievance over these moves last year and will be defending themselves again. My guess is they have more money budgeted for lawyers than they do for workers.

Over my lifetime I’ve gotten used to having the rug pulled out from under me Although it’s getting really old, I’ll survive and land on my feet eventually. However, we have 50 or so mental health clients, many in crisis, who might not land so easily or might not land at all. With your decision to restore the department in 2003 Councilpersons Dowd, Angle, McHale, and Ferraro saved lives. (Let me give you one specific example)

Ladies and gentlemen, I’ve spent my life in Public service. I’ve been a youth counselor, a police officer, a Hellertown boro and Bethlehem City councilmember. And yet in the position I now have, thanks to many of you here, I have positively affected more lives, in my opinion, than any of those positions combined.

Most of our clients were hard working middle class Americans (Postmen, restaurant managers, health care customer service workers, welders and factory workers who after ten, 20, or 30 years of work suffered devastating and debilitating losses that they could not recover from. We are essentially a huge part their support system, in some cases their only support system. We can not turn them over to agencies where many staff people are so overworked and underpaid (as is the case in much of the private sector) That some dream of a job at Wal-Mart so they can see salary increases...Seriously, they will have no consistency
of care or support at many of these agencies. They have worked hard all of their lives and they deserve our best.

As I mentioned, the positions needed to continue our program have been budgeted for the 2011 year. And as is the case with Human services, the State and federal Government picks up most of the costs. I plead with Council and the administration to direct our division head to post the vacant supervisor’s position and continue our icm services and not allow them to divert these funds elsewhere as they have in 2010. At the very least, I ask that the Administration immediately halt the outsourcing of clients until the practicality of their move can be considered.

Due to the shootings in Arizona I believe there is a realization that many Mental Health clients are falling through the cracks. Why then are we, in Northampton County, then weakening their safety net when most are looking at strengthening it? Lehigh County has a complement of 7 MH case managers and they have a waiting list. It’s not as if we are in need of work or clients to work with.

I saw a fascinating and heartening quote by our Human Services Director Ross Marcus, in today’s morning Call. He is quoted as saying, “I want to make sure that those in need are cared for at the most fragile state of their life. I couldn’t agree more Mr. Marcus.. So I ask you and council to Please not allow our department to be disbanded and our clients to be poorly served. They deserve better, much better! Thank You for your attention and your time.”

Mr. Michael Bowlby, 506 Ferry Street, Easton, PA - stated in 2005, he was going through some very bad depression and he sought the help of a caseworker, Mr. Gregory. He further stated Mr. Gregory had helped him so much and he was better off today then he was five years ago. He noted he was very disappointed about what was happening and it was appalling to think that decisions like that could be made without notification to the clients.

Mr. Tom Tosti, 58 Oxford Drive, Langhorne, PA - advised he was the Director of American Federation of State, County and Municipal Employees (AFSCME)District Council 88 and represented 700 employees at Gracedale. He further advised one of the
reasons Gracedale should not be sold was because the residents were used to continuity of care. He noted it would also displace the members of his union, as well as others.

Mr. Tosti stated public nursing homes far outshined private ones which could be proven by information he obtained from the Office of the Inspector General’s website.

Mr. Tosti advised the retention in public nursing homes for Registered Nurses (RN) was 93%; for Licensed Practical Nurses (LPN), it was 92% Certified Nurse Educators (CNE), it was 93%, however in the private sector, it was 75% for RN, 74% for LPN and 67% for CNE, which affected the continuity of care. He further advised the turnover in public nursing homes was 10% and in the private sector, it was 57%.

Mr. Tosti stated private nursing homes had a higher number of deficiencies than public ones, noting in 2008, private nursing homes averaged 7.6 deficiencies per home compared to 5.7 for public nursing homes. He further stated private nursing homes failed to provide staff in sufficient numbers and with appropriate clinical expertise to serve their residents.

Mr. Tosti provided a packet of information he obtained from the Medicare.gov website (see Attachment #1), which compared various data on the five bidders for Gracedale and Gracedale itself.

In conclusion, Mr. Tosti advised he was present tonight to ask County Council to allow the people to decide the fate of Gracedale.

Mr. Angle stated sometime ago, he asked the members of his union to give back $6 million in fringe benefits so things could be done in an effort to save their jobs at Gracedale. He then asked Mr. Tosti why they were not given the opportunity to vote on that proposal.

Mr. Tosti advised that was not something that the members would normally vote on, however, they did vote on a contract that would expire in December of 2011. He further advised some of his members actually indicated to him that they did not want to give anything back.
County Executive’s Report

Mr. John Stoffa, County Executive, stated the Swaption value as of February 1, 2011, was down to $12.7 million.

Mrs. McHale advised she read in the newspaper that a lawsuit was being brought against several Administrators, including herself, by a former inmate so she wanted to know if he knew if anyone had been served.

Mr. Karl Longenbach, Northampton County Solicitor, stated there had not been any formal service of the complaint, noting it was filed in Philadelphia, which could be accessed electronically and he believed that was how someone became aware of it.

Mr. Cusick commented that last month there was an incident with a firearm being found at the Prison and he asked if there was an update on the status of that investigation.

Mr. Stoffa advised the investigation was almost complete so he should have something to report in the next few weeks.

Mr. Angle stated there had always been issues with the Prison, and it was thought a change in management might improve things, but there had not been much changed. Therefore, he asked Mr. Stoffa want he intended to do now.

Mr. Stoffa stated the inmates were individuals who committed a crime and had a lot of time to out think the system. He further stated the person who brought the weapon in, got through three different levels of security. He further stated people made mistakes, noting 102,000 people came through the Prison in a year.

Mr. Angle advised he understood the weapon issue was a solitary issue, but he was talking about the $10,000 tobacco/drug selling business that had been occurring. He further advised the only answer to this was not to switch the management team around, but to hire someone from the outside to clean house.
Mr. McClure stated there was a crisis at the Prison and the focus of the Administration should be there and not the selling of Gracedale.

Mr. Angle agreed there was a crisis at the Prison, but there was also a problem with Gracedale. He advised he wanted to hear from the Administration within the next few months that they were hiring someone to clean house.

In answer to Mr. Dowd’s question as to why County Council was not aware of the issue at the Mental Health Division, Mr. Ross Marcus, Director of Human Services, stated positions were not being eliminated, but duties were being reassigned. He further stated this was part of the movement within Human Services that everyone would see more and more of within the next few years as they prepare for a smaller and smaller budget.

Mr. Marcus advised the Mental Health Division, as well as most of their other divisions, received State and Federal funding. He further advised the money for the relocation of individuals coming out of the State Hospital was 100% State funding. He noted all of the funds, except for the State Hospital, were going to be cut dramatically so they had to start planning today for what they were going to do. Therefore, they were reassigning staff within the most critical areas and trying to operate within the County’s hiring freeze guidelines.

Mr. Marcus stated in this particular case, they took advantage of a supervisor being promoted into the HealthChoices Administrator position and reassigning that staff to other duties within Mental Health. He further stated they were not being removed from the Mental Health Division. He noted the consumers being served by those caseworkers would be assigned to non-profit agencies currently doing the same work. He further noted the caseworkers being moved to other areas would be assigned new caseloads serving other people within the area of Mental Health.

Mr. Cusick advised this was an issue that should be discussed at a Human Services Committee meeting.

Mr. Marcus stated he would be willing to do that and in
accordance with Mrs. McHale’s suggestion, invite the affected employees to attend.

With regard to Mr. McClure’s comment about the issue of the Prison being the Administration’s focus now and not Gracedale, Mr. Gilbert advised there were always a lot of issues going on, but he felt the Administration was capable enough to handle them without excluding one for another.

Discussion of the Gracedale Issue - County Executive’s Update

Mr. Stoffa stated resolution #71-2010, adopted by County Council on August 19, 2010, provided for alternative ownership of Gracedale and the County issued Request for Qualifications and Proposals and they received five responses. He further stated the five were Continuum Care Holdings (Continuum); Ensign Services, who later withdrew; Nationwide Healthcare Services (Nationwide); TL Management LLC and Global Healthcare Services (TL Global) and Trico Partners and Manage Care (Trico). He noted on January 28, 2011, the best and final offers were received from the four proposers.

Mr. Stoffa advised all four proposers met the criteria set by the County, however, the proposer that best addressed all the criteria and being recommended was TL Global. He further advised they had 14 facilities, 11 of which were located in Pennsylvania. He noted they had committed to maintaining at least 85% of Gracedale’s current census as Medicaid residents. He noted TL Global had a good relationship with organized labor, noting 12 of their 14 facilities had unionized workforce. He further noted they had expressed a desire to retain virtually all employees.

Mr. Stoffa stated their offer was $35 million for 15-25 acres and they may be interested in an additional 26 acres which would have to be appraised and added to the sale price.

Mr. Stoffa advised the process had been thorough, not rushed or hurried, noting site visits were made to numerous facilities. He further advised the committee consisted of Mr. John Conklin, Director of Administration; Mr. Longenbach; Mr.
Mr. Stoffa stated the Administration would begin exclusive negotiations with TL Global and if an acceptable agreement was achieved, the Administration would forward it to County Council with a recommendation for approval. He further stated he expected the negotiations to be completed by either May or June of 2011.

In response to Mrs. McHale’s question as to whether the County received two independent appraisals, Mr. Stoffa advised they were in the process of getting them.

In answer to Mrs. McHale’s question as to whether it would have been better to have them prior to any negotiations, Mr. Stoffa stated they already had one when the Gracedale study was done, which was between $31-$32 million.

Mr. Angle advised if the appraisals were done ahead of time, it would let the potential buyer know what it was worth, but if they were received after they gave their price, it could be determined if they met the expectations.

Mr. Angle stated in 2001, when the $110 million Bond Issue was passed, he suggested taking a large sum of that money and putting it into Gracedale to make it more competitive, however, that was not done. He further stated five years ago when Mr. Stoffa took office, he discussed that there was a problem at Gracedale, but not much happened. He noted several months ago, he made a proposal to the unions to give $6 million in fringe benefits back for several years to see if they could get Gracedale to, at least, break even, but that did not happen. He further noted the choice had been made, but he would like a list of their locations in Pennsylvania so he could visit them, without any advance notice, to see how they operated because he always said he wanted to make sure the County got a fair price, which they did, and that the residents would receive as good or better care than they received now.

In response to Mr. McClure’s question as to whether it was correct that Mr. Stoffa took some type of legal action with
regard to the petition that had been filed concerning an initiative, Mr. Stoffa advised he filed a lawsuit with the Courts to determine if the petition was in keeping with the Home Rule Charter.

In answer to Mr. McClure’s question as to whether he was in agreement that no action could be taken on the sale of Gracedale until all the legal cases had been resolved, Mr. Stoffa stated he believed the two things could go on concurrently, noting they were not even close to completing a sale. However, he felt the Courts would be making some quick decisions in this matter.

In response to Mr. McClure’s question as to whether he agreed that according to the Home Rule Charter, once a petition had been accepted by the Election Commission, which occurred, no ordinance could be acted upon until such a time as everyone’s rights in Court had been extinguished, Mr. Stoffa advised he would have to check with Mr. Longenbach on that issue.

In answer to Mr. McClure’s question that since it was going to be the County’s responsibility to provide for the nursing home care of the indigent, had there been an analyzation of what that annual expense would be to the County, Mr. Stoffa stated the County would not have to pay anything because the buyer had agreed that 85% of the residents would be Medicaid patients.

In response to Mr. McClure’s question as to how the County planned to enforce that provision, Mr. Stoffa advised it would be in the agreement and if they did not honor that agreement, they could be taken to Court.

In answer to Mr. McClure’s question as to what would be the consequences if they did go to Court, Mr. Stoffa stated that would have to be determined during the finalization of the sale.

In response to Mr. McClure’s question as to whether he would agree that it would cost approximately $10 million for the transactional fees for the sale, Mr. Stoffa advised he did not think it would be that high.

In answer to Mr. McClure’s question as to whether there was a sense as to what the potential impact of the sale was going to be on the County’s pension fund, Mr. Stoffa replied this firm stated they would hire almost all of the employees presently at
Mr. McClure stated that was nice, but it was an entirely separate issue because he wanted to know what the County’s liability would be if there were a run on employees retiring.

Mr. Mazziotti advised they have, but he did not know the figure. He further advised he believed the figure would be included in all of the costs involved with the sale.

Mr. Angle stated there was always costs involved in a sale and it could include some pensions, but at that moment, 700 employees would be off the County’s payroll. He further stated the bottom line was since the County was not a good steward of Gracedale, it had come to this action to make it competitive.

In response to Mrs. McHale’s question as to whether he could include with Mr. McClure’s request, the affect the pension fund balance would have if all employees would request a lump sum cash withdrawal, Mr. Mazziotti advised he did not know if the actuaries could do that, but he would pass that request on to them.

Mr. McClure stated it was intuitive that over the long term, abandoning the County’s moral obligation would decrease its pension liabilities, but what he was trying to get at was what the short term impact was going to be because Mr. Angle made a lot about the necessity for a tax increase if Gracedale was kept in public hands. He further stated Mr. Angle talked a lot about the conditions at Gracedale so he wanted to read a study he found done by the Keystone Research Center:

“Nursing Home Privatization: What is the Human Cost?
Authors: Steve Lopez
Publication Date: May 1, 1998

In response to increasing financial pressure and cuts in reimbursement, Pennsylvania county governments are considering privatizing county-owned nursing homes. The idea of saving money by turning county nursing homes over to private operators appeals to county leaders seeking to relieve budget pressures.
But what happens to the quality of care when counties turn their nursing homes over to private firms?

This report investigates the effects of privatization or attempted privatization on the quality of care at several county and former county nursing homes in western Pennsylvania: Allegheny County's John J. Kane Regional Centers, where privatization was proposed but not implemented; Comfort Home, which remained public but whose operation was taken over by a for-profit management company; and Chelsea Manor, which was sold outright to a nonprofit entity created by the county for the purpose of buying the facility. The report compares these homes with one another and with Green Gables, a private nursing home that is characterized by low wages, high employee turnover, and poor quality of care.

The study draws the following conclusions:

Although staffing levels declined whether or not privatization was ultimately carried out, the most significant staffing cuts occurred where privatization was taken furthest. After the privatization of Chelsea Manor (the home sold to a newly created private non-profit organization), staffing levels appeared to be nearly identical to those at the low-quality private home—a home where understaffing led state investigators to suspend admissions temporarily in 1997.

Workers' wages and employee turnover, two factors affecting care continuity, were most negatively affected at the home where privatization proceeded furthest. At the Kanes and Comfort home (where collective bargaining continued), workers' wages, benefits, and employee turnover remained stable. At Chelsea Manor, wages fell to levels almost identical to those at Green Gables (where staff turnover was rampant). Turnover at Chelsea Manor appeared to be increasing towards that at Green Gables.

At both homes where some form of privatization was implemented, workers complained about shortages of medical and patient care supplies. Both of these homes seemed to have a more serious problem in this area than the Kanes, but at neither home was the problem as serious as at Green Gables.

The quality of care at all three of the county and former county homes deteriorated, regardless of whether privatization
was actually carried out or only proposed. Once again the worst declines in quality occurred where privatization was taken furthest. After privatization, Chelsea Manor began to develop a pattern of unexplained resident injuries some of which were not properly investigated or reported. Chelsea Manor’s problems were similar in nature, though not in extent, to quality problems at Green Gables, were several hundred such incidents occurred in a recent 18-month period.

Even the best homes in the study, the Kanes and Comfort Home, are now unable to meet all the physical, emotional, and social needs of their residents, even though they exceed federal and state standards for staffing ratios. All of the nursing homes described in this report, in varying degrees of urgency, need more nurses’ aides.

As do the Kanes, county nursing homes across Pennsylvania have much lower turnover among nurses’ aides than is typical for private homes. Combined with the case studies, this strongly suggests that nursing home privatization may, in many cases, worsen the quality of care.”

Mr. Angle advised it had always been said that the secret to the care at Gracedale was the employees so if the new company kept 90 plus percent of them and upgraded the facility, how would the quality of care go down.

Mr. Gilbert stated he believed in the people of Gracedale and he did not think that they would let anyone receive less care than they had provided because there was a different name on the building.

Mr. Cusick advised he attended a meeting of the Election Commission wherein two members indicated they felt this issue should be decided by a judge so he felt the lawsuit filed by Mr. Stoffa may be appropriate and what some members of the Election Commission actually wanted.


Mr. Cusick stated consideration of the energy savings
contract resolution was tabled at the January 20, 2011 County Council meeting. He further stated the County Executive was ready to provide a more detailed explanation on this issue, however, in order to consider this matter, it first had to be removed from the table.

Mr. Dowd made a motion to remove the following resolution from the table.

Mrs. Thierry seconded the motion.


The motion was passed by a vote of 9-0.

R. 18-2011 WHEREAS, Northampton County Administrative Code Article XIII Procurement and Disposition of County Property, Section 13.16 Contracts and Agreements c.(1) requires approval of County Council for “…any contract exceeding $100,000, which was awarded using the Competitive Negotiation, Negotiation After Competitive Sealed Bidding, and Non-Competitive Negotiation source selection methods. For contracts with renewal clauses, the entire potential payout if all renewal clauses are exercised under the terms of the contract must be considered when determining if Council approval is necessary.”

WHEREAS, on December 29, 2010, the Northampton County Executive requested that the Northampton County Council approve a contract with the McClure Company for an investment grade audit, costing $113,743.00, to be used to negotiate a possible Guaranteed Energy Savings Agreement (GESA). Further, if the County enters into a GESA, the cost of the audit would be incorporated into the GESA. The McClure Company’s projected cost is $5,274,755.00 based on the preliminary evaluation. The total cost savings over 15 years is estimated at $8,155,450.00, with a net positive savings of $1,078,309.00.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council authorizes the County Executive to award a contract to the McClure Company, in accordance with the documentation attached hereto and labeled as Exhibit “A”.
Mr. Steve DeSalva, Director of Public Works, thanked County Council for allowing him to again present the topic of a guaranteed energy savings project that Public Works had been pursuing to enable the County to make the necessary improvements in its mechanical systems throughout various County buildings at no capital cost to the County and to create a long term relative reduction in the use of energy and subsequent costs of the energy by the County.

Mr. DeSalva advised last year, the County followed standard procedures subscribed by the Pennsylvania Department of General Services to select a certified energy savings company (ESCO) to perform a thorough Investment Grade Audit that would define the exact scope of work in terms of a guaranteed energy savings agreement (GESA). He noted this GESA would integrate improvements to mechanical systems and other improvements in County buildings that would create significant relative energy savings that would pay for the cost of the improvements over a 15 year period.

Mr. DeSalva stated following the process described by the State, the County advertised a Request for Qualifications for certified ESCO firms and came up with three firms. He further stated at this point, the County requested proposals from these three firms, which were received from two of them. He noted the County carefully scrutinized the proposals and rated them upon various criteria. He further noted the rating process clearly showed that the McClure Company’s proposal provided the best offer to address the various needs of the County and to afford the greatest reduction of long term energy costs. Therefore, he was requesting that County Council approve the execution of the Investment Grade Audit with McClure in the amount of $113,743, which would eventually be incorporated into the GESA unless for some unlikely reason the County decided not to pursue this agreement.

Mr. DeSalva introduced Mr. Shayne Homan, Account Executive, and Mr. Daniel Kerr, Director of Energy Services, from the McClure Company who could answer any questions.

Mr. Homan advised they were seeking approval to go forward with the first phase of a two phase agreement, which was the
Investment Grade Audit. He further advised they went through the County’s buildings and right now, the County was facing four major capital improvements in the Courthouse and Prison, which was going to cost at least $2.8 million.

Mr. Homan stated there were two ways the County could pay for these improvements: they could pay with new capital funds, which would increase debt, or pay with existing funds by decreasing energy. He further stated paying with existing funds was accomplished by engaging a GESA with an energy services company like their company. He noted the existing County funds currently spent on energy were leveraged to pay for the needed improvements. He further noted they would implement all the improvements and guaranteed an annual savings during the term of the contract, which, in this case, was 15 years.

Mr. Homan advised GESA was a Pennsylvania governmental procurement method as defined by Act 39 of 2010, which had amended over the years with the biggest change being the maximum term they were allowed to engage in a contract.

Mr. Homan stated the County was currently spending $3.2 million a year on annual energy and utility costs. He further stated if the County only replaced a few items that were needed by a 4% escalation, it would go from $3.2 million to $5.5 million. He noted the most important point was the $3.2 million was the money they had to utilize to try and fund these projects. He further noted after they implement the energy saving measures that $3.2 million may go down to $2.8 million and the difference of $400,000 would be used on an annual basis to pay for the improvements over the 15 year period.

Mr. Homan advised what they identified so far was approximately $8.2 million in energy and operational savings over the 15 year period, which was achieved by installing various energy conservation measures in addition to the needed capital improvements, noting the savings would be guaranteed by his company. He further advised the preliminary project cost was approximately $5.3 million.

Mr. Homan stated the $5.3 million would be provided through third party financing, indicating there were several lenders that were familiar with these deals and willing to finance them. He further stated there were several ways to fund this, but a
lease/purchase agreement was the most common and what they originally proposed.

In answer to Mr. Gilbert’s question, Mr. Homan advised the $5.3 million was put into escrow by the lender and it would be paid off with the energy savings once the project was completed over the 15 year period. He further advised that any cost beyond the $5.3 million figure would become their responsibility and not the County’s.

In response to Mrs. McHale’s question as to the $113,743, Mr. Homan stated that would be included in the $5.3 million and would only become a line item if the County decided not to proceed with the project.

In answer to Mrs. McHale’s question as to whether they would be redoing work done by Johnson Control, Mr. Homan advised they would not be redoing any work, but doing work that should be done that was not in the Johnson Control contract.

Mr. Homan stated if County Council approved them to move forward with the GESA, they would have to fully define the scope of work, complete final engineering, turn key costs, savings guarantee, contract negotiations and financing.

In response to Mr. Dietrich’s question as to whether a calculation had been done to determine what the savings would be in year 16, Mr. Homan replied they did provide a 20 year cash flow, but he could not recall what it was.

Mr. Dowd advised the savings that were guaranteed from Johnson Control were realized so he believed these savings would as well.

In answer to Mr. Angle’s question as to why the County could not do this without bringing this firm in, Mr. DeSalva stated theoretically it could, but from a practical standpoint the County had to go through a lot more hoops to get things done than they would have to.

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

The vote: Gilbert, “yes”; Cusick, “yes”; Ferraro, “yes;

The resolution was adopted by a vote of 6-3.

Discussion and Review of the Parking Deck Project

Mr. Cusick advised at the Finance Committee meeting held January 19, 2011, Mr. Angle made a motion, seconded by Bruce Gilbert, to approve the additional funding for the Parking Deck Project, contingent upon the County Executive bringing suit against the engineer for not fulfilling the terms of the contract. He further advised Mr. Angle and Mr. Gilbert voted yes and he voted no because he needed additional information from the Solicitor, which had been received.

Mr. Cusick introduced the following resolution:

WHEREAS, the Northampton County Council adopted resolution #38-2010 for structural engineering services (Pennoni Associates Inc.) for the parking deck and walkway renovations, and adopted resolution #39-2010 for the restoration (RAM Construction Services) of the parking deck and walkway; and

WHEREAS, resolution #38-2010 reads as follows:

WHEREAS, Northampton County Administrative Code Article XIII Procurement and Disposition of County Property, Section 13.16 Contracts and Agreements c.(2) requires approval of County Council for “any contract where costs are to be funded with monies outside of the County’s General Fund, such as those funded through bonded indebtedness.”

WHEREAS, on April 19, 2010, the Northampton County Council received a request on behalf of the County Executive for County Council to adopt a resolution endorsing a contract, in the amount of $103,000, with Pennoni Associates, Inc. for structural engineering services-construction administration for the parking deck/garage and walkway renovations.

NOW, THEREFORE, BE IT RESOLVED that the
Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to award a contract to Pennoni Associates, Inc. for structural engineering services-construction administration for the parking deck/garage and walkway renovations.; and

WHEREAS, resolution #39-2009 reads as follows:

WHEREAS, Northampton County Administrative Code Article XIII Procurement and Disposition of County Property, Section 13.16 Contracts and Agreements c.(2) requires approval of County Council for “any contract where costs are to be funded with monies outside of the County’s General Fund, such as those funded through bonded indebtedness.”

WHEREAS, on April 19, 2010, the Northampton County Council received a request on behalf of the County Executive for County Council to adopt a resolution endorsing a contract, in the amount of $$$1,699,280, with Ram Construction Services of Cleveland, LLC for the restoration of the parking deck/garage and pedestrian walkway.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to award a contract to Ram Construction Services of Cleveland, for the restoration of the parking deck/garage and pedestrian walkway.; and

WHEREAS, on January 28, 2011, the Northampton County Council received a request from the Northampton County Executive to approve a change order for the contracts pertaining to the parking garage and walkway renovations.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to approve the contract change orders for the parking garage and walkway restoration projects. It shall be understood that this approval is granted by County Council contingent upon the County
Executive initiating legal action against the engineer for not fulfilling the terms of their contract.

When Mr. Cusick asked Mr. Lauer to provide his opinion on the last sentence of the resolution regarding taking legal action, Mr. Lauer stated he had no problem addressing the issue, but since it involved possible litigation, he would suggest adjourning to an Executive Session.

Mr. Gilbert made a motion to enter into an Executive Session.

Mrs. Thierry seconded the motion.

County Council adjourned into Executive Session to discuss a litigation issue.

Mr. Lauer advised County Council adjourned into Executive Session at 8:10 p.m and returned at 8:25 p.m. He further advised a discussion was held regarding the propriety of the last sentence of the resolution, namely, whether the approval for the expenditures should be contingent upon the County Executive initiating legal action against the engineer. He noted after some discussion of a number of issues, he believed the consensus of County Council was that the last sentence would be removed from the resolution.

Mrs. McHale made a motion to remove the last sentence from the resolution.

Mr. Dietrich seconded the motion.

In response to Mr. Angle’s question as to whether the County owed the engineers any money, Mr. DeSalva replied it did.

As there were no further questions or comments, Mr. Cusick called for the vote on the motion.


The motion passed by a vote of 9-0.
Mr. Cusick called for the vote on the following amended resolution:

R. 19-2011  WHEREAS, the Northampton County Council adopted resolution #38-2010 for structural engineering services (Pennoni Associates Inc.) for the parking deck and walkway renovations, and adopted resolution #39-2010 for the restoration (RAM Construction Services) of the parking deck and walkway; and

WHEREAS, resolution #38-2010 reads as follows:

WHEREAS, Northampton County Administrative Code Article XIII Procurement and Disposition of County Property, Section 13.16 Contracts and Agreements c.(2) requires approval of County Council for “any contract where costs are to be funded with monies outside of the County’s General Fund, such as those funded through bonded indebtedness.”

WHEREAS, on April 19, 2010, the Northampton County Council received a request on behalf of the County Executive for County Council to adopt a resolution endorsing a contract, in the amount of $103,000, with Pennoni Associates, Inc. for structural engineering services construction administration for the parking deck/garage and walkway renovations.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to award a contract to Pennoni Associates, Inc. for structural engineering services construction administration for the parking deck/garage and walkway renovations.; and

WHEREAS, resolution #39-2009 reads as follows:

WHEREAS, Northampton County Administrative Code Article XIII Procurement and Disposition of County Property, Section 13.16 Contracts and Agreements c.(2) requires approval of County Council for “any contract where costs are to be funded with monies outside of the County’s General Fund, such as those funded through bonded indebtedness.”
WHEREAS, on April 19, 2010, the Northampton County Council received a request on behalf of the County Executive for County Council to adopt a resolution endorsing a contract, in the amount of $1,699,280, with Ram Construction Services of Cleveland, LLC for the restoration of the parking deck/garage and pedestrian walkway.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to award a contract to Ram Construction Services of Cleveland, for the restoration of the parking deck/garage and pedestrian walkway.; and

WHEREAS, on January 28, 2011, the Northampton County Council received a request from the Northampton County Executive to approve a change order for the contracts pertaining to the parking garage and walkway renovations.

NOW, THEREFORE, BE IT RESOLVED that the Northampton County Council does hereby concur with the recommendation of the County Executive, as set forth in the attached documentation, to approve the contract change orders for the parking garage and walkway restoration projects.


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

Mr. Angle made a motion that County Council instruct the County Executive to make no further payments to any of the engineers and they negotiate the bills with the engineers to the satisfaction of the County because of the errors that were made in engineering.

Mrs. Thierry and Mr. Dowd seconded the motion.
Mr. Cusick called for the vote on the motion.


The motion passed by a vote of 7-2.

Consideration of Open Space Project Resolutions: Stokes, Beste, Bicket-Albert and Wilkinson (Fox)

Mr. Cusick stated a letter was received from Ms. Maria Bentzoni, Open Space Advisor, requesting County Council repeal four open space conservation projects. He further stated all these projects were unable to be consummated due to various issues surrounding them.

As there were no objections to Mr. Dowd’s suggestion, Mr. Cusick advised they would all be voted on together.

Mrs. McHale commented that no project should come before County Council without a firm commitment being made by the property owner.

Mr. Angle stated there could be a firm commitment, but to get them to close was another issue.

Mr. Cusick introduced the following resolutions:

**Stokes**

R. 20-2011  **WHEREAS**, the Northampton County Council adopted resolution No. 41-05, at the meeting held November 17, 2005, which approved the Stokes Open Space Initiative Project; and

**WHEREAS**, resolution No. 41-05 reads as follows:

**Number 41-05**

WHEREAS, the County of Northampton implemented the Northampton County Initiative by adopting the Northampton County Open Space Ordinance, #423-2004; and
WHEREAS, the Northampton County Open Space Advisory Board has recommended the purchase of a conservation easement in perpetuity for the premises level of Ross V. Stokes and Brenda J. Stokes which is described more fully in Exhibit “A”, attached hereto.;

NOW, THEREFORE BE IT RESOLVED, By the Northampton County Council:

(1) The Northampton County Council hereby directs the Northampton County Executive, through the office of the Program Administrator of the Northampton County 21st Century Open Space Initiative, or his designee, to take any and all steps necessary to acquire a conservation easement in perpetuity in the premises of Ross V. Stokes and Brenda J. Stokes, known as 340 Kromer Road, Bushkill Township, Northampton County, Pennsylvania being approximately 23 of 29 acres and also known as Northampton County Uniform Parcel Identifier # G7-5-1.; and

(2) The Northampton County Council hereby directs the Northampton County Executive to appropriate $46,690 as consideration for the purchase of said conservation easement in perpetuity.; and

(3) The County of Northampton shall be designated as a joint easement holder on the easement recorded in the office for the recording of deeds in the County of Northampton.

WHEREAS, Northampton County Open Space Initiative Program Coordinator has indicated that this project was withdrawn due to a lack of response from the landowner.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Council that resolution No. 41-05 is repealed, effective this 3rd day of February 2011.

Beste

R. 21-2011 WHEREAS, the Northampton County Council
adopted resolution No. 14-07, at the meeting held March 1, 2007, which approved the Beste Open Space Conservation Easement Acquisition Project; and

WHEREAS, resolution No. 14-07 reads as follows:

Number 14-07

WHEREAS, the County of Northampton implemented the Northampton County Initiative by enacting the Northampton County Open Space Ordinance, #423-2004 on November 5, 2004; and

WHEREAS, the Northampton County Open Space Advisory Board has recommended the purchase of a conservation easement in perpetuity for the Frederick J. and Anne B. Beste property which is described more fully in Exhibit “A”, a copy of which is attached hereto.

NOW, THEREFORE BE IT RESOLVED, By the Northampton County Council:

(1) The Northampton County Council hereby directs the Northampton County Executive, through the office of the Program Administrator of the Northampton County 21st Century Open Space Initiative, or his designee, to take any and all steps necessary to acquire a conservation easement in perpetuity for the Frederick J. and Anne B. Beste property located at Jacobsburg Road, Bushkill Township, along the East Branch of Sober’s Run Creek, Northampton County, Pennsylvania being approximately 29 acres, and also known as Northampton County Uniform Parcel Identifier #G07-05-002 C.

(2) The Northampton County Council hereby directs the Northampton County Executive to appropriate $101,935 as consideration for the purchase of said conservation easement in perpetuity.

(3) The County of Northampton shall be designated as a joint easement holder on the easement recorded in the office for the recording of deeds in the County of
WHEREAS, Northampton County Open Space Initiative Program Coordinator has indicated that this project was stalled due to a lack of grant of public access from the landowner.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Council that resolution No. 14-07 is repealed, effective this 3rd day of February 2011.

Bickert-Albert

WHEREAS, the Northampton County Council adopted resolution No. 15-07, at the meeting held March 1, 2007, which approved the Bickert-Albert Open Space Initiative Fee Simple Acquisition Project; and

WHEREAS, resolution No. 15-07 reads as follows:

Number 15-07

WHEREAS, the County of Northampton implemented the Northampton County Initiative by enacting the Northampton County Open Space Ordinance, #423-2004 on November 5, 2004; and

WHEREAS, the Northampton County Open Space Advisory Board has recommended the fee simple acquisition, by the Heritage Conservancy, of the Bickert-Albert property which is described more fully in Exhibit “A”, a copy of which is attached hereto.

NOW, THEREFORE BE IT RESOLVED, By the Northampton County Council:

(1) The Northampton County Council hereby directs the Northampton County Executive, through the office of the Program Administrator of the Northampton County 21st Century Open Space Initiative, or his designee, to take any and all steps necessary to complete the fee simple acquisition, by the Heritage Conservancy, of the Bickert-Albert property located at Kromer Road, Bushkill Township, along the Sober’s Run Creek, Northampton County, Pennsylvania being approximately...
47 acres, and also known as Northampton07 County Uniform Parcel Identifier #G07-05-001 C and #G07-05-023.

(2) The Northampton County Council hereby directs the Northampton County Executive to appropriate $76,725 as consideration for the fee simple fee simple acquisition, by the Heritage Conservancy, of the Bickert-Albert property.

WHEREAS, Northampton County Open Space Initiative Program Coordinator has indicated that this project was withdrawn due to a second refusal from the landowner.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Council that resolution No. 15-07 is repealed, effective this 3rd day of February 2011.

**Wilkinson (Fox)**

R. 23-2011 WHEREAS, the Northampton County Council adopted resolution No. 16-07, at the meeting held March 1, 2007, which approved the Fox (Wilkinson) Open Space Conservation Easement Acquisition Project; and

WHEREAS, resolution No. 16-07 reads as follows:

Number 16-07

WHEREAS, the County of Northampton implemented the Northampton County Initiative by enacting the Northampton County Open Space Ordinance, #423-2004 on November 5, 2004; and

WHEREAS, the Northampton County Open Space Advisory Board has recommended the purchase of a conservation easement in perpetuity for the Jamie Fox property which is described more fully in Exhibit “A”, a copy of which is attached hereto.

NOW, THEREFORE BE IT RESOLVED, By the Northampton County Council:

(1) The Northampton County Council hereby directs
the Northampton County Executive, through the office of the Program Administrator of the Northampton County 21st Century Open Space Initiative, or his designee, to take any and all steps necessary to acquire a conservation easement in perpetuity for the Jamie Fox property located at Bushkill Drive, Bushkill and Moore Townships, along the Bushkill Creek, Northampton County, Pennsylvania being approximately 26 acres, and also known as Northampton County Uniform Parcel Identifier #G06-17-021.

(2) The Northampton County Council hereby directs the Northampton County Executive to appropriate $47,060 as consideration for the purchase of said conservation easement in perpetuity.

(3) The County of Northampton shall be designated as a joint easement holder on the easement recorded in the office for the recording of deeds in the County of Northampton.

Whereas, Northampton County Open Space Initiative Program Coordinator has indicated that this project was withdrawn due to a change in ownership.

Now, therefore, be it resolved by the Northampton County Council that resolution No. 16-07 is repealed, effective this 3rd day of February 2011.

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


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

Butterfly House

Mr. Angle advised at the last meeting, a resolution was adopted that approved $25,000 for the Butterfly House. He further advised there should be a motion to withdraw this money
because there was no longer a project.

Mr. Angle made a motion to rescind the $25,000 that was given to the Butterfly House.

In answer to Mr. Cusick’s question as to whether this should be done by a resolution or motion, Mrs. Mchale stated it should be a resolution.

Mr. Angle asked Mr. Flisser to prepare a resolution that stated the Northampton County Council hereby resolved that it was retracting its commitment of $25,000 to the project known as the Butterfly House.

Mr. Angle then made a motion that County Council instruct the County Executive to not pay out the $25,000 until a resolution was prepared for the next meeting.

Mr. Dietrich seconded the motion.

As there were no further questions or comments, Mr. Cusick called for the vote on the motion.


The motion passed by a vote of 9-0.

Introduction of the Ordinance Prohibiting the Sale of Gracedale

Mr. Cusick stated this ordinance was being introduced by Mr. McClure and Mrs. McHale and the public hearing, debate and possible vote would be held on February 17, 2011.

AN ORDINANCE PROHIBITING THE SALE OF THE COUNTY NURSING HOME KNOWN AS GRACEDALE
The County nursing home, known as Gracedale, shall not be sold and/or leased by the County of Northampton for a period of five years from the date of the enactment of this Ordinance.

Consideration of the 2010 Codification of Northampton County Ordinances and of the Home Rule Charter

Mr. Cusick advised the Northampton County Charter Section 606(c) required the Northampton County Council to provide, by resolution, a codification of all ordinances, as amended, having the force and effect of law, and of the Charter, as amended. He noted this was an annual housekeeping matter.

Mr. Cusick introduced the following resolution:

R. 24-2011 WHEREAS, Northampton County Charter Section 606(c) requires the Northampton County Council to provide, by resolution, a codification of all ordinances, as amended, having the force and effect of law, and of the Charter, as amended.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Council that the attached codification, for the period ending December 31, 2010, shall be adopted this 3rd day of February 2011.

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


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

Consideration of the 2011 Contingency Transfer Request Resolution - Slate Belt Council of Governments (COG)

Mr. Cusick stated at the last meeting of County Council, Mr. Angle indicated that he would be offering a Contingency
transfer request of $1,400 to the Slate Belt COG to serve as membership dues.

Mr. Angle introduced the following resolution:

**WHEREAS**, the County of Northampton adopted Ordinance No. 457-2006, in which it agreed to be a member of the Slate Belt Council of Governments.

**NOW, THEREFORE, BE IT RESOLVED** by the Northampton County Council that the sum of $1,400 shall be transferred from the 2011 Contingency account #05000-76050 and allocated to the Slate Belt Council of Governments. This contingency transfer shall constitute the Northampton County dues to the Slate Belt Council of Governments and thereby entitling Northampton County Council to representation on the Slate Belt Council of Governments.

Mr. Angle advised the County had been a member of the Slate Belt COG since its inception and the County gave $15,000 a year for three years to get it off the ground. He further advised the County had always been a member of the COG and the membership dues was $1400. He noted this resolution had to be amended because the County Executive had already paid $250 from the Department of Community and Economic Development. Therefore, he introduced the following resolution:

**R. 25-2011** **WHEREAS**, the County of Northampton adopted Ordinance No. 457-2006, in which it agreed to be a member of the Slate Belt Council of Governments.

**NOW, THEREFORE, BE IT RESOLVED** by the Northampton County Council that the sum of $1,150 shall be transferred from the 2011 Contingency account #05000-76050 and allocated to the Slate Belt Council of Governments. This contingency transfer shall constitute the Northampton County dues to the Slate Belt Council of Governments and thereby entitling Northampton County Council to representation on the Slate Belt Council of Governments.

In response to Mrs. Ferraro’s question as to whether each member of the COG paid $1400 a year in dues, Mr. Angle stated it was based on the size of the municipality.
In answer to Mrs. McHale’s question as to whether it was the Administration who provided the representation for the County, not County Council, Mr. Angle advised it had always been a member of County Council.

Mr. Dowd stated he had been involved with the Two Rivers COG and he felt they were a remarkable organization in getting municipalities to work together.

As there were no further questions or comments, Mr. Cusick called for the vote on the amended resolution.


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

Introduction of the City of Bethlehem Tax Abatement Ordinance

Mr. Cusick advised this ordinance would extend the City of Bethlehem Tax Abatement Program for another two year period. He further advised this matter was reviewed at the Economic Development Committee meeting held earlier this evening. He noted the public hearing, debate and possible vote were scheduled for the February 17, 2011 County Council meeting.

Mr. Dowd and Mrs. McHale introduced the following ordinance:

AN ORDINANCE AMENDING NORTHAMPTON COUNTY ORDINANCE NO. 474-2007, CITY OF BETHLEHEM LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE (LERTA) PROGRAM

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Northampton County Council that Ordinance No. 474-2007 shall be further amended (sections marked with strikeout have been deleted and sections marked with bold underline have been added) as indicated hereafter:

AN ORDINANCE OF THE COUNTY OF NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, ENTITLED LOCAL ECONOMIC REVITALIZATION TAX ASSISTANCE - LERTA TAX ABATEMENT AREA, PURSUANT TO ACT 76 OF 1977; P.S. SECTION 4722 ET SEQ., BY CONTINUING THE LERTA PROGRAM THROUGH DECEMBER 2012

WHEREAS, the City of Bethlehem held a public hearing which included the County of Northampton, the Bethlehem Area School District and the Saucon Valley School District, in accordance with said Act, on October 2, 2007 to determine the boundaries of said deteriorated areas; and

WHEREAS, at said public hearing the appropriate planning agencies, having jurisdiction in and about the County of Northampton and its subordinate governmental units, and other public and private agencies and individuals presented to the Northampton County Council, the City of Bethlehem, Bethlehem Area School District and the Saucon Valley School District their recommendations concerning the location of the boundaries of deteriorated neighborhoods in deteriorating areas.

NOW, THEREFORE, BE IT ORDAINED, by the County Council of Northampton County:

I. DEFINITIONS
As used in this Ordinance, the following words and phrases shall have the meaning set forth below:

A. “Deteriorated area”, means that portion of the City of Bethlehem which the City of Bethlehem has determined to be physically blighted pursuant to Act 76 of 1977 of the General Assembly of the Commonwealth of Pennsylvania, as amended (72 P.S. 4722 et seq.)
B. “Deteriorated property”, means any industrial, commercial or other business property owned by an individual, association or corporation, and located in a deteriorating area, as provided by Resolution of the Northampton County Council, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinance or regulations. Buildings wherein at least 30% of the usable gross or business use shall, if otherwise qualified, be considered a ‘deteriorated property’ within this Article.

C. “Improvement”, means the construction of new building structures, new additions to existing structures which result in an increase in assessed valuation of the deteriorated property. Such improvements shall have the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.

For the purpose of this Ordinance, new construction, or the substantial renovation of residential structures shall not constitute an improvement eligible for real estate tax exemption under the provisions of this Ordinance; nor shall improvements or expansion to structures containing non-conforming uses be eligible for real estate tax exemption under the provisions of this Ordinance.

D. “Local taxing authority”, means the City of Bethlehem, the Bethlehem Area School District, the County of Northampton, the Saucon Valley School District or any other governmental entity having the authority to levy real property” taxes within the City of Bethlehem.

E. “Municipal governing body”, means the County of Northampton.

F. “Becomes assessable”, means immediately following issuance of the state and local occupancy permits.

II. ELIGIBLE AREAS
The City of Bethlehem hereby determines with the approval and participation of the County of Northampton, Bethlehem Area School District and the Saucon Valley School District that the following areas of the City of Bethlehem, County of Northampton, contain “deteriorated” areas as defined in Act 76 of 1977, 72 P.S. §4722, et seq., and are eligible for tax exemption under this Act by Bethlehem City Resolution number 15163 on October 2, 2007:

CITY OF BETHLEHEM LERTA ZONE BOUNDARY DESCRIPTION

A. PART I: [Bethlehem Area School District]

BEGINNING at a point said point being the centerline intersection of the Lynn Avenue and East 4th Street, said point located at 2,634,866.583 Feet East and 474,843.179 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the centerline of East 4th Street in a westerly direction to a point being the intersection of the Centerline of East 4th Street and an extension of the southwest boundary of Northampton County Parcel “P7-6-6B” currently owned by “Lehigh Forge Corporation”.

Thence in three courses along the perimeter of Northampton County Parcel “P7-6-6B, first in a northwesterly direction along the extension of the southwest boundary and following the southwest boundary line to a point located at 2,633,587.667 Feet East and 474,994.667 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, second in a northerly direction following the western boundary line to a point located at 2,632,973.500 Feet East and 476,687.167 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, third in an northeasterly direction following the northern boundary line to a point located at 2,633,971.333 Feet East and 477,079.083 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, to a point being the northeast corner of Northampton County Parcel “P7-6-6B” and the Northwest corner of Northampton County Parcel “P7-6-6H-3” currently owned by “10 Emery Street Associates LP”.
Thence along the northern boundary line of Northampton County Parcel “P7-6-6H-3” to a point being the northeast corner of Northampton County Parcel “P7-6-6H-3” and the Northwest corner of Northampton County Parcel “P7-6-6H-2” currently owned by “Lehigh Valley Industrial Park”. Said point located at 2,635,662.417 Feet East and 477,436.167 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a southeasterly direction along the northern boundary line of Northampton County Parcel “P7-6-6H-2” to a point being the southeast corner of Northampton County Parcel “P7-6-F” currently owned by “United States Cold Storage LLC”. Said point located at 2,637,459.917 Feet East and 477,255.250 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a southeasterly direction along the northern boundary of Northampton County Parcel “P7-6-F” a distance of approximately 1.09 Feet to a point located at the northeast corner of Northampton County Parcel “P7-6-F” and the northwest corner of Northampton County Parcel “P7-6-6-18” currently owned by “Brandenburg Bethlehem LLC”. Said point located at 2,637,461.000 Feet East and 477,255.917 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a southeasterly direction following the eastern boundary line of Northampton County Parcel “P7-6-6-18” to a point located at 2,638,496.833 Feet East and 475,913.083 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone. Said point being the southeastern corner of Northampton County Parcel “P7-6-6-18” and the northeastern corner of Northampton County Parcel “P7-6-6-14” currently owned by “Lehigh Valley Industrial Park”.

Thence in a southwesterly direction following the eastern boundary line of Northampton County Parcel “P7-6-6-14” to the southeast corner of Northampton County Parcel “P7-6-6-14”, a point located at 2,638,402.167 Feet East and 474,806.167 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.
Thence in a southerly direction along the extension of the eastern property line of Northampton County Parcel “P7-6-6-14” to a point being the intersection of the extension of the eastern property line of Northampton County Parcel “P7-6-6-14” and the centerline of Shimersville Road. Said point located at 2,638,402.667 Feet East and 474,779.833 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a southerly direction along the centerline of Shimersville Road to a point being the centerline intersection of Shimersville Road with East 4th Street. Said point located at 2,637,667.087 Feet East and 473,936.064 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a northwesterly direction along the centerline East 4th St to a point being the centerline intersection of the Lynn Avenue and East 4th Street, located at 2,634,866.583 Feet East and 474,843.179 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone said point being the place of BEGINNING.

B. PART II: [Bethlehem Area School District]

BEGINNING at a point said point being the centerline intersection of Shimersville Road and the extension of the western boundary of Northampton County Parcel “P7-22-2-4A”, currently owned by “Lehigh Valley Industrial Park”. Said point being located at 2,638,511.083 Feet East and 474,833.167 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a northerly direction along the centerline of Shimersville Road to a point being the intersection of the centerline of Shimersville Road with the extension of the northern boundary line of Northampton County Parcel “P7-22-2-4” currently owned by “Lehigh Valley Industrial Park”. Said point being located at 2,638,858.750 Feet East and 476,021.833 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the northern boundary of Northampton County Parcel “P7-22-2-4” in a northwesterly direction to a point being
the northeast corner of Northampton County Parcel “P7-22-2-4”, the southeast corner of Northampton County Parcel “P7-22-1”, the Southwest corner of Northampton County Parcel “P7-8-2” and the Northeast corner of Northampton County Parcel “P7-15-3” currently owned by “Tecumseh Redevelopment Inc.”. Said point being located at 2,640,426.250 Feet East and 476,321.583 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the northern boundary of Northampton County Parcel “P7-15-3” in a northeasterly direction to a point located at 2,640,498.250 Feet East and 476,349.583 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence continuing in a northeasterly direction, an extension of the northern property line, to a point being the intersection of the extension of the previous section of property line for Northampton County Parcel “P7-15-3” and the centerline of Applebutter Road. Said point being located at 2,640,523.500 Feet East and 476,363.417 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the centerline of Applebutter Road in a easterly direction to a point being the intersection of the centerline of Applebutter Road with the common school district boundary line of Bethlehem Area School District and Saucon Valley School District. Said point being located at 2,641,064.750 Feet East and 476,502.583 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the common school district boundary of Bethlehem Area School District and Saucon Valley School District in along the following three courses, first in a southerly direction south to a point being located at 2,641,537,500 Feet East and 472,261.750 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, second in an easterly direction to a point being located at 2,642,822,417 Feet East and 472,351.750 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, third in a southerly direction to a point being located at
2,643,180,500 Feet East and 471,111.750 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, said point being the intersection of the common school district boundary of Bethlehem Area School District and Saucon Valley School District with the centerline of South Easton Road and the City of Bethlehem municipal boundary.

Thence in a southeasterly direction along the common boundary line of Bethlehem Area School District, Saucon Valley School District, the City of Bethlehem and the centerline of South Easton Road to a point being the intersection of the intersection of South Easton Road, school district and municipal boundaries with the extension of the southern boundary line of Northampton County Parcel “P7-22-2-4C” currently owned by “Lehigh Valley Industrial Park”. Said point being located at 2,641,194.917 Feet East and 469,218,333 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in four courses along the perimeter of Northampton County Parcel “P7-22-2-4C”, first in a easterly direction along the extension of the southern boundary and following the southern boundary line to a point located at 2,640,894.250 Feet East and 469,179.417 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, second in a northeasterly direction continuing along the southern boundary line to a point located at 2,640,993.500 Feet East and 469,666.667 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, third in an westerly direction still following the southern boundary line to a point located at 2,640,814.000 Feet East and 469,653.333 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone, fourth in a northerly direction to a point along the southern boundary line of Northampton County Parcel “P7-22-2-4C” being located at 2,640,771.250 Feet East and 469,937.250 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System.

Thence in a northerly direction, keeping the same bearing as the previous line segment and crossing Northampton County Parcel “P7-22-2-4C”, to a point along the common boundary lines of Northampton County Parcel “P7-22-2-4C” and Northampton County Parcel “P7-22-54” currently owned by “Lehigh Valley Industrial Park”. Said point being located at 2,640,618.583 Feet East and
471,311.083 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System.

Thence along the common boundary lines of Northampton County Parcel “P7-22-2-4C” and Northampton County Parcel “P7-22-54" in a westerly direction to a point located at 2,639,714.417 Feet East and 471,216.500 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System. Said point being the common corner of Northampton County Parcel “P7-22-2-4C", Northampton County Parcel “P7-22-54", Northampton County Parcel “P7-14-1C” currently owned by “Lehigh Valley Industrial Park” and Northampton County Parcel “P7-14-1B” currently owned by “Lehigh Valley Industrial Park”.

Thence along the southern and western boundary of Northampton County Parcel “P7-14-1C” in a northwesterly direction to a point being the northwestern corner of Northampton County Parcel “P7-14-1C”. Said point being a common point with western boundary of Northampton County Parcel “P7-22-54” and located at 2,638,380.250 Feet East and 471,844.083 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System.

Thence along the western boundary of Northampton County Parcel “P7-22-54” in a northerly direction to a point being the north east corner of Northampton County Parcel “P7-14-1B” and the southern right-of-way boundary of Commerce Center Boulevard. Said point being located at 2,638,375.583 Feet East and 471,923.667 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System.

Thence in a northerly direction crossing the Commerce Center Boulevard right-of-way, to a point along the northern right-of-way boundary of Commerce Center Boulevard being a common point with the southeast corner of Northampton County Parcel “P7-14-1” currently owner by “Lehigh Valley Rail Management” and the southwest corner of Northampton County Parcel “P7-22-2-4B” currently owned by “Lehigh Valley Industrial Park”. Said point being located at 2,638,369.083 Feet East and 472,034.500 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System.

Thence in a northerly direction along the western boundary line of Northampton County Parcel “P7-14-1” to a point being the
Northwest corner of Northampton County Parcel “P7-14-1” and the
Northeast corner of Northampton County Parcel “P7-22-2-4A”.
Said point being located at 2,638,511.500 Feet East and
474,805.500 Feet North in the State Plane US NAD 83 (US FEET)
Coordinate System.

Thence in a northerly direction along the extension of the
western boundary line of Northampton County Parcel “P7-14-1” to
a point being the intersection of the western boundary line
extension of Northampton County Parcel “P7-14-1” and the
centerline of Shimersville Road, being located at 2,638,511.083
Feet East and 474,833.167 Feet North in the State Plane US NAD
83 (US FEET) Coordinate System, Pennsylvania South Zone. Said
point being the place of BEGINNING.

C.  PART III: [Saucon Valley School District]

BEGINNING at a point said point being the intersection of
the common boundary line of Bethlehem Area School District,
Saucon Valley School District, the City of Bethlehem and the
centerline of South Easton Road. Said point being located at
2,643,180,500 Feet East and 471,111.750 Feet North in the State
Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South
Zone.

Thence along the following three courses of the common
school district boundary of Bethlehem Area School District and
Saucon Valley School District, first in a northerly direction to
a point being located at 2,642,822,417 Feet East and 472,351.750
Feet North in the State Plane US NAD 83 (US FEET) Coordinate
System, Pennsylvania South Zone, second in a westerly direction
to a point being located at 2,641,537,500 Feet East and
472,261.750 Feet North in the State Plane US NAD 83 (US FEET)
Coordinate System, Pennsylvania South Zone, third in a northerly
direction a point being the intersection of the centerline of
Applebutter Road with the common school district boundary line
of Bethlehem Area School District and Saucon Valley School
District. Said point being located at 2,641,064.750 Feet East
and 476,502.583 Feet North in the State Plane US NAD 83 (US
FEET) Coordinate System, Pennsylvania South Zone.

Thence along the centerline of Applebutter Road in a
northeasterly direction to a point being the intersection of the
centerline of Applebutter Road with the northerly extension of
the western boundary line of Northampton County Parcel “P7-15-
Thence in a southerly direction along the extension of the eastern property line of Northampton County Parcel “P7-15-3” and the common boundary line of the eastern property line of Northampton County Parcel “P7-15-3” and the western property line of Northampton County Parcel “P7-15-2” to a point being the southwest corner of Northampton County Parcel “P7-15-2” currently owned by Conectiv Bethlehem LLC. Said point being located at 2,643,922.917 Feet East and 476,534.417 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the southern boundary line of Northampton County Parcel “P7-15-2” to a point being the intersection of the southern boundary of Northampton County Parcel “P7-15-2” with the City of Bethlehem municipal boundary. Said point being located at 2,645,427.667 Feet East and 477,306.833 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the City of Bethlehem municipal boundary in a southeasterly direction to a point being the intersection of the City of Bethlehem municipal boundary with the common point of property boundaries of Northampton County Parcel “P7-15-3-2” currently owned by “Tecumseh Redevelopment Inc.”, Northampton County Parcel “P7-15-3-1” currently owned by “Lehigh Valley Industrial Park” and Northampton County Parcel “P7-15-3”. Said point being located at 2,645,427.667 Feet East and 477,306.833 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence along the City of Bethlehem municipal boundary and the northeastern boundary line of Northampton County Parcel “P7-15-3” in a southeasterly direction to a point being the Northeast corner of Northampton County Parcel “P7-15-3”. Said point being located at 2,646,733.917 Feet East and 476,002.500 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

Thence in a northerly direction, keeping the same bearing as the previous line segment of Northampton County Parcel “P7-
15-3”and the City of Bethlehem municipal boundary, crossing Northampton County Parcel “P7-22-53” currently owned by “Lehigh Valley Industrial Park” to a point being the intersection of the City of Bethlehem municipal boundary and the centerline of Ringhoffer Road. Said point being located at 2,647,003.347 Feet East and 476,063.540 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

   Thence in a southeasterly direction along the centerline of Ringhoffer Road to a point being the intersection of Ringhoffer Road and the City of Bethlehem municipal boundary. Said point being located at 2,647,830.917 Feet East and 473,856.500 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone.

   Thence along the City of Bethlehem municipal boundary in a southerly direction to a point being the intersection of the City of Bethlehem municipal boundary and the centerline of South Easton Road.

   Thence continuing along the City of Bethlehem municipal boundary and the centerline of South Easton Road in a southeasterly direction to a point, being the intersection of the common boundary line of Bethlehem Area School District, Saucon Valley School District, the City of Bethlehem and the centerline of South Easton Road, located at 2,643,180,500 Feet East and 471,111.750 Feet North in the State Plane US NAD 83 (US FEET) Coordinate System, Pennsylvania South Zone. Said point being the place of BEGINNING.

III. EXEMPTION AMOUNT

   A. The amount to be exempted shall be limited to that portion of the additional assessment attributable to the actual cost of improvements.

   B. The exemption shall be limited to that improvement for which an exemption has been requested in the manner set forth below, and for which a separate assessment has been made by the Assessment Division of the Department of Fiscal Affairs of Northampton County Board of Assessment Appeals (hereafter referred to as Assessment Division).
C. The exemption from taxes granted under this Ordinance shall be upon the property and shall not terminate upon the sale or exchange of the property.

IV. EXEMPTION SCHEDULE

Subject to the conditions, requirements and limitations set forth in this Ordinance, taxpayers making assessable improvements to deteriorated property located in the deteriorating area, may apply for and may be granted a real estate tax exemption limited to the amounts in Section III (A) and (B) as set forth above, subject to the following schedule:

1. For the first year immediately following the date upon which the improvement becomes assessable, 100% of the eligible assessment shall be exempted.

2. For the second year immediately following the date upon which the improvement becomes assessable 90% of the eligible assessment shall be exempted.

3. For the third year immediately following the date upon which the improvement becomes assessable 80% of the eligible assessment shall be exempted.

4. For the fourth year immediately following the date upon which the improvement becomes assessable 70% of the eligible assessment shall be exempted.

5. For the fifth year immediately following the date upon which the improvement becomes assessable 60% of the eligible assessment shall be exempted.

6. For the sixth year immediately following the date upon which the improvement becomes assessable 50% of the eligible assessment shall be exempted.

7. For the seventh year immediately following the date upon which the improvement becomes assessable 40% of the eligible assessment shall be exempted.

8. For the eighth year immediately following the date upon which the improvement becomes assessable 30% of the
eligible assessment shall be exempted.

(9) For the ninth year immediately following the date upon which the improvement becomes assessable 20% of the eligible assessment shall be exempted.

(10) For the tenth year immediately following the date upon which the improvement becomes assessable 10% of the eligible assessment shall be exempted.

(11) After the tenth year the exemption shall terminate.

V. NOTICE TO TAXPAYERS

A. There shall be placed on the form application for building, zoning and alteration permits the following:

NOTICE TO TAXPAYERS

Under the provisions of City Ordinance No. 3070 you may be entitled to a property tax exemption on your contemplated new construction. An application for exemption may be secured from the City of Bethlehem and must be filed with the City at the time a building permit is secured.

B. At the time a building permit is secured for construction upon an existing deteriorated property for which an exemption is requested, the taxpayer shall apply to the City of Bethlehem or any successor agency thereto for the exemption provided for in this Ordinance. The taxpayer shall be permitted to apply for the exemption provided in this Ordinance up to a period of sixty (60) days from the date a final executed building permit is secured. Request for the exemption must be in writing certified in full as prescribed by the City setting forth the following information:

(1) The date a final executed building permit was issued for said improvement.

(2) The type of improvement.
(3) The summary of the plan of the improvement.

(4) The cost of the improvement.

(5) That the property has been inspected and verified by the City of Bethlehem, Bureau of Inspections.

(6) Any or all such additional information the City may require.

VI. PROCEDURES FOR OBTAINING EXEMPTIONS

A copy of the request for exemption, on forms prescribed by the Northampton County Director of Fiscal Affairs, shall be forwarded to the Northampton County Assessment Division, and the Bethlehem Area School District or the Saucon Valley School District as would be applicable, by the City. Upon completion of the improvement, the taxpayer shall notify the City and the Northampton County Assessment Division so that the Northampton County Assessment Division may assess the improvements separately for the purpose of calculating the amount of assessment eligible for tax exemption in accordance with the limits established in this Ordinance. The City will then obtain from the Northampton County Assessment Division the amount of the assessment eligible for exemption and will notify the taxpayer. The Director of the Department of Fiscal Affairs is authorized to make refunds, if applicable, only after the Northampton County Assessment Division has notified the Director of Fiscal Affairs of its separate assessment upon the improvement for which an exemption and the amount eligible for the exemption may be taken by the taxpayer of the City as provided by law.

VII. TERMINATION

This ordinance shall be effective retroactive to January 1, 2009 and shall terminate on December 31, 2010 unless otherwise repealed by Council. No later than August 1, 2010, the Mayor of the City of Bethlehem shall submit a written report to the Northampton County Council which shall inform the Northampton County Council as to how this Ordinance has been
administered, the effects of this Ordinance on the community and include any suggestions or recommendations for this Ordinance’s re-enactment, modification or repeal. Nothing contained herein shall act to prohibit the Northampton County Council from enacting a similar ordinance after December 31, 2010 2012. Any property tax exemptions granted under the provisions of this Ordinance shall be permitted to continue according to the exemption schedule found in Section IV even if this Ordinance expires or is repealed.

VIII. HEARING BOARD

A Tax Abatement Hearing Board (hereafter referred to as Board) shall consist of the Business Administrator of the City of Bethlehem, the Director of the Department of Community and Economic Development of the City of Bethlehem as Chairperson, the Director of Fiscal Affairs of the County of Northampton, the Assistant to the Superintendent for Finance and Business Administration of the Bethlehem Area School District and the Business Manager of the Saucon Valley School District, for resolution of differences between the approving authority and the owner-taxpayer of the improved property on matters concerning interpretation and execution of the provisions of this Ordinance.

The Hearing Board shall have the following powers:

(1) To hear appeals from any person aggrieved by the application of this Ordinance.

(2) To make rules with regard to conducting its hearings.

(3) To make such findings of fact as may be required by the application of this Ordinance.

(4) To decide questions presented to the Board.

(5) To affirm, revoke or modify the decision of the County of Northampton as to the eligibility of a particular property for the Property Tax Abatement as provided for in this Ordinance.
(6) The Board shall meet upon notice of the Chairperson within thirty (30) days of the filing of an appeal and shall render its decision within thirty (30) days after the appeal hearing.

(7) Every action of the Board shall be by resolution and certified copies furnished to the appellant.

(8) All hearings shall be public; and the appellant or any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard.

IX. RULES AND REGULATIONS

In accordance with the provisions of the Northampton County Home Rule Charter, Section 302, the County Executive of Northampton County is authorized and empowered to prepare, promulgate, execute and enforce rules and regulations made pursuant to the provisions of this Ordinance.

X. SEVERABILITY

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid, or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses, or sentences. It is hereby declared to be the intent of the Northampton County Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional sections, clauses, or sentences had not been included herein.

XI. CONTINGENCY

Notwithstanding any other provisions of this Ordinance, this Ordinance shall remain in full force and effect conditioned upon the City of Bethlehem, the Bethlehem Area School District and the Saucon Valley School District enacting similar ordinances or resolutions, with identical deteriorated areas as those designated by the City of Bethlehem and approved by Northampton County Council.
XII. DEFAULT

Tax abatement under this ordinance shall be available only for those properties for which real estate taxes are promptly paid and discharged when due. Any property that is declared delinquent as established by the statutes of the Commonwealth of Pennsylvania shall lose the LERTA benefits and any and all currently due and future taxes shall be due and payable at the full unabated assessment and tax rate.

XIII. APPEAL OF DEFAULT

Properties that have been declared delinquent may appeal the rescission of the LERTA benefits by providing a written request to the Hearing Board providing a basis for the appeal and the justification for the waiver of the requirements of Article XII.

XIV. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after the date of enactment and be retroactive to January 1, 2009 and shall remain in effect thereafter from year to year, unless repealed, until December 31, 2012.

XV. REPEAL

All Ordinances and parts of Ordinances inconsistent herewith be, and the same are hereby, repealed.

Human Services Committee Report

Mr. Dietrich stated that under the Courtesy of the Floor an issue was raised with regard to the changes in the Mental Health Division and he wondered if this should be discussed in two weeks or could it be delayed.

Mr. Marcus advised he did not know enough of the facts to answer that question accurately. He further advised he did not
know what the schedule for the changes were or what the importance of doing the changes now versus later.

Mr. Dietrich stated that his concern was this might be a mute issue in two weeks so he did not know if it would be appropriate to ask that nothing be done until it could be discussed.

Mr. Marcus advised he could not answer that as he did not know the urgency associated with the issue or what the ramifications would be if it was delayed. He further advised he was meeting with Ms. Kathleen Kelly, Mental Health Administrator II, tomorrow and would relay any information he obtained to Mr. Flisser.

In response to Mrs. McHale’s question as to whether he disagreed with the comment that Mr. Gregory made which was, “As of Wednesday we were told that our department will be terminated and we were given three weeks to notify our clients that they will, as we will be, reassigned to private agencies And elsewhere”, Mr. Marcus stated he did not know about the three weeks, but the rest of it was accurate.

Council Solicitor’s Report

Mr. Lauer advised he reported on the issue concerning the resolution regarding the parking deck. He further advised he was asked some questions regarding the Gracedale initiative, which he responded to.

Mr. Angle asked if it was true that if Gracedale was sold before all the lawsuits pending were resolved, that anyone could bring an injunction before the Courts to have it put on hold, but as part of the injunction, they may be required to post bond for any potential loss of the $35 million.

Mr. Lauer stated there were a lot of issues relating to what could happen and what he suggested in his memorandum was that until something like that happened, County Council was doing what it was supposed to do according to the Home Rule Charter which was to consider whether or not they would enact an ordinance virtually identical to what the petition provided. He further stated if County Council chose to do that, then so be
it, but if not, at the expiration of 60 days it goes back to the Election Commission.

Mr. Lauer advised there were lots of things that could happen in the way of litigation, but the Courts would eventually speak on all the issues. He further advised his advice to County Council was until they did, he thought the Home Rule Charter dictated what was next for them.

Mr. Lauer stated the Home Rule Charter provided for judicial review if the Election Commission indicated the petition did not conform to the Home Rule Charter, but if it did conform, there was no procedure for judicial review. He further stated the judicial review happened in a way others have filed the proceedings that they filed.

With regard to Mr. Angle’s specific comment, Mr. Lauer advised if there were injunctions, it would be likely that a judge would require the payment of a bond to reimburse in the event of a loss to the County.

In answer to Mr. Dietrich’s question as to what was meant by final determination as indicted by the Home Rule Charter, Mr. Lauer stated the final determination was the decision by the Election Commission because if it was approved, then there was no provision in the Home Rule Charter for any other procedure to occur in the event of an approval except if it came to County Council. He further stated if it was found not to conform, then there was a provision in the Home Rule Charter for judicial review and that would take place. He noted in this context where they found that it did conform, then that was the final determination with respect to County Council.

In response to Mr. Angle’s question as to what would happen if a judge ruled that Mr. Stoffa was correct and the Election Commission determined it was still going to go on the ballot, Mr. Lauer replied they would be found in contempt and would face the penalties allowed.

Mr. McClure advised Section 1105 stated, “Upon the filing with the Election Commission of a referendum petition, the ordinance to which the referendum petition pertains shall be suspended from taking effect. Such suspension shall terminate
upon the final determination that the referendum petition does not conform to the provisions of this article, upon the repeal of the ordinance to which the referendum petition pertains, or thirty (30) days after the registered voters of the County have voted on whether to repeal the ordinance to which the referendum petition pertains, whichever is sooner.” He further advised he interpreted this to mean that County Council could take no action while the initiative was pending.

Mr. Lauer advised that section referred specifically to a referendum and this was an initiative.

In answer to Mr. Angle’s question as to if they were to win, but it was too late for it to be put on the ballot, would it be put on the ballot in November, Mr. Lauer stated he believed so.

Mr. McClure advised Section 1101 a. of the Home Rule Charter reads as follows: Reservation of Power. In accordance with the provisions of this article, the registered voters of the County shall have the power by initiative to enact and repeal ordinances, by referendum to suspend and repeal ordinances, and by recall to remove officials from office. He further advised he did not think by calling this an initiative took it out of Section 1105.

Mr. Lauer stated he believed it did because Section 1105 spoke specifically only to referendums and not to initiatives. He further stated a referendum would be a request that the electorate repeal an ordinance that was already in place where as an initiative was asking to have a new ordinance and if County Council did not pass it, they wanted the electorate to pass it.

Adjournment

Mr. Dowd made a motion to adjourn.

Frank E. Flisser
Clerk to Council