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; Thomas H. Dietrich; Bruce A. Gilbert; Kenneth M. Kraft; Lamont G. McClure, Jr.; Scott Parsons; Barbara A. Thierry; Robert F. Werner; Frank E. Flisser, Clerk to Council, and Philip D. Lauer, Solicitor to Council.

Prayer

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

Pledge of Allegiance

Mr. Cusick led County Council in the pledge of allegiance.

Approval of the Minutes

Mr. McClure made the following motion:

Be It Moved By the Northampton County Council that the minutes of the October 4, 2012 meeting shall be approved.

Mrs. Thierry seconded the motion.

The minutes were approved by voice acclamation.

Courtesy of the Floor

As no one signed up to speak under Courtesy of the Floor, Mr. Cusick asked if there was anyone who had any questions or comments. There were no respondents.

County Executive Report

Mr. John Stoffa, County Executive, stated he did not have a report.
AN ORDINANCE PROVIDING FOR AN AMENDMENT TO THE ARTICLES OF INCORPORATION OF THE LEHIGH-NORTHAMPTON AIRPORT AUTHORITY

WHEREAS, the Lehigh-Northampton Airport Authority ("Authority") is a municipal authority organized under the Municipality Authorities Act of 1945, as amended; and

WHEREAS, pursuant to resolutions duly adopted by the Counties of Lehigh and Northampton (the "Counties"), the Authority’s original Articles of Incorporation were filed with the Pennsylvania Department of State on June 12, 1968, such Articles of Incorporation being amended on December 27, 1973, September 20, 1985, October 4, 1994, February 16, 2001 and June 1, 2010; and

WHEREAS, recent appointments of members of the Board of Governors were inconsistent with the Municipality Authorities Act of 1945, as amended, and accordingly, a question has arisen regarding the term duration of appointments of members of the Board of Governors of the Authority; and

WHEREAS, pursuant to the provisions of 53 Pa.C.S.A. §5605(a), an authority may amend its articles to, among other things, revise the terms of office of members; and

WHEREAS, on August 28, 2012 the Board of Governors of the Authority adopted resolution No. 4782 (a copy of which is attached hereto and labeled as Exhibit “A”), which provides for an amendment to the Authority’s Articles of Incorporation to clarify the term duration of members of the Board of Governors so that it is consistent with the Municipalities Authorities Act of 1945 as amended.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Northampton County Council that:
(1) The Articles of Incorporation of the Authority are hereby amended by adding a new Section 10 to read in full as follows:

“10. With respect to the term duration of the members of the Board of Governors of the Authority, each member’s term shall commence on the effective date of his/her appointment by the respective counties and shall expire on the first Monday in January or at the time of replacement or reappointment by the respective counties, whichever occurs later.”

(2) The Northampton County Council concurs with the recommendation of the Board of Governors of the Authority, as set forth in resolution No. 4782, to provide for an amendment to the Authority’s Articles of Incorporation to clarify the term duration of members of the Board of Governors so that it is consistent with the Municipalities Authorities Act of 1945, as amended.

(3) The appropriate personnel of the County of Northampton are hereby authorized and empowered to take all necessary further action and execute all necessary additional documents as they may deem appropriate to carry out the purpose of this Ordinance.

(4) Any Ordinance or parts of any Ordinance conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

(5) Effective Date: This Ordinance shall become effective thirty (30) days after the date of enactment.

Public Hearing

Mr. Cusick asked if there were any questions or comments from the public.

There were no respondents.

In answer to Mr. Cusick’s question as to whether Lehigh County had adopted a similar ordinance, Mr. Flisser stated they were voting on one next week.
As there were no further questions or comments, Mr. Cusick called for the vote.


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

Gracedale Medical Transport Issue

Mr. Lauer advised a resolution was submitted on behalf of the Administration for approval of a contract with LifeStar Resources (LifeStar) to provide non-emergency medical transport services for Gracedale. He further advised the contract had gone through the Request for Proposal (RFP) process, the proposals were evaluated and a recommendation was made to County Council. He noted that resolution was not approved and instead a resolution was approved awarding the contract to the Nazareth Ambulance Corps (Nazareth).

Mr. Lauer stated at that meeting there were some questions regarding whether there was a requirement for Nazareth to be licensed by the Public Utilities Commission (PUC). He further stated it was pretty clear that there was no requirement to be PUC licensed to transport patients to and from medical facilities. He further advised medical facilities, under the PUC code, were defined as health care facilities, institutions, providers or maintenance organizations so if the transport was to any of those, it was exempt.

Mr. Lauer advised a doctor’s office was not considered to be any of those so if there was a transport to a doctor’s office, a PUC license would be required. He further advised with respect to the medical exemption that was discussed, this could pose a problem because there were transports to and from doctor offices. However, if any municipality provided a PUC service and they did so within their corporate limits, they were exempt from having a PUC license.

Mr. Lauer stated the RFP did require transport to be made to places outside the County corporate limits, i.e., Lehigh Valley Hospital. He further stated in 2003, there was a case in the Pennsylvania Commonwealth Court that concluded in
determining whether a public entity was acting within its corporate limits, it had to look at who was being transported not where they were being transported to and in this case, all of the people being transported were residents of Gracedale so they would fall within the territorial limits of the County.

Mr. Lauer advised counsel for LifeStar also contended that where a governmental entity was exempt, the governmental unit or its contractor that was providing the services must actively regulate or exercise substantial ongoing control over rates, routes and services of the contractor or subcontractors. He further advised after reviewing the RFP, it was his understanding that once this entity was selected, they would be providing transport services at the beck and call of Gracedale so they would be told where and when to go and what they were going to be paid by the RFP so there was substantial control over these issues by the County or the County’s agency, namely Gracedale.

Mr. Lauer stated the PUC cases they reviewed were all over the place with regard to this issue.

In answer to Mr. McClure’s question as to whether LifeStar’s contention was wrong, Mr. Lauer advised it was his opinion that Nazareth met the exemption for a municipality.

Mr. Karl Longenbach, County Solicitor, stated it would be his recommendation that this matter be referred back to the RFP evaluation committee, have them provide the County Executive with their recommendation and then have that recommendation brought forth to County Council.

In response to Mrs. Ferraro’s request for explanation as to the difference between a RFP and a bid, Mr. Longenbach advised if it was for a common item and the lowest price was the most important aspect of the purchase assuming the requirements were met, a sealed bid was solicited and the most responsible vendor with the lowest price would govern the award.

Mr. Longenbach stated a RFP was used if it was for a service, where the price was important, but not the sole determining factor and there were other evaluation elements that went into the decision.
Mr. McClure advised he believed Mr. Longenbach was correct in his explanations. He further advised Nazareth had indicated they would work under the old contract until this issue was settled.

In answer to Mrs. Thierry’s question as to whether County Council had fulfilled their obligation with regard to this matter, Mr. Longenbach stated under the Administrative Code, County Council had the absolute authority to approve or not approve the recommendation, but it was not obliged to provide a reason for their decision.

Mr. Lauer advised LifeStar’s counsel did take issue with the fact that County Council did not only vote, but actually had an extensive discussion about a lot of the aspects of this issue. He further advised the Home Rule Charter and the Administrative Code did not preclude County Council from having any discussion before they voted.

Introduction of the 2013 Real Estate Tax Millage Rate Ordinance

Mr. Cusick stated the 2013 Real Estate Tax Millage Rate ordinance was being introduced at this meeting so County Council would be in position to adopt it at either of the two meetings in December. He further stated the 2013 millage rate was the same as the 2012 millage rate. He noted the public hearing would be held at the November 1, 2012 meeting, but the debate and possible vote would be held at either the December 6, 2012 or December 13, 2012 County Council meeting.

Messrs. Cusick and Gilbert introduced the following ordinance:

AN ORDINANCE PROVIDING FOR THE REAL ESTATE TAX MILLAGE RATE IN THE COUNTY OF NORTHAMPTON FOR THE YEAR 2013

IT IS HEREBY ORDAINED AND ENACTED that the millage rate for real estate tax purposes for the year 2013 shall be set at 10.8 mills on every dollar of assessed valuation of taxable real estate or $1.08 on every $100.00 of assessed valuation.
Introduction of the Ordinance Providing for an Amendment to the Open Space Initiative Municipal Park Guidelines Part II

Mr. Cusick advised at his request, an ordinance providing for an amendment to Municipal Park Open Space guidelines Part II was prepared. He further advised this matter was discussed at the initial budget meeting held October 9, 2012 and it did not allow municipalities to apply for Part II funding until such time as their phase I project was closed out. He further advised the public hearing, debate and possible vote was scheduled for the November 1, 2012 meeting.

Messrs. Cusick and Parsons introduced the following ordinance:

AN ORDINANCE PROVIDING FOR AMENDMENTS TO THE NORTHAMPTON COUNTY 21ST CENTURY OPEN SPACE INITIATIVE GUIDELINES

WHEREAS, the Northampton County Council adopted ordinance #423-2004, the ordinance titled, AN ORDINANCE ESTABLISHING THE NORTHAMPTON COUNTY OPEN SPACE INITIATIVE, ACCEPTING THE REPORT OF THE NORTHAMPTON COUNTY COUNCIL OPEN SPACE COMMITTEE PREPARED WITH THE ASSISTANCE OF THE LEHIGH VALLEY PLANNING COMMISSION, CREATING THE NORTHAMPTON COUNTY OPEN SPACE ADVISORY BOARD AND ESTABLISHING ITS DUTIES, AND PROVIDING FOR THE ADMINISTRATION OF THE OPEN SPACE INITIATIVE, at the meeting held November 4, 2004. The ordinance was signed by the County Executive on November 5, 2004 and it became effective as such on December 5, 2004. The NORTHAMPTON COUNTY 21ST CENTURY OPEN SPACE INITIATIVE GUIDELINES were subsequently amended via the enactment of ordinances #468-2007, #533-2011, and #552 of 2012.

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Northampton County Council that the following section (bold underline) shall be added to the first paragraph under the heading GRANT ELIGIBILITY, of Part 2 the Municipal Park Acquisition and Development Program Guidelines Phase II, so the first paragraph under the heading GRANT ELIGIBILITY, would then read as follows:

“The townships, boroughs, and city governments in Northampton County are eligible to receive funds under the Municipal Park Acquisition and Development Program. Those municipalities which have not completed and closed grants from
Phase I of the Open Space Initiative Municipal Parks portion of the program will be ineligible to apply for funding under Phase II, until such time that their first grant application has been closed out.

Effective Date

This Ordinance shall become effective thirty (30) days after the date of enactment.

Consideration of the Collective Bargaining Unit Agreement Between the County of Northampton and AFSCME District Council 88 (Residual Non-Professional Unit)

Mr. Cusick stated this contract was reviewed at the Personnel Committee meeting held on October 17, 2012.

Mr. Kraft introduced the following resolution:

R. 86-2012 WHEREAS, Northampton County Charter Section 202 (12) provides that, “the County Council shall have the power to approve any collective bargaining agreements with officers and employees”.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Northampton County Council that the Collective Bargaining Unit Agreement between the County of Northampton and AFSCME District Council 88 (Residual Non-Professional Unit) shall be approved this 18th day of October 2012.

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


The resolution was adopted by a vote of 9-0.
Mr. Cusick advised the revised Human Services pay scales were reviewed at the October 17, 2012 Personnel Committee meeting.

Mr. Kraft introduced the following resolution:

R. 87-2012  WHEREAS, the Northampton County Council adopted resolution #111-2011, which adopted pay scales for certain full-time County employees, including the 2012 Department of Human Services Civil Service (Non-Union) Administrative Staff Pay Scale and the 2012 PSSU Employees Pay Scale (Pay Scale PS); and

WHEREAS, on September 26, 2012, the Director of Human Services indicated that due to changes in State maximum allowable salaries, it became necessary to revise the 2011 and 2012 Human Services Civil Service (Non-Union) Administrative Staff Pay Scale and the PSSU Employees Pay Scale.

NOW, THEREFORE, BE IT RESOLVED by the Northampton County Council that the 2011 and 2012 Human Services Civil Service (Non-Union) Administrative Staff Pay Scale and the PSSU Employees Pay Scale shall be revised to read as indicated on the attached document (refer to Exhibit A). The 2012 revisions shall be retroactive to July 1, 2012.

In response to Mr. Parsons’ request for an explanation regarding this resolution, Mr. Ross Marcus, Director of Human Services, stated every year the State increased the maximum salaries that they would reimburse for, therefore, effective July 1, 2012, they increased the maximum salaries by 1%. Mr. Marcus further stated this impacted what the County was reimbursed and by increasing the County’s pay scales, the employees, who were at the top of their pay scales, would get that 1%. He noted this would impact 12 employees, six in the Pennsylvania Social Services Union and six non-union employees. He further noted this was already budgeted for and really impacted the County’s reimbursement more than anything else.

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

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

Budget Meeting Schedule

Mr. McClure advised that the budget meetings have begun and were being held at 4:00 p.m. like a lot of the committee meetings, and he felt meetings should not be held before 5:00 p.m., as Mr. Parsons had suggested, because it was almost impossible for him to get here.

Wilson Area School Board Meeting

Mr. Cusick stated he attended the Wilson Area School Board meeting on Monday and one issue that arose was the proposed charter school near the County’s West Easton Treatment Center. He further stated the concerns were both related to the cost, the potential loss of students and the proximity to the center.

Mr. Cusick advised he did not know if the County wanted to take a position on the matter, but he did not believe it was a proper location for the school.

Mr. Werner stated he attended a meeting in West Easton and there did not seem to be any objections, however, they wanted to know exactly what it was going to be.

Mr. McClure advised he felt Mr. Cusick’s concern was mostly for the security of the potential students, but if someone was going to walk away from Work Release, they usually did it before they returned to the facility. He further advised there was more security in that area now than around most school buildings.

Human Services Committee Report

Mr. Dietrich stated at the Human Services Committee meeting today, a brief overview of Gracedale was provided, as well as a review of the changes in the budget and some of the anticipated changes that would have to be made.
Gracedale Liaison Report

Mr. Werner advised the South East Wing at Gracedale was fully occupied. He further advised their website was down for a while, but it was back in operation.

Mr. Werner stated there was a dentist on site at no cost to the residents. He further stated they had same day service and there was also a lab on site.

Mr. Werner stated he was aggressively pursuing the matter of collections.

Mr. Werner advised the 32 minute timeframe for admission was down to 17 and because of that, more referrals were being made from the hospitals.

Mr. Werner stated the short term unit would be contributing more than $1 million to Gracedale’s overall revenue.

Mr. Werner advised there was a new Answer on Demand system in place that was increasing efficiencies in record keeping and scheduling.

Mr. Werner stated they were following the trend for short term units in marketing for further revenue streams.

Open Space Advisory Board Liaison Report

Mr. Parsons advised at the Open Space Advisory Board meeting, a discussion was held regarding a number of projects that may be coming down the pipe soon.

Mental Health/Early Intervention and Development Programs Advisory Board Liaison Report

Mr. Dietrich stated he went to the Crisis Intervention Training, which was funded through the gaming funds. He further stated it was to help law enforcement agencies identify individuals who were having a psychological crisis so they could get the necessary help.
Lehigh Valley Planning Commission (LVPC) Liaison

Mr. Cusick advised the Department of Housing and Urban Development Sustainability Grant project was underway. He further advised if anyone had any suggestions as to what the vision for the Lehigh Valley should be, they were welcomed to attend the Envision Lehigh Valley meetings.

Lehigh Valley Economic Development (LVEDC) Liaison

Mr. Cusick stated LVEDC held its annual awards ceremony last week and two Northampton County entities won awards, ArtsQuests and Voltaix.

Adjournment

Mrs. Thierry made a motion to adjourn.

Mr. Cusick seconded the motion.

The motion passed by acclamation.

Frank E. Flisser
Clerk to Council