Easton, Pennsylvania September 17, 2015

A regular meeting of the Northampton County Council was held on the above date with the following present: Margaret L. Ferraro, President; Glenn A. Geissinger, Vice-President; Mathew M. Benol; Kenneth M. Kraft; Lamont G. McClure, Jr.; Scott Parsons; Hayden Phillips; Seth Vaughn; Robert F. Werner; Linda M. Zembo, Clerk to Council, and Philip D. Lauer, Solicitor to Council.

Prayer

Mrs. Ferraro led County Council in a moment of silence.

Pledge of Allegiance

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

Approval of the Minutes

Mr. Kraft made the following motion:

Be It Moved By the Northampton County Council that the minutes of the September 3, 2015 meeting shall be approved.

The minutes were approved by voice acclamation.

Confirmation of Appointments

Mr. Kraft introduced the following resolution:

R. 80-2015 RESOLVED, by the Northampton County Council that the following individuals shall be confirmed in their re-appointments as indicated hereafter:

RETIREMENT BOARD

Re-appointments:
John A. Brown
County Executive
500 South 7th Street
Bangor, PA 18013

Terms to Expire: 12/31/17
As there were no questions or comments, Mrs. Ferraro called for the vote.

The vote: Kraft, "yes"; Ferraro, "yes"; Geissinger, "yes"; McClure, "yes"; Parsons, "yes"; Phillips, "yes"; Vaughn, "yes"; Werner, "yes" and Benol, "yes".

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

Courtesy of the Floor

As no one signed up for Courtesy of the Floor, Mrs. Ferraro asked if there were any questions or comments.

There were no respondents.

Controller’s Report: Payroll Audit Discussion

Mr. Stephen Barron, County Controller, stated the payroll audit was finished and being reviewed by the Administration. He further advised they found there was a possibility for promotions and raises into promotional positions whether they were created or not.

Mr. Barron stated they amended their testing to make sure they accounted for anyone who got moved into a promotional position and that it existed and was approved by County Council in the budget as opposed to a position that was just created and then additional monies allocated because it took it off the radar of what they were initially testing for.

Mr. Barron advised the PrimeCare audit was out for responses. He further advised since it was a paid for services contract they benchmarked with other prisons, some similar in size and some smaller, to see how they paid for the healthcare costs of their inmates. He further advised it provided the thresholds they used for when their stop loss was triggered and other things that went into paying for prison healthcare.
Mr. Barron stated from the things they learned, the County could see how its system was working and to determine if other things should be implemented during the next Request for Proposal process. He further stated the Prison was very pleased with PrimeCare and they did not find anything out of the ordinary with regard to the money they were receiving or spending.

Mr. Barron advised since PMA was no longer providing Workers Compensation insurance they were not going to do that audit and began the preliminary work for the Open Space audit.

County Executive's Report: General Anna Mae McCabe Hays Bridge Proposal

Mr. Brown stated they were in the final stages of hiring a Director of Emergency Management Services and hoped to have the position filled by the end of October. He further stated work on the budget was continuing and they would be presenting it to County Council by October 3, 2015.

Mr. Brown advised he would like to have Mr. James Hunter, Director of Fiscal Affairs, talk about the impact of the State budget impasse.

Mr. Hunter stated the County had to use $17 million to cover the funds that have not been received to date. He further stated they were probably going to use an additional $5-7 million during the next two weeks, but they did have the funds to get to the end of the year.

Mr. Hunter advised they were going to hold discussions with Ms. Allison Frantz, Director of Human Services as most of the money received from the State were for that department. He further advised they have not nor did they anticipate eliminating any of the County services and nothing had changed with regard to the parameters of accounts payable.

Mr. Hunter stated Mr. Doran Hamann, Budget Administrator, always prepared for this so they knew what funds were available. He further stated he wanted to emphasize the County was operating normally, but they may have to come back to County Council if the impasse continued.
Mr. Brown advised he received a request from Lehigh County to support the renaming of the Coplay-Northampton Bridge after General Anna Mae McCabe Hayes, a retired Chief of the United States Army Nurse Corps and the first woman to receive the rank of General in the United States Army.

Mr. Werner made a motion to support Lehigh County’s request to rename this bridge.

Mr. Benol seconded the motion.

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


The motion passed by a vote of 9-0.

Courtesy of the Floor

Mr. Anthony Thompson, 56 West Market Street, Bethlehem, PA — asked if he could speak as he was unable to arrive for Courtesy of the Floor. He stated he was a member of the Board of Trustees for the Central Moravian Church and he wanted to ask for County Council’s consideration of a proposal to relieve the church from rollback taxes.

Mr. Thompson advised last year the Central Moravian Church entered into an agreement of sale for approximately 30 acres of land with Natural Lands Trust (NLT) and under that arrangement 26 acres would permanently remain open space, noting Northampton County and the Commonwealth of Pennsylvania jointly approved a grant for the purchase of this land.

Mr. Thompson stated the property was under Act 319, which was a favorable agricultural assessment. He further stated they were also transferring approximately a half acre of land to Bethlehem Township for a road through the property and the Township’s own open space property.

Mr. Thompson advised there was a special provision under the Clean and Green Act that permitted this type of conveyance to qualify for a waiver of rollback taxes and the deed would have the requirement that it permanently remain open space.
Mr. Thompson stated the half acre of land they were transferring to Bethlehem Township and the property being retained by the church also fell within that provision of the Clean and Green Act.

Mr. Thompson advised they felt they qualified under the Clean and Green Act to request a waiver of rollback taxes, but all taxing bodies had to agree to the waiver. He further advised Bethlehem Township had agreed to it and they were hopeful the Bethlehem Area School District would also agree.

Mr. Thompson stated he would present a draft of a resolution for County Council consideration to Mr. Lauer.

Mr. Lauer advised Mr. Thompson spoke with himself and Mr. David Backenstoe, Assistant County Solicitor. He further advised he would take the resolution and redraft it for submission to County Council for approval at the next meeting.

Public Hearing on the Ordinance Amending Ordinance No. 411-2003 (also known as the Weights and Measures regulation ordinance)

Mrs. Ferraro stated the following ordinance was introduced by Messrs. Parsons and Kraft at the meeting held on September 3, 2015:

AN ORDINANCE PROVIDING FOR AMENDMENTS TO NORTHAMPTON COUNTY ORDINANCE NO. 411-2003 TITLED, "AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF NORTHAMPTON, PENNSYLVANIA, REQUIRING AN ANNUAL LICENSE/PERMIT FEE FOR COMMERCIAL WEIGHING, MEASURING OR SCANNING DEVICES; SETTING FORTH DEFINITIONS; ESTABLISHING THE REQUIREMENTS FOR OBTAINING A PERMIT; SETTING FORTH PENALTIES FOR VIOLATION THEREOF; AND ESTABLISHING THE EFFECTIVE DATE"

WHEREAS, Ordinance No. 411-2003, titled, "AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF NORTHAMPTON, PENNSYLVANIA, REQUIRING AN ANNUAL LICENSE/PERMIT FEE FOR COMMERCIAL WEIGHING, MEASURING OR SCANNING DEVICES; SETTING FORTH DEFINITIONS; ESTABLISHING THE REQUIREMENTS FOR OBTAINING A PERMIT; SETTING FORTH PENALTIES FOR VIOLATION THEREOF; AND ESTABLISHING THE EFFECTIVE DATE" was duly enacted on November 6, 2009, amended by Ordinance No. 512-2009, which was duly enacted on November 6, 2009 and amended by Ordinance No. 592-2015, which was duly
enacted on April 20, 2015.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED By the Northampton County Council that Ordinance No. 411-2003 shall be amended as indicated hereafter (sections marked with **strikeout** are being deleted and sections marked with *bold underline* are being added):

AN ORDINANCE OF THE COUNTY COUNCIL OF THE COUNTY OF NORTHAMPTON, PENNSYLVANIA, REQUIRING AN ANNUAL LICENSE/PERMIT FEE FOR COMMERCIAL WEIGHING, MEASURING OR SCANNING DEVICES; SETTING FORTH DEFINITIONS; ESTABLISHING THE REQUIREMENTS FOR OBTAINING A PERMIT; SETTING FORTH PENALTIES FOR VIOLATION THEREOF; AND ESTABLISHING THE EFFECTIVE DATE

WHEREAS, the County of Northampton and the Commonwealth of Pennsylvania, Department of Agriculture have entered into a Memorandum of Understanding pursuant to the Consolidated Weights and Measures Act (3 Pa. C.S.A. §4101 et seq.); and

WHEREAS, the Memorandum provides for the delegation of powers and duties from the Commonwealth to the County for various inspection responsibilities; and

WHEREAS, the County has determined that an annual license/permit fee for each commercial weighing, measuring or scanning device subject to the jurisdiction of the County Office of the Division of Weights and Measures is necessary.

NOW, THEREFORE, it is hereby enacted and ordained by the County Council of the County of Northampton, Pennsylvania, as follows:

SECTION 1. Definitions

Division - Division of Weights and Measures, County of Northampton

Fuel dispenser - A device designed for the measurement and delivery of gasoline, diesel or kerosene fuel.

Person - A corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.
PLU device - Price look-up device - A device that can access a database price file or retail price retrieval system. The term includes bar code beam or contact scanners, Optical Character Recognition (OCR) scanners or readers, magnetic scanners or readers, alpha or numeric keyboards, or both, voice response systems and computer based retail price retrieval systems.

Scale - Any weighing device.

Scanning device - A general term for any of the several types of PLU technologies capable of communicating with a database price file or retail price retrieval system. The term includes hardware, software and supporting computer systems.

Weights and measures - Weights and measures of every kind, instruments and devices for weighing and measuring and any appliances and accessories associated with any or all such instruments or devices.

Vehicle tank meter - A meter mounted on vehicle tanks including those used for the measurement and delivery of domestic petroleum products.

Timing device - A device used to measure the time during which a particular paid-for service is dispensed. Examples of timing devices are laundry driers, car-washing times and recorders.

SECTION 2. Permit Required

(a) Every person desiring to conduct, or continue to conduct any business, as herein defined, within the County of Northampton shall file prior to the commencement of such conduct, with the Division application for a device license/permit.

(b) Every person that operates or maintains a weighing, measuring, scanning or timing device for commercial purposes, including but not limited to fuel dispenser, vehicle tank meter, scale and/or PLU device, is required to obtain an annual license/permit for each device from the Division.

(c) In cases where business is conducted in more than one place, a separate license/permit shall be issued for each place of business.
(d) Whenever any licensee under this article shall change the address of the business for which such license/permit is issued, the licensee shall immediately notify the Division of such change of address and the new address or location where the business will be conducted.

(e) Whenever the ownership of any such business shall be changed, the new owner, upon taking possession thereof, shall notify the Division of such fact within ten (10) days after such becomes effective.

(f) No license/permit issued under the provisions of this article shall be transferred or assigned to any other person, firm or corporation.

(g) Any licensee who is in default of payment of the device fee due hereunder shall be refused a license until such fee is paid in full.

SECTION 3. Requirements

The Division shall issue an annual device license/permit upon the following:

(a) The applicant completes the County of Northampton Application for Device License/Permit form.

(b) The applicant pays the annual license/permit fee for each weighing, measuring, scanning and timing device as set forth on the Application for Device License/Permit form.

\[(i)\] Fuel dispensers: $25.00 per grade

\[1 \text{ MPD} = 6 \text{ grades}\]

\[(ii)\] Vehicle Tank Meters: $60.00 per meter on domestic fuel truck

\[(iii)(a)\] Liquid Petroleum Gas (CNG) (LPG): $50.00 per meter

\[\text{(b)}\] Compressed Natural Gas (CNG): $50.00 per meter

\[(iv)\] Scales: used in commercial trade and/or non-commercial use but required by user to be inspected

\[(a)\] Up to 1000 lbs. capacity $25.00 per scale (Scale License A)

\[(b)\] Over 1000 lbs. capacity $100.00 per scale (Scale
License B)

(v) Universal Product Code (UPC) scanning systems/Price Look-Up (PLU) device

(a) $50.00 per system 3 or less checkouts per location
(b) $100.00 per system 4 to 6 checkouts per location
(c) $200.00 per system 7 or more checkouts per location

(vi) Grain Moisture Meters: $25.00 per meter
(vii) Coin Counting Devices: $50.00 per device
(viii) Timing Devices: $5.00 per device
(ix) Fabric Devices: $5.00 per device

SECTION 4. Penalties

Any person violating any provision of the Ordinance shall, upon conviction thereof at a summary proceeding, be sentenced to pay a fine of One Hundred Dollars ($100.00) per violation, to be paid to the use of the County, with the cost of prosecution, or to be imprisoned in the County Correction Facility for not more than thirty (30) days, or both.

SECTION 5. Constitutionality

In the event that any provision of this Ordinance shall be declared unconstitutional or otherwise invalid by any court or other forum of appropriate jurisdiction, the remainder of this Ordinance shall remain in effect.

SECTION 6. Rules and Requirements

The Division shall, from time to time, establish rules and regulations for the implementation of this Ordinance.
SECTION 7. Effective Date

This ordinance shall become effective thirty days after date of enactment.

Public Hearing

Mrs. Ferraro asked if there were any questions or comments from the public regarding this ordinance.

There were no respondents.

As there were no questions or comments from the members of County Council, Mrs. Ferraro called for the vote.

The vote: Parsons, "yes"; Kraft, "yes"; Geissinger, "yes"; McClure, "yes"; Phillips, "yes"; Vaughn, "yes"; Werner, "yes"; Benol, "yes" and Ferraro, "yes".

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

Public Hearing on the Ordinance Amending Ordinance No. 141-1988, Also Known As The Northampton County Real Estate Rules and Regulations Ordinance (pertains to change to the "smoking" section)

Mrs. Ferraro advised at the request of Mr. Vaughn the following ordinance was placed on the agenda, but a motion was required to remove it from the table.

AN ORDINANCE AMENDING NORTHAMPTON COUNTY ORDINANCE NO. 141-1988, ALSO KNOWN AS THE NORTHAMPTON COUNTY REAL ESTATE RULES AND REGULATIONS ORDINANCE

WHEREAS, Ordinance No. 141-1988, the ordinance titled, "AN ORDINANCE OF THE COUNTY OF NORTHAMPTON PROVIDING FOR RULES AND REGULATIONS GOVERNING THE USE OF THE NORTHAMPTON COUNTY PARK SYSTEM AND OTHER REAL ESTATE OWNED OR LEASED BY THE COUNTY OF NORTHAMPTON AND PROVIDING PENALTIES FOR VIOLATION OF SAME," was enacted by the Northampton County Council on September 19, 1988. The ordinance was subsequently amended via the enactment of ordinance No. 466-2007, the ordinance titled, "AN ORDINANCE AMENDING NORTHAMPTON COUNTY ORDINANCE NO. 141-1988, ALSO KNOWN AS THE NORTHAMPTON COUNTY REAL ESTATE RULES AND REGULATIONS

NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED by the Northampton County Council that SECTION 47. SMOKING of ordinance No. 141-1988, the ordinance titled, "AN ORDINANCE OF THE COUNTY OF NORTHAMPTON PROVIDING FOR RULES AND REGULATIONS GOVERNING THE USE OF THE NORTHAMPTON COUNTY PARK SYSTEM AND OTHER REAL ESTATE OWNED OR LEASED BY THE COUNTY OF NORTHAMPTON AND PROVIDING PENALTIES FOR VIOLATION OF SAME," shall be amended as indicated hereafter (sections marked with **bold underline** have been added and sections marked with strikeout have been deleted), however, all other sections shall remain the same:

SECTION 47. SMOKING

No person shall smoke in any area, building or portion of a building, structure or portion of a structure, on County property, where signs are in place advising that smoking is prohibited at such locations.

Mr. Benol made a motion to remove this ordinance from the table.

Mr. Vaughn seconded the motion.

Mrs. Ferraro called for the vote on the motion.

The vote: Benol, "yes"; Vaughn, "yes"; Kraft, "no"; McClure, "yes"; Parsons, "yes"; Phillips, "yes"; Werner, "yes"; Ferraro, "yes" and Geissinger, "yes".

The motion passed by a vote of 8-1.

Mr. Vaughn stated this ordinance was originally tabled because some members of County Council wanted some areas excluded so he was amending it to read as follows:

SECTION 47. SMOKING

No person shall smoke in any area, building or portion of a building, structure or portion of a structure, on County property, where signs are in place advising that smoking is prohibited at such locations, **excluding the Gracedale Nursing Home and County parks.**
Mr. McClure advised after the ordinance was tabled Mr. Vaughn called him asking for his support and he informed him he would not. However, a short time after that he was pumping gas and noticed a cigarette ad with a warning that indicated tobacco smoke caused fatal lung disease in non-smokers. He further advised last year the County had a tremendous upheaval with respect to healthcare costs and one of the ways to fight these costs was to keep people from being exposed to smoke so he would be supporting it.

Mrs. Ferraro stated when the non-smoking policy was introduced into offices years ago there was some resistance, but everyone adjusted.

Mr. Geissinger advised he was torn on this issue because he had difficulty regulating something that was legal and individuals had a right to utilize. He further advised it was getting to a point where everything someone did was being regulated.

Mr. Benol stated he did not think it was the government’s right to regulate things especially if they were legal, but if this was a step County Council could take to help the employees get to better health he would support it.

Mr. Vaughn advised the Center for Disease Control and Prevention website had evidence that employers who had this type of policy received better health rates for its employees. He further advised he was not trying to take away anyone’s rights, but this would directly impact the employees’ health in a positive way so he did not see anything wrong with it.

In answer to Mr. McClure’s question as to whether this would include electronic cigarettes, Mr. Vaughn indicated it would because some of the chemicals in them were harmful.

In response to Mr. Parsons’ question as to what the penalty would be for someone violating the policy, Mr. Vaughn stated he was not trying to penalize anyone, it was a cultural change.

Mr. McClure advised there were already rules and regulations in the governance of the physical buildings of the County so penalties were already in place, but they may have to be refined to be applicable.
When Mr. Geissinger questioned whether it would include smokeless products such as chewing tobacco or snuff because that would also drive down healthcare costs, Mr. Vaughn advised they were not included.

Mr. Werner stated if a regulation was going to be implemented, there had to be consequences so he could not enforce something that did not have any bite to it.

Mr. Benol advised if someone continually broke the policy, it became a Human Resources issue.

In answer to Mrs. Ferraro's question as to whether smoke cessation programs would be implemented, Mr. Vaughn stated that was covered by the County's healthcare program.

Mr. Phillips advised this was an infringement on personal freedoms and as far as the healthcare costs there were ways to handle that through the healthcare system.

As there were no further questions or comments, Mrs. Ferraro called for the vote on the amended ordinance.

The vote: Vaughn, "yes"; Benol, "yes"; McClure, "yes"; Parsons, "no"; Phillips, "no"; Werner, "no"; Ferraro, "yes"; Geissinger, "present" and Kraft, "no".

The ordinance failed by a vote of 4-4-1 present.

Discussion Regarding the Pay Raises Given by the County Executive Without Approval by County Council

Mrs. Ferraro stated at the last meeting Mr. Benol requested this item be placed on the agenda for discussion.

Mr. Lauer advised there were some inquiries in early May regarding the propriety of certain pay raises given by the County Executive that were not presented to County Council for approval.

Mr. Lauer stated he issued an opinion indicating the County Executive did not have the authority on a case by case basis to change salaries of individual employees in a manner that was inconsistent with the Career Service Regulations (Regulations) and the Home Rule Charter (Charter).
Mr. Lauer advised the Charter provided County Council had the power to establish salaries and wages of all elected officials, officers and employees, that there would be a merit personnel system which would apply to all members of Career Service and for Regulations.

Mr. Lauer stated the Charter provided the County Executive from time to time could prepare and submit to the Personnel Commission proposed Regulations to consider for 30 days and then the proposed Regulations would have to be presented to County Council for approval.

Mr. Lauer advised the Regulations provided for a pay plan, procedures for changing the pay plan and how the plan was to be administered. He further advised a provision in the Regulations referred to an Employee Policy Manual and that document was to be policies or procedures issued by the County Executive interpreting and providing procedural instructions for how to supplement the Regulations and how to implement them, but it had to be consistent with the Regulations.

Mr. Lauer stated the issue arose when the County Executive granted these pay increases that were not consistent with the pay plan without based on what he believed to be valid reasons bringing them before County Council for approval. He further stated after reviewing the matter at County Council’s request he issued an opinion that the Employee Policy Manual had to be consistent with the Regulations and if not, it was not effective to that extent.

Mr. Lauer advised back in 2008, County Council adopted an ordinance that would have established a procedure for approval of the Regulations and to validate the Employee Policy Manual, but it was vetoed by the then County Executive. He further advised County Council overrode the veto, the County Executive filed suit and the matter ended up in Court.

Mr. Lauer stated eventually all the parties arrived at an agreement that in the event the County Executive would thereafter issue any policy or procedure that County Council considered to be a Regulation, it would have to be submitted to the Personnel Commission for a decision. He further stated nothing was submitted to the Personnel Commission, however, two years later this County Council adopted the current Regulations so one would believe the issue was in the past, however, now there were some conflicts between policies and procedures.
Mr. Lauer advised he met with Mr. Geissinger, the County Executive and County Solicitor Ryan Durkin on May 14, 2015, to try to define what they did or did not agree on. He further advised he sent a memorandum to County Council outlining that and at a meeting the following night County Council adopted a resolution concluding the action taken by the County Executive was unlawful.

Mr. Lauer stated County Council directed the County Executive to present justification for each of the raises by the June 18, 2015 meeting at which time County Council would determine whether they would be approved and if not, determine the remedy to be imposed. He further stated in the event the County Executive failed to comply action would be brought against him.

Mr. Lauer advised the County Executive did provide a detailed list of who received the raises and the amounts and during an Executive Session provided his reasoning for granting them.

Mr. Lauer stated subsequently he was instructed to work out with Mr. Durkin some language that would resolve the issue. He further stated after communicating back and forth, it became apparent they were not agreeing on what the proposed disposition should be.

Mr. Lauer advised he sent Mr. Durkin a Memorandum of Understanding (see Attachment #1) to try to put down what he understood they were trying to accomplish, but County Council may have concerns about turning any dispute over to the Personnel Commission. He further advised Mr. Durkin then provided his revisions to this document (see Attachment #2).

Mr. Benol stated it was County Council’s duty to approve all raises and the Memorandum of Understanding did not prevent future County Councils from going through the same issues they and past County Councils experienced. He suggested a review of the wording the past and current County Executives used, strike it and make everything in line with the Charter.

Mr. Kraft advised the problem he had with the Memorandum of Understanding was that it allowed a County Executive to give raises and if County Council did not agree, it went to a Personnel Commission comprised of individuals selected by the County Executive for a decision. He further advised the Charter
indicated it was the County Council’s authority to approve all raises.

Mr. Lauer stated County Council did not approve all raises, but approved the pay plan. He further stated this was his best effort to put forth what was being said, but he agreed the Charter and Regulations covered all of this.

Mr. McClure advised on May 21, 2015, County Council overwhelmingly declared the raises unlawful, but they were still being paid through no fault of the employees so County Council had to address the original offense. He further advised there was a clear violation of the Charter and the Administrative Code (Code) that had to be rectified so he would like to take up the illegal raises one at a time.

Mr. McClure stated he would urge his colleagues to unanimously send a very strong message that they were upholding their oath to execute, support and defend the Charter and the Code. He further stated if they were concerned about taking the raises back, a provision could be placed in the resolution clearly stating the employees did not need to pay any of the money back.

Mr. McClure advised the taxpayers had a potential right of recovery through surcharges against Mr. Brown and the Administration so they would not waive that particular remedy. He further advised if Mr. Brown felt these raises were appropriate, he could put them in the budget and County Council could address them then.

Mr. McClure stated Mr. Lauer tried his best to solve the problem, but it could not be done with an agreement because there was no law authorizing the County Executive to do what he did. He further stated he knew some of his colleagues did not want to go to Court, but judges were there to decide these kinds of disputes.

When Mrs. Ferraro advised she believed this whole thing started with a misunderstanding about the rules, Mr. McClure responded there was no misunderstanding.

Mr. Geissinger stated they were trying to resolve an issue that was based on interpretations of different documents that set the code for County Council’s responsibilities. He further stated Mr. Lauer was asked to look back at the history and found
a Court decision that indicated the procedure to be followed and now County Council was not going to do it that way.

Mr. Werner advised the Court directed the County Executive to present justifications to the Personnel Commission and five years later, Deputy Director of Human Resources Lorraine Schintz indicated the exclusionary clause was not a priority so the argument was being based on things that were not in place. He further advised there was no justification for going back and look at something the Personnel Commission and Department of Human Resources did not recognize.

When Mr. Geissinger reiterated the Court handed down a decision on how things should be handled, Mr. Werner commented the Personnel Commission never vetted that situation. He further commented County Council should make the ultimate decision because this issue had been going on since May and it was time to move forward.

Mr. Lauer stated the Court did not arrive at a decision, the County Solicitor and the County Council Solicitor entered into an agreement that the Court approved. He further stated it was an agreement that essentially indicated if it could not be decided if something was a policy or procedure then it went to the Personnel Commission.

Mr. Phillips advised County Council had the responsibility to manage the pay raises. He further advised a resolution was unanimously adopted months ago that stated it was an unlawful act and commanded a roll back and if that did not occur, a declaratory judgment would be sought and he believed they were at that point.

Mr. Phillips stated he would like the Personnel Committee and County Council to review each of the pay raises for approval and if the County Executive did not agree then they could go to Court.

Mr. Benol advised his concern was if County Council filed a declaratory judgment and a ruling was made it still did not resolve anything and future County Council may find themselves in the same situation. He further advised he did not want to only fix this situation, he wanted a permanent decision so it never came up again and if it took going to Court so be it.
In answer to Mr. Phillips' question as to whether this would address the issue for future County Councils and Administrations, Mr. McClure stated one Common Plea Court Judge was not bound by the decision of another so it really did not settle the issue for all time. He further stated there was also the issue as to whether one County Council could bind a future County Council to a decision.

Mr. McClure advised this stipulation froze the process that existed at that time and confirmed the provision that Mr. Durkin was citing for authority to grant these raises was not the law of the County. He further advised the issue before County Council now was how to handle the illegal raises with the upmost fairness to the employees who received them while upholding their duties and finding a way forward to deal with this without going to Court.

Mr. McClure stated he would like to bring the raises up, eradicate them, let the employees keep the money they already received and then let the County Executive put them into the budget for consideration. He further stated if a declaratory judgment was filed there was no guarantee that it would be heard quickly so this was a way to move forward with a minimum of disruption.

Mr. Parsons advised Court decisions should be followed, but former County Council member and County Executive Gerald Seyfried explained the policy and procedure manual was hard to understand and should be reviewed. He further advised the Charter and Code should also be reviewed by a bipartisan committee because a lot of changes have taken place since they were established.

Mr. Parsons stated he agreed with Mr. McClure to eradicate the raises and with Mr. Phillips that County Council was the governing body and had to approve these raises.

Mr. Benol advised the employees that received these raises should not be held accountable because they probably made some lifestyle changes based on them. He suggested these employees should be locked into where they were until enough time passed and they reached their natural step increases.

Mr. McClure stated fairness was important to the employees who received the raises, but he was not afraid to make the hard decision to vote to repeal the raises because they were unlawful. He further stated a resolution could be adopted to
keep the raises in place through the end of this budget year and if they did not make it through the budget process then the employees would go back to where they were because this would provide them to make adjustments.

Mr. Lauer advised one issue was the handling of the raises and the other was the creation of possible liability for people who changed lifestyles and may have incurred additional debt and what Mr. McClure was proposing would effectively address both issues.

In response to Mr. Kraft’s question as to whether there was a motion and what was it, Mr. Geissinger stated it would allow the raises to remain until the end of Fiscal Year 2015 and then there would be an examination of these raises during the budget process and if they were not approved, they would be withdrawn.

Messrs. Parsons and Benol expressed concern as to what would happen if the County Executive again decided to give raises after the budget was approved without the approval of County Council.

Mr. Lauer advised then County Council would be in the same position they were in now and had a right to file a declaratory action.

Mr. Werner stated action was taken in May to eradicate the problem created by the Administration when County Council directed the Administration and both Solicitors to come up with a solution. He further stated he agreed with what Mr. McClure was trying to accomplish, but County Council lost its clout in the resolution to remedy something that was illegal.

Mrs. Ferraro advised Mr. McClure suggested a compromise and this could be addressed by the new Director of Human Resources.

Mr. McClure stated by doing this County Council was putting an expiration date on the raises and avoided a situation where a decision had to be made as to whether the payments would stop now or allow them to continue even though they were illegal. He further stated it provided the Administration an opportunity to re-examine its decisions and determine if they wanted to bring them forward during the budget process.

Mr. Benol advised there were two issues and Mr. McClure’s proposal solved one, but he would vote tonight to go to Court to resolve the other issue for future County Councils.
Mr. Phillips stated County Council was united in its resolution and he was uncertain as to why the action cited was not followed through, but it was not too late.

Mr. Lauer advised a list was provided by the County Executive of the raises County Council believed were not accomplished in accordance with the Charter and the Regulations. He further advised Mr. McClure’s motion would be that the raises listed on Attachment #3 would expire at the end of the current fiscal year and those salaries would revert to the salary that was in place before the raises were granted.

Mr. Lauer stated the other provision of the motion would be that between now and the end of the fiscal year, County Council was expressing its willingness to consider continuing those raises only after being supplied with information and justification for them by the County Executive or someone on his behalf. He further stated they also reserved the right to either approve them or not as part of the budget process.

Mr. Kraft seconded the motion.

As there were no questions or comments, Mrs. Ferraro called for the vote on the motion.


The motion was passed by a vote of 8-1.

Discussion Regarding the Recent District Magistrate Employees Court Settlement

Mrs. Ferraro advised at the request of Mr. Phillips, this item was placed on the agenda who then asked Mr. Durkin to address the issue.

Mr. Durkin advised himself, Mr. Lauer and Mr. Christopher Spadoni appeared before Judge Craig Dally whereby a settlement was reached in keeping with the directive made by County Council.

In response to Mr. Kraft’s question as to what was the total loss to the County, Mr. Durkin stated it was $9,356.00.
Employee Healthcare and Workers Compensation Changes

Mr. McClure advised he understood the need for employees to pay more for healthcare, but it should not adversely affect the services they received, noting he received complaints from a number of employees because they had some very serious health issues and were being denied important tests and medication.

Mrs. Ferraro stated if they had questions they should speak to a member of County Council so they could go cut through the red tape to determine the problem.

Mr. Parsons advised he did not think this was an issue with just the County’ healthcare plan changes, but the healthcare industry as a whole.

Mr. Kraft stated the County had a third party administrator that handled the claims and the Administration instructed them on how to do it so it could be changed. He further stated he heard Workers Compensation had also been changed.

In response to Mr. Kraft’s question as to whether those changes should have come to County Council for approval, Mr. Lauer replied he did not know what the changes were so he could not comment on it.

In answer to Mr. Kraft’s comment that he heard it was the way the Workers Compensation third party administrator handled the claims, Mr. McClure advised there was an average weekly wage given so a person did not get their full salary, but the County provided a stipend to bridge that gap and it was no longer going to do that.

In response to Mr. Kraft’s question as to whether something like that had to come before County Council, Mr. Lauer indicated he would have to research the matter.

Ms. Allen stated there previously was 100% compensation for Workers Compensation and they decided to go to statutory law so now an employee would receive 66 2/3% of their salary. She further stated they would no longer pay benefits while an employee was out nor would the employee accrue time. She noted all the unions were notified and the five unions that received arbitration awards had to accept the statutory law.

Ms. Allen advised they did work with employees regarding their healthcare issues.
Mr. Brown advised the Administration did not tell the third party administrator to slow down the process, but they had to make difficult decisions regarding the healthcare provided the employees because for the prior seven years the costs that were being paid by the taxpayers increased $1.7 million per year for the same number of members. He further advised they were working with the employees who brought forth their healthcare issues and he encouraged all employees to come forward to make sure the Administration was aware of the issues they were facing.

Mr. McClure stated before the changes he did not receive complaints like he was now and for County Council to do their job and to help them understand what was going on with the health insurance was to have the Administration provide all its communications that occurred during the preparation of these changes and thereafter.

Mr. Brown advised the plan that was implemented was a 90/10 plan so the County was still paying 90% of the healthcare costs. He further advised the plan was still very robust and they took the minimal step possible to bring the County’s healthcare costs back into alignment and avoid the potential liability of $9.4 million for the Cadillac tax.

Mr. McClure stated he analyzed the Affordable Care Act with the help of experts and they did not believe the County had a Cadillac plan, but even if it was the Cadillac tax would occur in 2018 and the changes were made in 2015. He further stated the issue was the employees were complaining their original claims were being denied. Therefore, he would like to see the Administration turn over all its communications, including e-mails between any consultants, so County Council could understand how this plan was crafted and being administered.

Mr. Brown advised the changes to the plan were pretty straight forward and were being forced upon the County by the Federal government and the Affordable Care Act. He further advised it was his fiduciary responsibility to address the looming liability with regard to the Cadillac tax even though it was three years away because there was a look back period and 2015 was the first year for the look back. He noted the people he spoke with indicated the County did have a Cadillac plan.

Mr. Vaughn, who worked in the medical field, stated this was just not a County problem, but a systemic problem because insurance companies were finding new and creative ways to reduce costs due to the Affordable Care Act.
In answer to Mr. Kraft’s question as to how much the County was saving with the changes to Workers Compensation, Mr. Brown replied he would have to get back to him.

Consideration of Personnel Requests Resolutions: a) Department of Human Resources - Benefits Administrator; b) Department of Human Services - Program Centralized Data Unit; c) Department of Human Services - Children, Youth and Families Division; d) Department of Human Services - Area Agency on Aging Division; e) Department of Human Services - Developmental Program/Early Intervention Unit

Mr. Kraft introduced the following resolutions:

R. 81-2015 RESOLVED, by the Northampton County Council that the one (1) full time position of Benefits Administrator, pay grade CS-23 Step 2-B, salary $46,017, in the Department of Human Resources, shall be reclassified to pay grade CS-28, Step 1-A, salary $55,431, effective the 17th day of September 2015.

R. 82-2015 RESOLVED, by the Northampton County Council that the one (1) full time position of Administrative Officer I, pay grade HS-37, Step 8-H, salary $56,636, in the Program Centralized Data Unit of the Department of Human Services, shall be reclassified to Administrative Officer II, pay grade HS-39A, Step 7-G, salary $59,184, effective the 17th day of September 2015.

R. 83-2015 RESOLVED, by the Northampton County Council that the three (3) full time positions of Clerk Typist I, pay grade PS-24, salary range $24,222 to $38,418, in the Children, Youth and Families Division of the Department of Human Services, shall be eliminated effective the 17th day of September 2015.

BE IT FURTHER RESOLVED by the Northampton County Council that one (1) full time position of Clerk Typist II, pay grade PS-27, salary range $28,024 to $43,493, in the Children, Youth and Families Division of the Department of Human Services, shall be created effective the 17th day of September 2015.

BE IT FURTHER RESOLVED by the Northampton County Council that two (2) full time positions of Caseworker II, pay grade PS-35, salary range $39,466 to $64,312, in the Children, Youth and Families Division of the Department of Human Services, shall be created effective the 17th day of September 2015.
BE IT FURTHER RESOLVED by the Northampton County Council that one full time position of Program Specialist I/Training Coordinator, pay grade HS-39-B, salary range $45,448 to $73,882, in the Children, Youth and Families Division of the Department of Human Services, shall be created effective the 17th day of September 2015.

R. 84-2015 RESOLVED, by the Northampton County Council that the two (2) part-time (2.00 FTE) positions of Senior Center Craft Instructor, pay grade PS-23, salary range $23,063 to $37,582, in the Area Agency on Aging Division of the Department of Human Services, shall be eliminated effective the 17th day of September 2015.

BE IT FURTHER RESOLVED, by the Northampton County Council that one (1) full time position of Aging Case Aide II, pay grade PS-29-B, salary range $29,451 to $47,993, in the Area Agency on Aging Division of the Department of Human Services, shall be created effective the 17th day of September 2015.

R. 85-2015 RESOLVED, by the Northampton County Council that the one (1) full time position of Mental Retardation Program Specialist I, pay grade HS-39-B, Step 4-D, salary $51,863, in the Developmental Programs/Early Intervention Unit of the Department of Human Services, shall be reclassified to Deputy Mental Retardation Administrator I, pay grade HS-44, Step 1-A, salary $56,636, effective the 17th day of September 2015.

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

The vote: Kraft, "yes"; Parsons, "yes"; Phillips, "yes"; Vaughn, "yes"; Werner, "yes"; Benol, "yes"; Ferraro, "yes"; Geissinger, "yes" and McClure, "yes".

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

911 Liaison Report

Mr. Parsons advised there was a report that the Geographic Information System at the 911 Center was having problems. He further advised he spoke with Mr. Todd Weaver, Deputy Director for Systems Management, who informed him there were no problems with the system, but sometimes people gave the wrong designation
for an address or it was in a new development and the system had not been updated.

Gracedale Advisory Board Liaison Report

Mr. Werner stated he wanted to thank all the volunteers and employees who participated in the Gracedale FamilyFest.

Adjournment

Mr. Parsons made a motion to adjourn the meeting.

Mr. Benol seconded the motion.

The motion to adjourn passed unanimously by acclamation.

Linda M. Zembo
Clerk to Council