Easton, Pennsylvania                                           January 5, 2017

A regular meeting of the Northampton County Council was held on the above date with the following present: John Cusick, President; Glenn A. Geissinger, Vice President; Matthew H. Dietz; Margaret L. Ferraro (via telephone); Kenneth M. Kraft; Hayden Phillips; Seth Vaughn; Robert F. Werner; Linda M. Zembo, Clerk to Council, Philip D. Lauer, Solicitor to Council. Absent was Mathew M. Benol.

Prayer

Mr. Cusick led County Council in a moment of silence.

Pledge of Allegiance

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

Approval of the Minutes

Mr. Dietz made the following motion:

Be It Moved By the Northampton County Council that the minutes of the December 15, 2016 meeting shall be approved.

Mr. Werner seconded the motion.

The minutes were approved by voice acclamation.

Courtesy of the Floor

Mr. Don Moore, Plainfield Township, PA - stated in June 2016, Renew Lehigh Valley asked for $1 million for Farmland Preservation and Mr. John A. Brown, the County Executive, announced that he was not planning to provide any money because he felt the County would have enough funding to cover its needs.

Mr. Moore advised later that year, Ms. Maria Bentzoni, Farmland Preservation Administrator, asked for approximately $800,000 and Mr. Brown announced that he was going to budget $500,000, but rather than use the $3.9 million levy that former
County Executive John Stoffa put in for open space he was going to use funding from the table games.

Mr. Moore stated on November 30, 2016, members of County Council were looking to provide Ms. Bentzoni with the funding she was still seeking, but that amendment failed.

Mr. Moore advised when Mr. Brown failed to meet Ms. Bentzoni's request of $300,000 that translated into a loss of approximately $1.2 million to the program because by the County putting in $300,000 the townships could put in $300,000 and after being forwarded to the State for a dollar to dollar match there would be $1.2 million for the program.

Mr. Moore stated in November when Ms. Bentzoni was still hoping to get her funding she told Plainfield, Moore and Upper Mount Bethel Townships she could guarantee them a 25% return on whatever the State gave them on their Earned Income Tax. He further stated after the amendment failed she sent a letter indicating she could not guarantee them anything.

Mr. Moore advised Plainfield Township's Environmental Advisory Council and Upper Mount Bethel Township's Open Space Board and Environmental Advisory Councils unanimously decided with one person exception not to agree to Ms. Bentzoni's terms and wanted a 100% match. He further advised Moore Township's Environmental Advisory Council would be meeting tomorrow to discuss this matter so he would like the County Executive to tell Ms. Bentzoni to give these townships a 100% match.

Mr. Moore stated at the County's Farmland Preservation Board meeting a discussion was held to determine if they wanted to move forward with this program because there was not enough staff in that office to handle everything. He further stated he would like to have a meeting with the Parks and Open Space Committee, Ms. Bentzoni and representatives of the townships to work something out so the program could continue.

**Controller's Report**

Mr. Stephen Barron, Controller, indicated he did not have a report.
County Executive Report

Update by the General Purpose Authority (GPA) Regarding the P3 Bridge Program

Mr. Cusick advised the County Executive asked that representatives from the GPA be allowed to provide an update on the P3 Bridge Program.

Mr. Brown stated the GPA was the County’s agent for the P3 Bridge Project and entered into three agreements. He further stated one was with the County to handle the 33 bridges, one with Alfred T. Benesch, the third party engineering firm, to handle the technical aspects and one with Kriger Construction Company to handle the actual bridge work.

Mr. Brown advised tonight representing Alfred T. Benesch was Mr. George Horas, the Senior Vice President. He indicated that contract was for $480,000 a year for a five year term. He further advised the Kriger Construction Company was represented by Mr. James Marzolino, Vice President and his Counsel, Mr. James Kutz from McNees Wallace. He noted that contract was for $31,500,000 for a 14 year term (four years construction and ten years maintenance), which was to start October 2016.

Mr. John Lushis, the solicitor for the GPA, stated litigation had been filed by Northampton County Bridge Partners, which was one of the parties that submitted a proposal for this project and a second litigation was filed by Mr. Kevin Lott, a resident of the County. He further stated on September 29, 2016, Judge Craig Dally ruled in favor of the County and the GPA in connection with the lawsuit brought by Northampton County Bridge Partners basically ruling that they did not have standing to bring a lawsuit under the P3 Statute (Act 88).

Mr. Lushis advised Northampton County Bridge Partners appealed that ruling to the Commonwealth Court of Pennsylvania, but a decision was not expected to be rendered until mid-summer or later. He further advised the litigation brought by Mr. Lott was withdrawn on November 18, 2016; however, these two proceedings had a very significant adverse effect on the P3 project in terms of cost and timing.

Mr. Horas stated the project consisted of a design phase and a construction phase. He further stated the design cost increased because there was an escalation in engineering labor costs and there were delays in the investigations that had to be
conducted that had time-of-year sensitivities for overall design process and permits.

Mr. Horas advised it followed if the design phase was impacted from a delay prospective then the construction phase would also be impacted because these labor and material costs also escalated. He further advised there may also be some seasonal limitations that may impact the construction process.

Mr. Brown stated the project was to have been started during the third/fourth quarter of 2016, but now the entire contract would be shifted a year so the revised timeline would have construction commence on or before January 1, 2018. He further stated Kriger Construction Company would start laying out their planning in the first quarter of 2017.

Mr. Brown advised the additional cost of construction would increase the entire cost of the project by $1.5 million. He further advised the total cost for the project would be $33 million paid out over 12 years increasing the County’s annual payment to $125,000 per year.

Mr. Brown stated the County’s Service Agreement with GPA had a provision to make a request for additional costs for extraordinary events of delays that were not in the control of the County, GPA or the engineering and construction firms.

Mr. Kraft advised this contract was not approved until October so some of the time sensitive arguments did not really have standing. He further advised this project had not even started and already there was a 5% increase. He added when he entered into a contract labor and material cost increases were factored into it.

In answer to Mr. Kraft’s question as to whether the County was going to see this increase every year, Mr. Brown stated this impact was due to the litigation that was filed. He further stated missing a quarter of work within a construction cycle had a significant impact.

Mr. Kraft advised one of the reasons he did not vote for this contract was because the contract had all these little caveats of how they could get increases. He further advised this project was going to cost a lot more money before it was completed.

Mr. Brown stated he understood his concerns because they concerned him as well, but he still believed this project would
give value to the County on a per bridge basis. He further stated there was a slight impact relative to the other bids that were proposed, but it was still tens of millions of dollars less overall.

In response to Mr. Phillips' question as to whether the original start time for the project was June/July, Mr. Brown advised they were looking for that start time, but during the Request for Proposal process they received a number of requests to extend the deadline, which they did. He further advised once the bids were received they were expecting to begin the end of September/early October, but the litigation delayed that timeline resulting in the increase in costs.

Mr. Phillips stated he believed this project had the potential to save so much money that this was not a significant amount, but he would not like to see that savings diminish further.

Mr. Brown advised he felt the same way and there were provisions in the contracts to prevent that, but no one anticipated litigation and he stood by the value of the contract moving forward.

When Mr. Werner stated there was a paragraph in the Service Agreement regarding litigation so he wanted to know if the County was in conflict with it since there was an appeal, Mr. Brown indicated it was not.

Mr. Vaughn requested Mr. Horas provide County Council with a work plan and a flow chart of design activities leading up to construction with seasonal restraints superimposed on top of it.

In answer to Mr. Lauer's question as to whether the County was involved in an appeal where the appellant could be required to post a bond, Mr. Lushis advised the lawsuit that was filed by Northampton County Bridge Partners sought injunctive relief as the remedy. He further advised this litigation had a very significant impact not only from the litigation itself, but the action that occurred behind the scenes by certain people involved in it that made their job much more difficult and it was dishonorable and distasteful.

Mr. Lushis stated Judge Dally dismissed the case on the basis of standing, but indicated in his decision that the plaintiffs did not meet all the elements necessary for the
injunctive relief and the appeal was based on the standing issue.

Mr. Lauer advised he asked that question because in certain types of appeals the appellant could be required to post a bond to cover everyone else’s losses while the appeal was pending.

Mr. Lushis advised the appeal was not based on injunctive relief and part of the reason may be the cost of what a bond would be for a $31 million project. He further advised the brief filed by the plaintiff was filed at the stroke of midnight.

Mr. Kraft asked why the project did not move forward after County Council, except for him, voted to take the paragraph wherein if there was any litigation the bridges could not be transferred out and voted to give the bridges to the GPA because it was a very mild winter.

Mr. Brown advised he was talking about the Service Agreement between the County and the GPA, but there was still a secondary agreement between the GPA and Kriger Construction Company that had not been signed.

Mr. Lushis stated none of the documents were signed due to the litigation because they had to go back and extensively renegotiate documents that were about to be executed. He further stated the litigation was filed shortly after Kriger Construction Company was selected and they were about to execute and finalize the documents.

In answer to Mr. Kraft’s question as to whether the County had to wait until the litigation was over before anything was done, Mr. Lushis advised they wanted to first explain the situation to County Council and planned to have all the documents signed next week.

In response to Mr. Kraft’s comment that they were going to sign the contracts even though there was still litigation, Mr. Lushis replied that was correct because Mr. Lott’s litigation had been withdrawn and they felt highly confident that the Commonwealth Court was going to uphold Judge Dally’s decision.

In answer to Mr. Dietz’s question as to whether the timing with regard to the signing of the Service Agreement would have prevented the project to begin on schedule, Mr. Brown stated the schedule put together by Kriger Construction Company had to be
completely rearranged due to the lawsuit, but now all parties involved felt the appeal would not be a significant liability. He further stated the only other option would be to start the whole process over again which would delay the project even further and be more costly.

Mr. Brown advised this type of project had never been done before and the issues that occurred could not be anticipated.

In addressing Mr. Werner's concern regarding the impact of the appeal, Mr. Brown stated it was measured liability and all parties involved took a look at the potential impact and they felt it was minimal and would not further affect the project. He further stated as far as the impact of the potential appeal he would defer to Mr. Lauer to comment.

Consideration of the Intergovernmental Transfer Agreement Resolution

Mr. Phillips introduced the following resolution:

R. 4-2017 WHEREAS, the Northampton County Council has reviewed the preliminary information regarding a proposed Intergovernmental Transfer (IGT) Program to be implemented by the Pennsylvania Department of Human Services, Office of Long Term Living and Northampton County.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Northampton County Council hereby consents to providing the Intergovernmental Transfer Program an estimated $10,636,534. The Council members acknowledge this amount is an estimate and that the Department of Human Services will provide a specific amount prior to a formal review and commitment by the Board.

Mr. Phillips advised this resolution would let the State and Federal governments know the County was going to participate in this program and then based on the number of Counties participating they would advise the definitive amount due.

Mr. Cusick stated he was disappointed that this was not included as revenue in this year's budget because every indication they had from the County Commissioners Association of Pennsylvania was this was going to occur and the County often budgeted for intergovernmental revenues.
Mr. Phillips advised in 2006 after many years of having the Intergovernmental Transfer Program the State and Federal governments indicated it was going to last forever and then a day later eliminated it. He further advised he would like to work with the Finance Committee to set up a reserve for this money.

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

The vote: Phillips, "yes"; Dietz, "yes"; Ferraro, "yes"; Geissinger, "yes"; Kraft, "yes"; Vaughn, "yes"; Werner, "yes" and Cusick, "yes".

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

Committee Structure

Mr. Cusick stated he reached out to the members of County Council and most of them indicated they were fine with the current structure, but there were a few changes.

Lehigh Valley Planning Commission (LVPC) Liaison Report

Mr. Phillips stated he attended a LVPC meeting and was disappointed to learn that after great efforts by this County and other elected officials to sway the Federal government to not go through with their plan to have a mega-regional planning organization it was, in fact, being put into place effective January 19, 2017. He further stated his only hope was the new Administration would look into it and determine it was over regulation and the regions would be better served by local organizations.

Mr. Phillips advised Representative Charlie Dent provided a press release wherein he stated mega-regional planning was further removing it from the control of the local voters.

In response to Mr. Vaughn's question as to whether the LVPC would be dissolved, Mr. Phillips stated it would not, but this would supersede it. He further stated he informed the LVPC that if all the money the County was giving to them was going to the Federal government to do planning on a regional level, he could not support funding it.
Issue Regarding Dog Licenses

Mr. Dietz advised he received a call from a constituent regarding dog licenses and did talk to Mr. James Hunter, Director of Fiscal Affairs, concerning it. He further advised the individual indicated he had issues going through the website and was upset that the opportunity to purchase a dog license at various locations was no longer an option.

Mr. Dietz stated he spoke to someone at one of the locations where an individual could previously purchase a dog license and they missed not being able to provide that service. He further stated he would like a review made of the policy to see if there was some way to accommodate these people.

Adjournment

Mr. Kraft made a motion to adjourn the meeting.

Mr. Dietz seconded the motion.

The motion to adjourn passed unanimously by acclamation.

Linda M. Zembo
Clerk to Council