

HUNTERDON COUNTY BOARD OF CHOSEN FREEHOLDERS

Main Street County Complex, 2nd Floor, 71 Main Street
Flemington, New Jersey 08822

December 15, 2009

The regular meeting of the Hunterdon County Board of Chosen Freeholders convened at 2:38 p.m. in accordance with the provisions of the Open Public Meetings Act.

PRESENT: MR. MENNEN, MR. MELICK, MR. HOLT, MR. SWOREN, MR. WALTON.

OPEN PUBLIC MEETINGS ACT

Director Mennen announced: "This meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been given by posting throughout the year a copy of the notice on Bulletin Boards on the First and Second Floor of the Main Street County Complex, Building #1, Flemington, New Jersey, a public place reserved for such announcements. A copy was mailed on or before December 15, 2009, to the Hunterdon County Democrat, Lambertville Beacon, The Express, Courier News, Trenton Times, Hunterdon Review and Star Ledger, newspapers designated to receive such notices and by filing a copy with the Hunterdon County Clerk."

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION REQUESTS

Mr. Holt moved and Mr. Walton seconded these:

See Page 12/29/09-1A

RESOLUTION

RESOLVED, Executive Session to discuss appointments to the Mental Health Board, Cultural and Heritage Commission and the Shade Tree Commission.

See Page 12/29/09-1B

RESOLUTION

RESOLVED, Executive Session to discuss labor negotiations with the Corrections Officers, Prosecutor's Detectives Office and Sheriff's Officers unions.

See Page 12/29/09-1C

RESOLUTION

RESOLVED, Executive Session to discuss personnel issues.

**ROLL CALL: (AYES) MR. HOLT, MR. WALTON, MR. SWOREN, MR. MELICK,
MR. MENNEN.**

The Hunterdon County Board of Chosen Freeholders went into Executive Session at 2:41 p.m. and reconvened in Open Session at 4:27 p.m.

FINANCE

Mr. Holt moved and Mr. Walton seconded this:

See Page 12/29/09-1D

RESOLUTION

RESOLVED, Authorizing transfers between certain appropriations.

**ROLL CALL: (AYES) MR. HOLT, MR. WALTON, MR. SWOREN, MR. MELICK,
MR. MENNEN.**

Mr. Melick moved and Mr. Walton seconded this:

See Page 12/29/09-1E

RESOLUTION

RESOLVED, Authorizing the cancellation of a line item appropriation for Matching Funds, in the amount of \$140,002.

**ROLL CALL: (AYES) MR. MELICK, MR. WALTON, MR. HOLT, MR. SWOREN,
MR. MENNEN.**

Finance – Quarterly Report

Overtime

Kim Browne, Finance Director, came before the Board concerning the numbers for the County's 2009 overtime. Mrs. Browne advised in the coming year, she will report on overtime quarterly, because it is felt overtime needs to be monitored.

Mrs. Yard advised that the Public Safety Director, George Wagner, provided her with an analysis of overtime for the Youth Facility going back three years. He keeps a firm check on his overtime.

Mr. Melick stated the emphasis on watching the overtime is to make every department head aware their overtime is being looked at by this Board. Department Heads have to justify overtime before they authorize it because it could be the case that someone else could do the work better.

Budget – Departments

Mrs. Browne provided the Board with the amounts that each department has spent from their budget to date. These figures do not reflect any of the transfers that were approved today.

Mrs. Browne informed the Board the County always has to throw more money at Transportation because their reimbursables do not come into the County until months after the spending.

Mrs. Browne said it looks like most departments are on target except for the Division of Corrections (Jail), and she has been talking with Mr. Wagner. She has told Mr. Wagner if he can't cut the mandated 5% or 10%, he needs to come before the Board and discuss it. Mrs. Yard added that last year there were issues concerning the Jail because they can't predict when an inmate will need to be in the hospital, and you can't predict the amount for medical bills and such.

OLD BUSINESS

Continuation of the interpretation language of the Open Space 2010 Ballot Question

Director Mennen stated this Board discussed this at its December 15, 2009 meeting and went through some scenarios; talked about some thresholds and the Board was going to think about this further. He hopes that this afternoon, the Board will get more definitive on the language.

Director Mennen confirmed the Board has had the opportunity to contemplate this further.

Director Mennen confirmed the entire Board agreed that any funding that would fall under "develop, improve or maintain" should not be allocated for professionals, such as attorneys or engineers or things of that sort. The conversation on December 15, 2009 also mentioned difference scenarios such as build a building; build a ball field; build a walking trail and things of that sort and that is when the Board decided to think about it further.

Director Mennen advised he is prepared to propose some language in terms of the direction that Kevin Richardson, Open Space Trust Fund Coordinator, can interpret and incorporate into the County's policies and procedures manual. He would like to see language that indicates that "develop, improve or maintain" should be limited to development, improvement or maintenance which is pervious, not impervious and forms a natural component of the subject property's landscape, such as walking trails as opposed to the construction of buildings.

Mr. Walton expressed concern for small municipalities who face limitations in how to spend these funds.

Director Mennen explained that the Freeholder Board has to approve the applications and there could be projects that the Board may ultimately not wish to fund, knowing that this Board is vested with the authority to make the final decision or to attempt to hone in the focus of what the Board would contemplate the intent and use being.

Mr. Walton confirmed that municipalities get 15% of the Open Space Tax fund; which they can bank or spend year to year. As of January 01, 2010, that money can be spent based upon the Ballot Question passed in 2008. He questioned if the development language being discussed limit what municipalities can do with their 15% and would it strictly limit what applications can be approved where municipalities would participate with County funds.

Mr. Sworen said it would affect both. The Board is trying to put a framework which will guide municipalities through their applications to go to the Open Space Advisory Committee to make a decision of yes or no, before it comes to this Board to be approved or denied. If a municipality doesn't have more open space to purchase they could share with other communities or to improve their existing open space, within limits. He feels a municipality should be able to put a ball field in their open space.

Mr. Walton said the state and federal government already puts limitations on how money can be spent and he doesn't feel that the County should set limits on the municipalities and he doesn't feel the County should put limitations on projects where municipalities are asking the County to participate. If a town wanted to use its 15% for their own project, then he doesn't think that the County should limit them.

Director Mennen asked Mr. Walton to think of that comment under the guise of the conversation which is about to talk place, where theoretically the County could commencing January 01, 2010 set the municipal allocation at zero.

Mr. Sworen said there has to be a limitation because the funding is coming from the Open Space Tax, so a project has to be able to fit under the Open Space policy. The Freeholders want to make sure that the tax is used for Open Space and not another purpose, such as the purchase of a dump truck. Mr. Walton feels that building a pavilion on parkland should be considered or if there is a park that is dilapidated should be considered. He would not want to dictate to a town. If a municipality is only using their 15% on a project, he would disagree.

Mr. Holt asked Mr. Walton's thoughts on what the funds can be used for. Mr. Walton feels that building a pavilion on a municipal piece of property should be allowed and it would be conducive to the use of parkland, recreation and conducive to open space. He isn't saying that the County should participate in such a project but if municipalities want to use their 15% for that, then the County should not tell them no.

Director Mennen confirmed that at the December 15, 2009 meeting, Mr. Melick expressed that felt the Open Space Tax funds should be used exclusively for the acquisition of open space and not to “develop, maintain or improve”. Mr. Melick stated he still feels that way, except for modifications where a tradeoff would be used, like woodchips; something native to the area or guide rail but nothing manmade like lumber which is formed, or concrete, etc. and this would rule out machinery. Mr. Melick feels the purpose of the Open Space Tax is to save land and not be used for a Christmas Tree business.

Director Mennen thinks the language he suggested is insistent with that and he tends to agree with it being a natural component of the subject property’s landscape, for example a trail, woodchips.

Mr. Holt agrees saying it comes back to stewardship of the land that falls under maintenance and is part of the natural component.

Mr. Sworen said municipalities that have no open space left to purchase but have existing parks that are clear, clean with no Multi Flora Rose but have these funds; why would they not be allowed to do something to improve the park by putting in a field or a pavilion or buying park equipment and it would not include engineering or any other professional costs, or trucks or lawn mowers.

Director Mennen said the County doesn’t encourage enough regional preservation efforts or rally with a municipality who may have exhausted their own opportunities within their boarders to participate in efforts with an adjoining municipality if they so choose.

Mr. Walton said he is not prepared to dictate to a municipality how they should spend that money.

Director Mennen explained that the County already dictates to municipalities and it is consistent with the prior two Referendum Questions and now there is an expansion; the term of arch here, in terms of the definition that needs to be resolved.

Mr. Walton stated he has looked at the past meeting minutes and he found nothing in there to support this either way. It was silent on the issue, not saying it was for ball fields or anything else.

Mr. Sworen feels the language is interpretive enough that the Open Space Advisory Committee who is going to direct the direction of open space, first needs to have some leeway in approving some projects.

Mr. Holt recommended taking the word pervious out and allow the process to occur, much as it does not, by which a municipality will submit a project for approval. Does that afford the opportunity for smaller municipalities to develop, improve or maintain something that is a natural component to open space. He confirmed the Board feels that walking trails would be an allowable use. Mr. Holt said the Board needs to define this.

Director Mennen does not feel there is unanimity in terms of the interpretation of the referendum’s true intent.

Mr. Sworen stated there is a process in place, which is the Open Space Advisory Committee who reviews the applications to see that they fit in open space. If the Open Space Committee denies a municipality, they can bring it before the Freeholder Board who has the ability to override that decision. If the Open Space Committee does what it is charged to do, then those types of applications forward that should not be considered, such as building garages. There is only a small number, two or three municipalities that do not have open space left to purchase. It is only a number of years until the other communities have ended their acquisition of open space. Mr. Sworen feels more thought and effort is being put into an issue that isn’t that big of an issue at this point and probably won’t be for another four or five years.

Director Mennen agreed the County currently has a committee that operates in an envelop, in the manner in which the Board has tasked them; so all the more reason why if the Freeholders have specific thoughts, considerations, concepts as to how this funding should be used; then the Freeholders should task them with those thoughts and considerations and have the envelop within which they operate be consistent with that. The Board is of the mindset where, we don’t want to be in a position of granting people, who are experts in a field, the opportunity to make recommendation and advise this Board and then constantly overrule.

Mr. Sworen feels if there is no more open space to acquire then municipalities should be allowed to improve the open space and parkland. The Board has also said the funds can’t be used for engineering, or to purchase equipment and it can’t be used to create structures such as a municipal hall or buildings. That still leaves the opening to build recreation equipment, walking trails, a pavilion, and those types of things that gives the leeway to the Open Space Committee to look at those items and say is this a valid use of that money.

Director Mennen said that codifies the policies but the Board needs to be clear and he’s not sure the entire Board agrees on the use. He heard Mr. Melick say no manmade structure which would rule out a pavilion. Director Mennen advised he does not disagree with Mr. Melick’s statement/feelings. He and Mr. Melick seem to be somewhat in agreement with a couple of levels of disagreement.

Mr. Sworen said the Board needs to go back to the language of the other referendums and the process of the application, as stated funding can be taken away from municipalities but the original process points, in the original referendum and second referendum was that municipalities

would each get an allocation back which they could utilize to purchase open space. Part of the reason for the give back was that instead of just the County deciding where there would be open space or farmland that every municipality would get something back so they could form their own destiny of choosing what land to purchase with the money. This was part of the buy-in for municipalities to support the first two referendum questions. Because there are some municipalities that do not have the ability to purchase open space or farmland, the County with the third question is giving the ability to share that funding but also to expand what they can use that money for within the regards of open space. There is still a give back for that expectation of municipalities paying the tax and they get part of the tax back, so they should have some ability to spend that money on what the municipality deems necessary. That is consistent with the first two questions.

Mr. Holt feels a percentage could be put towards land acquisition or a project that fits into what Mr. Sworen and Mr. Walton discussed. The referendum starts January 01, 2010 and those funds won't be applied until January 01, 2011. Would an application in 2010 be for the 2011 open space funds. He questioned when this language takes effect.

Kevin Richardson, Open Space Trust Fund Coordinator advised it would be 2011 at the earliest being that the funds being collected in 2010 would not be allocated to municipalities until the following year.

Director Mennen asked if the Board would like to again think about the language.

Director Mennen asked Mr. Richardson if he has heard or is aware of any situation where an application with this new language is forthcoming.

Mr. Richardson said there is nothing imminent so far, and municipalities have not been advised what their future allocation would be. The funds being collected this year, 2009, will be allocated in 2010 are still governed by the first and second ballot questions. Funds that will be available next year would not permit any development, improvement or maintenance as the funds are being collected under the second ballot question.

Mrs. Yard confirmed with Mr. Richardson that the second ballot question does include historic structures. She asked how many municipalities take advantage of using that municipal funding for historic purposes.

Mr. Richardson said there have been three or four municipalities have availed themselves for historic preservation purposes. The bulk of the municipalities, those that are actively using various sources of funds, including the County's allocation are still primarily going toward preservation, be it open space or recreation or for farmland preservation purposes. He doesn't see that changing in the immediate future. He advised that historic preservation includes buildings, structures of historic significance. He feels there is a definition/explanation in terms that will make it contrary to say funds can be used to restore or renovate a historic building or structure but it can't be used to develop park buildings or structures as a way to develop, improve to maintain. Mr. Richardson would like to keep some consistency within the overall uses, the general definition, of park improvement or park development. Mr. Richardson recognized the decision rests with the Freeholder Board as to determine the way to best utilize the funds.

Mr. Holt recommended Mr. Richardson prepare a short explanation on what he feels might be appropriate for the Board to consider.

Director Mennen said if the Board does not have an incredible sense of urgency about this, and since this is the Board's yearend meeting, that Mr. Richardson be invited back to another meeting. He confirmed by not making a decision tonight, it will not lend to any confusion for the municipalities or cause problems with the dynamics of the application process, or any other applicant. Mr. Richardson has heard the Board's reservations and concerns expressed tonight and asked him to attempt to draw the dichotomy between a building and some other structure. He also directed Mr. Richardson to add to the summary for January 19, 2010 meeting, the areas where the Board has agreed, such as the agreement not to use the funds for professionals such as engineers or attorneys, and things of that sort. He would like to memorialize the areas where there is agreement and if there are specific open questions, they can be dealt with as they come up. He confirmed the Board was in agreement.

Mr. Melick said there would be no problems if the money wasn't taken from the taxpayer to start with. If the County wanted to do projects or a municipality, the money can be appropriated and placed in the Capital Improvement funds individually. This would also cause there to be better control over projects and it there could be cost savings on projects.

Continuation of the discussion of the allocation of 2010 Open Space Trust Fund Revenue

Mr. Holt recommended the following formula for the allocation of the 2010 Open Space Trust Fund Reserve: 30% Farmland, 25% Co-Op, 15% County, 15% Non-profit, 10% municipality, and 5% historic. This is Option Five slightly changed. Mr. Holt said between the Co-Op plan and the Non-profit plan and the Municipal plan, that 50% of the funds are available for a majority of projects.

Mr. Holt is aware that Sue Dziamara, Planning Board Director, has developed Option Six.

Mrs. Yard informed the Board that she and Mrs. Dziamara have been working on something for the Board; farmland is very clear because once it is rated and ranked it is known what percentage is going to be County funded, 20%. When you start to look at the Co-Op, you have the municipality and the non-profit which is 20%. Mrs. Yard stated if it is a County initiated project, it

could go up to 80%. If it is a previously known, extraordinary project it could go up to 50%. The projects have not to exceed limits on them and if it is a not previously known about extraordinary, it is 20%. There is a fine line between someone calling the County with a great project or the County calling someone saying there is a great project. If the Board is thinking about 15% for the County and more to the Co-Op, then you should take the County initiated projects. If there is something so clear that the Freeholders want to pursue; whether it be building a new park or preserve a piece of property, then the County should be able to have money set aside. She doesn't feel the Co-Op should be muddled up. Mrs. Yard is aware that Mr. Richardson is grappling now with the six applicants which the Open Space Committee has rated and ranked. It is very confusing that someone gets 60% and someone else gets 50% and another project is an extraordinary project.

Mr. Melick asked County Administrator, Cynthia Yard and the Planning Director, Mrs. Dziemara work on hypothetically projects/cases where these scenarios would play out, so that they Board can review it. An example is how one project can be ranked for 80% and another only ranked for 20%.

Mrs. Yard said the Board in the past, prior to Mr. Holt and Mr. Sworen coming on, had things/projects come before the Board where people said a 1,000 houses would be built, and they would ask for more funding which is how the extraordinary projects came about. Whatever the Board decides should be clearly delineated as to what is eligible to take part of that allocation.

Mrs. Dziemara stated the purpose of increasing the open space percentage from 30% to 40% and having a subcategory under that for the Co-Op and for the County initiatives, (the County Open Space and County projects), was so the money goes into the County and if the Co-Op percentages or the municipal/non-profit/County projects come in and exceed that percentage, then the Freeholder Board could shift money from the County to the Co-Op or the Co-Op to the County as the Board sees fit without having to go back and shift the allocation from the non-profits and historic and municipalities. The Freeholders could add its vote to the weight of the project to the funding stream.

Mrs. Yard questioned why the Board would not have that ability under the 15% County. If the 25% Co-Op was clearly defined, like the Farmland Program which is being used as a State model, when someone puts in an application, if they rank accordingly they get 20%. It takes the subjectivity out of it.

Mrs. Yard pointed out that Mr. Richardson is feeling the stress because he doesn't know how to pay for the six applications which have been ranked. Mr. Richardson stated there is not enough funds for all six. Mrs. Yard stated there is no funding, because all we have is what is generated from the tax. The County needs a better handle on how to cut up the Co-Op money. The six projects mentioned total up to \$6,103,000. Mrs. Yard said the concept of staggering the projects defeats the purpose because it takes away funds from the next year's allocation for other projects.

Mrs. Yard said this Board has tried to prevent bringing politics into this process. If the County set aside 15% for a true County initiated project and it was banked for a couple of year, a project could be done.

Director Mennen asked if Mr. Richardson or Mrs. Dziemara has a response to the issue of how a potential project can be rated in a number of ways and result in a significantly different level of potential funding from the County, called County Initiative versus if it's called something else. Also, how do you get around that or resolve that.

Mr. Richardson said from his perspective, it is a matter of knowing how much of the County's portion of Open Space Tax is going to be available for cooperatives and the County initiatives. This year, going into the first round of cooperative assistance, there was no given amount of dollars for the County to say, there is x-amount of dollars of which can be parceled to whatever projects submitted under the cooperative program.

Mr. Richardson explained to the Board that for the six applications he currently has, the amount requested of the County far exceeded any funds. There was no assurance or concept as to what the County has available for next year in order to consider and establish a threshold. Mr. Richardson said the idea of making a portion of the 40% available to cooperative assistance in the County direct funds at least establishes an upper limit for the Open Space Committee to consider application requests.

Mr. Richardson advised the Open Space Committee recommended four projects in excess of the total amount of funds which the County has available. Not all four applications/recommendations can be funded going into next year.

Mr. Richardson said traditionally under farmland is 20% cooperative cost share, 20% municipal and the state gives 60%. The notion of carrying that formula to Open Space Preservation, if there is a request of 20% from the County, it would not be unreasonable but there are certain projects that the County has identified for purchase as part of the Park System, where it may make sense for the County to contribute more than 20%, if that was a property specifically targeted by the County and the amount of funds necessary to successfully acquire that property is in excess of 20%, which is where it was suggested the variable range of 20%, 50% and not more than 80%. Traditionally when the County identifies specific projects, it routinely asks the township to consider contributing funds of around 20%, not differently than under the Farmland program. The 50% up to 80% was specifically designed to account for those rare instances where the County is asked to contribute funds and it is a project which has already identified by the County and it is

within the County's plan. The most notable example is the Summit Manor property in Franklin Township. That property was originally identified by the former Board of Recreation Commissioners as part of the South Branch project and it had been a prioritized property from the South Branch Preservation going back to 1975. The County had never directly pursued acquiring that property until the County was approached by the Township who was actively engaged in purchasing the property, did the County come to the realization that this was the same property that was identified and prioritized for acquisition by the County, which gave the County and the Freeholder Board flexibility realizing 20% isn't sufficient to acquire the property, and it is in the County's Master Plan, the County decided to contributing more than 20%. The County has contributed 50% and rarely contributes up to 80% toward a particular property.

Mr. Holt said the County has not done much in the past few years for parkland. The purchase of land for parks is a way to continue plan for parkland in Hunterdon County.

Mr. Melick said Hunterdon County is having a tax rate problem and he hopes that things can be pulled and shaved back. We need to take a hard look at things.

Mr. Holt moved and Mr. Sworen seconded a motion to approve the following percentages for the 2010 Open Space Program: the percentages be divided as 30% Farmland, 25% Open Space/Co-Op, 15% County Initiated, 15% for non-profits and 10% municipalities and 5% historic.

Director Mennen noted that funds which are reserved for exclusively County purposes can be reallocated; whether they be historic or County Initiated. It does not mean by calling them out separately removes that ability.

**ROLL CALL: (AYES) MR. HOLT, MR. SWOREN, MR. MENNEN.
(NAY) MR. WALTON.
(ABSTAIN) MR. MELICK.**

NEW BUSINESS

Mr. Sworen moved and Mr. Holt seconded a motion to approve claims in accordance with the Claims Register dated December 29, 2009.

See Page 12/29/09-6A CLAIMS REGISTER

**ROLL CALL: (AYES) MR. SWOREN, MR. HOLT, MR. WALTON, MR. MELICK,
MR. MENNEN.**

Mr. Walton moved and Mr. Holt seconded a motion to approve the Social Services Funds Report for November 2009.

See Page 12/29/09-6B SOCIAL SERVICES FUNDS REPORT

**ROLL CALL: (AYES) MR. WALTON, MR. HOLT, MR. MELICK, MR. SWOREN,
MR. MENNEN.**

Mr. Sworen moved and Mr. Walton seconded this:

See Page 12/29/09-6C RESOLUTION

RESOLVED, Approving Requisition #24766, with Dell, for the procurement of an APC Uninterrupted Power Supply and Backup System, using New Jersey State Contract #A-70256 WSCA, for the Emergency Services Center, for the Department of Public Safety, in the amount of \$111,801.98, (funded through the 2008 Enhanced 911 General Assistance Grant).

**ROLL CALL: (AYES) MR. SWOREN, MR. WALTON, MR. HOLT, MR. MELICK,
MR. MENNEN.**

There being no further business to come before the Board, Director Mennen adjourned the meeting at 5:45 p.m.

Respectfully submitted,

**Denise B. Doolan
Clerk of the Board**