

# HUNTERDON COUNTY BOARD OF CHOSEN FREEHOLDERS

Main Street County Complex, 2<sup>nd</sup> Floor, 71 Main Street  
Flemington, New Jersey 08822

**April 20, 2010**

The regular meeting of the Hunterdon County Board of Chosen Freeholders convened at 4:13 p.m. in accordance with the provisions of the Open Public Meetings Act.

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

**ABSENT: MR. HOLT.**

## **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 January 21, 2010, 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."

## **EXECUTIVE SESSIONS**

Mr. Melick moved and Mr. Walton seconded this:

**See Page 04/20/10-1A**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss a lawsuit entitled Kobner versus Hunterdon County.

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

The Hunterdon County Board of Chosen Freeholders went into Executive Session at 4:07 p.m. and reconvened in Open Session at 4:37 p.m.

Mr. Melick moved and Mr. Walton seconded these:

**See Page 04/20/10-1B**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss a claim by Hunterdon Central Regional High School for payment.

**See Page 04/20/10-1C**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss the arbitrations which are pending involving the law enforcement units.

**See Page 04/20/10-1D**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss the review of executive minutes of April 06, 2010.

**See Page 04/20/10-1E**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss a request for GIS data and legal questions related to the request.

**See Page 04/20/10-1F**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss negotiations with the Department heads and the status of their petition with PERC to be recognized as an independent union.

**See Page 04/20/10-1G**

**RESOLUTION**

**RESOLVED**, Executive Session to discuss the acquisition of property on Horseshoe Bend Road in Kingwood Township.

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

The Hunterdon County Board of Chosen Freeholders went into Executive Session at 4:45 p.m. and reconvened in Open Session at 6:17 p.m.

## **PLEDGE OF ALLEGIANCE**

### **PUBLIC COMMENT**

Hunterdon Land Trust/Urbach property

Kate Buthoff of the Hunterdon Land Trust came before the Board to discuss the purchase of the Urbach property in Raritan Township.

Amy Greene, Raritan Open Space Committee stated she is here regarding the Urbach property.

Director Mennen informed Ms. Buthoff and those present who wish to talk on this issue that the matter can be brought up later in the meeting.

#### Hagedorn Psychiatric Hospital

Victoria Petevan of Frenchtown addressed the Board asking if they were aware of what is concerning the closing of Hagedorn Psychiatric Hospital. She advised this is one of two hospitals in Hunterdon County. The state is planning on closing Hagedorn and it will cause a significant change in the community. This is going to not only affect the patients but it will leave a large amount of property derelict. She asked if this has been discussed among the Freeholders.

Director Mennen advised the Freeholder Board is aware Hagedorn is being closed but the Freeholder Board has not discussed it as a group.

Director Mennen asked the County Administrator, Cynthia J. Yard, to have the Human Services Administrator, Pam Pontrelli, brief the Board at a future meeting on the implications to Hunterdon's residents on the impending closure of the hospital.

#### FINANCE

Director Mennen opened the public hearing on the adopted of a resolution to establish a CAP Bank.

Kim Browne, Finance Director, explained the establishment of a CAP bank will allow the County to exceed a certain amount, which establishes a CAP bank for future years. This year the County used around \$500,000 of 2009's budget to fill a gap. This action is taken more for future years. The County has two years to use the funds then it is eliminated. Margaret Pasqua, County Treasurer further stated this is more of a procedural issue.

Director Mennen stated this is not a spending thing but rather it provides for flexibility in the future by banking the right to expend money which won't be spent now but could ultimately at some point in the future.

There being no comments or questions from the press or public, Mr. Walton moved and Mr. Melick seconded a motion to close the public hearing.

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

Mr. Walton moved and Mr. Melick seconded this:

**See Page 04/20/10-2A**

#### **RESOLUTION**

**RESOLVED**, Adoption of the Resolution to exceed the County Budget Appropriation Limits and to Establish a CAP Bank.

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

Mr. Melick moved and Mr. Walton seconded this:

**See Page 04/20/10-2A**

#### **RESOLUTION**

**RESOLVED**, Introduction of the 2010 County Budget. The public hearing on the budget will be held on May 18, 2010 at 7:00 p.m.

Mrs. Browne informed the Board that the 2010 budget being introduced has a total appropriation of \$94,148,057.29. The 2009 budget was \$96,810,910.61. The 2010 budget is decreased by almost 3%. The County achieved a flat tax rate and the amount to be raised by taxation has also decreased and that amount is \$68,826,000 which is a decrease of a little over 1%.

Mr. Sworen asked if the golf course is paid for yet. Mrs. Browne stated that December 2010 will be the last payment for the golf course.

Mrs. Yard advised at the request of the Freeholder Board they are working with the Parks and Recreation Director, John Trontis and the County Auditors, to make sure that on a monthly basis the Freeholders and Finance get a real statement of what has been spent and what was received.

Mrs. Yard confirmed with the County Treasurer, Margaret Pasqua, that the amount to be paid back to Green Acres goes through 2017.

Mrs. Yard reported all these figures will be included in the monthly statements the Board and Finance are to receive from Parks and Recreation.

Mr. Sworen confirmed the remaining piece after December 2010 will be only to repay Green Acres.

Mr. Sworen confirmed that the Library budget is not included in this paperwork.

Mr. Sworen confirmed every department has agreed to a 5% cut. He understands that additional cuts have been made to Parks and Recreation and he asked what the final result of that was.

Mrs. Browne confirmed Mr. Sworen is talking about the concerts. Mr. Sworen asked what was cut and why was it cut.

Mrs. Browne reported the number of \$18,325 was given to the Parks and Recreation Director to be used for concerts at Deer Path Park.

Mr. Sworen advised in 2009 the County put in \$47,000 and in 2010 the amount of \$42,000 was asked for by Parks for concerts and now the amount is \$18,325. Parks was already under last year's budget so why was this cut.

Director Mennen explained to Freeholder Sworen that this matter was discussed by this Board at the April 13, 2010 special meeting and it was the will of the majority of the Board. There was discussion to cut the concerts entirely and it stems from comments received last year when the County was looking for cost cutting or revenue increasing measures. This was offered as a means to accomplish that by Mr. Trontis. Director Mennen advised the amount of \$18,325 was arrived at by the four Freeholders who attended the April 13, 2010 meeting, when you were absent.

Mr. Sworen stated last year Mr. Trontis cut the number of concerts.

Mr. Walton confirmed that Mr. Trontis cut the number of concerts from 10 to 8. Mr. Walton advised he was one of the Freeholders who suggested the program be cut in its entirety.

Mrs. Yard advised the concerts were still an open issue until the April 13, 2010 budget meeting.

Mr. Walton advised this matter was discussed at great length and agreed to a compromise which was to provide Parks and Recreation with \$18,325 for concerts and they are encouraged to find creative ways to provide some type of concert series with this budget. Mr. Trontis has some very creative ideas for the concert series.

Mr. Sworen stated that the Parks Director cut his operating and expense budget for 2010 by around 6.7%. In the line item in the budget it shows the 6.7%. He asked where the \$24,000 which was cut in the concert series come from.

Freeholders Walton and Melick withdrew their motion to approve the 2010 County Budget introduction in order to provide an opportunity for the Finance Director and County Treasurer to go to their offices to get the information requested by Freeholder Sworen.

#### **FARMLAND PRESERVATION/PLANNING**

Mr. Sworen moved and Mr. Walton seconded this:

**See Page 04/20/10-3A**

#### **RESOLUTION**

**RESOLVED**, Approving an agricultural subdivision application for the Hoffman Farm (Hoffman A, B and C Farms); and approving a Contract of Sale and License Agreement for the conveyance of the property as a 3.35 acre severable exception area of Block 6, Lot 49, in Holland Township.

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

Mr. Melick moved and Mr. Sworen seconded this:

**See Page 04/20/10-3B**

#### **RESOLUTION**

**RESOLVED**, Approving the acquisition of a right of way and/or easement of the fee simple title from Hanna and Nemeth Saqa and Hann and Louisa Abu-Ghattas, on Block 75, Lot 33, in Readington Township, in the amount of \$9,438.

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

Sue Dziamara, Planning Board Director came before the Board stating that the Hunterdon County Planning Board asked her to bring this resolution concerning "Time of Decision rule" to the Freeholder Board urging an amendment to the proposed legislation that would clarify the ordinances and regulations in effect at the time an application for development is deemed complete would apply to the "Time of Decision rule".

Mrs. Dziamara stated Mr. Sworen is very versed on the "Time of Decision rule".

Mr. Sworen advised this is a bill which has been passed by both houses. It is currently on the Governor's desk. It is a current time of decision rule is upon preliminary approval all ordinances are frozen. It affects all municipalities and it affects the County in some ways. The new rule says that the time of decision is when someone files a document, an application. The problem is with the simplicity of the order that is trying to be proposed. You can file a document/application with the municipality or the County and all it says is I am going to build a house here/I want to do this with the property; everything freezes in terms of any new laws. There is no public hearing. The request is for the Governor to veto this so the changes would be after public hearing.

Director Mennen doesn't feel that is a correct statement because an application could be deemed administratively completed; it does not have to be deemed complete at a public hearing. Mr. Sworen agreed.

Mr. Sworen advised the entire bill is one paragraph which says when an application is filed.

Director Mennen questioned if an application is recognized under the Municipal Land Use Law prior to its being deemed complete.

Mrs. Dziamara stated no, the application is not accepted until it is complete.

Director Mennen would like to see copies of the Assembly Bill A-437 and Senate Bill S-82. Mr. Sworen volunteered to get copies of the legislation and provide them to the Board.

**Budget Discussion continued**

Mrs. Browne informed the Board that the amounts on sheet 20 in the budget, under Other for Parks is correct, the amount is \$1,514,157 which is comprised of \$166,099 in Parks Operating and \$1,348,058 for the Golf Course. The line item in question for concerts is included in the \$166,099; there was a requested amount of \$36,650 for concerts and that amount was cut in half to \$18,325.

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

Director Mennen confirmed with Mrs. Browne that the public hearing on the budget would take place at the May 18, 2010, in the Freeholders' Meeting Room at 7:00 p.m.

**PURCHASING**

Mr. Melick moved and Mr. Sworen seconded this:

**See Page 04/20/10-4A RESOLUTION**

**RESOLVED**, Approving County Requisition #CountyClerk.1217, with AmCaD, for data and image conversion loading, for the County Clerk's Office, amount of \$11,414.63.

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

Mr. Sworen moved and Mr. Walton seconded this:

**See Page 04/20/10-4B RESOLUTION**

**RESOLVED**, Approving County Requisition #CountyClerk.1219, with Progress Printing Company, for ballots, for the County Clerk's Office, amount of \$40,512.

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

Mr. Walton moved and Mr. Sworen seconded this:

**See Page 04/20/10-4C RESOLUTION**

**RESOLVED**, Approving County Requisition #24736, with Continental Fire and Safety, for appliances and nozzles, for Public Safety, amount of \$14,381.55.

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

Mr. Walton moved and Mr. Melick seconded this:

**See Page 04/20/10-4D RESOLUTION**

**RESOLVED**, Approving County Requisition #24928, with Transcore, for dispatch equipment, for the Emergency Services Division of Public Safety, amount of \$16,203.44.

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

Mr. Melick moved and Mr. Walton seconded this:

**See Page 04/20/10-4E RESOLUTION**

**RESOLVED**, Authorizing the award of County Bid #2010- 04, for Demolition of various Structures, to RVT Construction, Inc., amount not to exceed \$153,902.98.

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



Mr. Melick moved and Mr. Walton seconded this:

**See Page 04/20/10-5A**

## **RESOLUTION**

**RESOLVED**, Approving a modification to the professional services agreement with Transystems Corp., to provide additional services in connection with the historic preservation and rehabilitation of County Bridge RQ-164, on Rockafellow Mills Road, over the South Branch of the Raritan River, in Raritan and Readington Townships, increase of \$54,000.

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

Mr. Sworen left the meeting at 6:55 p.m.

### **ROADS and BRIDGES Update**

John P. Glynn, Director, Roads, Bridges and Engineering updated the Board on various County roads and bridges.

- County Route 523 is being back paved between Raritan and Readington Townships. The base course and intermediate course should be completed by the end of the month. The top course should be done by mid-May.
- The County is waiting to hear from New Jersey Department of Environmental Protection concerning the small culvert, E-163, in East Amwell, on the wetlands and stream encroachment. The County has received authorization from the Historic Preservation Office (HPO).
- Comments have been received from HPO on County Route 619, in Frenchtown Borough. They want a treatment in the road similar to what the County did on County Route 645 in New Hampton in order to create the sense of a narrow road. The County will be contacting the Borough on the selection of that color.
- Bearings for the beams have been received for County Bridge B-26-W and they should be installed this week.
- Punch list items will be completed for County Bridge D-345 in Delaware Township in the next two weeks.
- A favorable counter-offer has been received from the property owner in connection with the Pennsylvania Avenue Bridge, RQ-168.
- Final plans and specifications have been received for R-123. They will be reviewed and put out to bid.
- Punch list items have been completed for County Bridge T-122, in Tewksbury Township. Final summary is being made for reimbursement from the discretionary aid.
- The design team has been informed about County Bridge W-124 with the Phase II Archeology dig. Once this has been completed the County should receive its stream encroachment permit.
- The approach guide rail has been installed for County Bridge D-329 on Pine Hill Road, in Delaware Township.
- The sidewalk project for Gauntt Place should be ready for Freeholder approval in May.
- Meetings have taken place with Holland Township and the New Jersey Department of Transportation concerning Warren Glen Hill, on County Route 519. The County will reduce the scope of the project to be more in concert with the comments received at the public hearing and NJDOT has agreed to that.

Mr. Sworen returned to the meeting at 7:02 p.m.

### **County Bridge E-174**

John P. Glynn, Director, Roads, Bridges and Engineering reported that a meeting was held on March 31, 2010 concerning County Bridge E-174 and several issues have been raised regarding the project and need to be addressed. Mr. Glynn went through each item/driveway which needs to be considered; as well as the height of the bridge and the detention basin. Mr. Glynn had the consultant put together a contract modification in order to look at these items. There have been comments from the Township about holding another meeting to discuss this. Mr. Glynn would like permission from the Freeholder Board authorizing the design team to start; so a meeting can be held with the bridge committee to go over this. There is also the issue of equestrian access. Mr. Glynn advised there are five or six issues that have to be looked at and if the meeting is held quickly, they can be put on the table for the design team to look at in order to resolve those issues. The cost to change the design fee is \$108,000 to perform this additional work.

Director Mennen reported that Freeholder Holt has indicated that there is possibility that the County may be able to get some federal money for this project, (E-174) but there is no guarantee. Mr. Glynn is aware that Freeholder Holt has been pressuring the North Jersey Transportation Planning Authority to do this because this is such a lengthy process. This project started in 2001 and many of the residents of East Amwell Township did not see this. The County also talked about the process and how to do it better by having laying out the project right after scoping of projects, before going into the final design stage. These issues would have been brought up during scoping and turned over to the design team to resolve before finalizing the design. Mr. Glynn feels the County can work smarter in the future.

Director Mennen stated the County is learning from its mistakes and this is a learning process which will be made better each time a project is done.



Mr. Walton moved and Mr. Sworen seconded a motion authorizing the Purchasing Department to proceed with having the Purchasing Department prepare a contract modification with Malick and Scherer, in the increased amount of \$108,000 for the design of County Bridge E-174, in order to keep the project moving. The County does not want to lose its funding for the project and must keep the project going forward.

Director Mennen reported that Freeholder Holt has indicated there were discussions with the NJTPA staff earlier this week and the County should be receiving something in writing shortly granting a one year construction extension for this project.

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

Director Mennen would like to work with Mr. Glynn in order to come up with a mechanism/forum/means to get the community input now in this process. He will be sending correspondence to the Township Mayor and Committee indicating the action this Board has taken today and that the County wishes to have that level of input and ask the Township to have a construction discussion, in an efficient manner, with people who can vocalize and express those concerns; both to the community as a whole and to those neighbors who are most directly effected.

Mr. Glynn advised there is a Bridge Advisory Committee and that would be a good base to start with because most of those property owners were at that Committee meeting.

- A preconstruction meeting was held on April 14, 2010 for County Bridge E-166, in East Amwell Township. The bridge should be closed the first week in July.
- On the ground utilities have been coordinated for County Bridge C-88.
- The Rockafellow Mills Road Bridge was closed on March 29, 2010. The deck has been removed and the contractor is now supporting the truss in order to remove it to be rehabilitated.
- County Route 513, Exit 15 on Route 78, the C.E.D. document has been finalized. There was discussion if the striping patten would affect the historic structure on the other side of the overpass. Mr. Glynn feels the County has satisfied the issue that it does not go outside the project.
- Bids have been received for County Route 512 and Route 517. A recommendation will be made shortly to the Board.
- Bids have also been received for County Route 623 and Route 623 projects.

#### Roads and Bridges discussion items.

##### Brinkerhoff modification

Mr. Glynn reported a contract modification is needed for Brinkerhoff Environmental who is handling the Kingwood Township property. Funding has been expended for them to review the various environmental documents. Mr. Walton moved and Mr. Melick seconded a motion authorizing the Purchasing Department to prepare a contract modification, #2, with Brinkerhoff Environmental in the amount of \$8,000.

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

##### Franklin Twp. Bridge stabilized

Mr. Glynn reported the County has worked closely with Franklin Township and the Water Authority and the South Branch has been stabilized at the Hamden and Landsdown Road.

##### Arbor Day

Mr. Glynn advised the Shade Tree Commission will be planting a Dogwood tree for Arbor Day, on April 30, 2010 at the Court Street Park, in Flemington Borough.

##### Shade Tree Grant

Mr. Glynn reported there is an accomplish report that needs to signed by the Freeholder Director and filed with the state. This report is what the Shade Tree Commission has completed over the year, the Annual Report. This is in conjunction with the \$7,000 business grant the County received for the Shade Tree Commission. Mr. Glynn will get a copy of what needs to be signed by the next meeting for Freeholder approval.

##### Demolition projects

Mr. Glynn reported the County is meeting with the property owner, in connection with access to park property off of Ellis Rd., in Holland Township for demolition.

Mr. Glynn advised an application was made to H.P.O. concerning the mill in Califon Borough to remove the sheds at the old mill. Califon Borough is requesting to salvage some of the turbine and hardware out of the old mill. They also want a wooden door off the shed and the tin roof. Mr. Glynn reported the County has no need for any of this material. This can't be done until the County receives H.P.O's authorization.

##### Yard Settlement

Mr. Glynn reported the Yard settlement is a settlement that the insurance legal team has worked up with three parities: the County, Marvec Construction and Diamond Nation. The three parties will equally share in the \$13,000 settlement.

Gaetano M. DeSapio confirmed with Mr. Glynn that the insurance company is paying the settlement money.

Mr. Walton moved and Mr. Sworen seconded a motion authorizing the Freeholder Director to sign a settlement agreement to be filed with the Courts for litigation entitled: Yard vs. Hunterdon County.

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

Bush property

Mr. Glynn advised he has completed the report to declare the Bush property in Readington Township surplus. He would like direction from the Board about offering the property to Readington Township first.

Director Mennen confirmed for Mr. Glynn that the Freeholders approved that request at the last meeting and the Board agrees the property should be offered to the Township first as a courtesy.

Hawke property

Mr. Glynn reported his office is preparing survey work on a subdivision for the Hawke property on Main Street, in Flemington Borough.

Director Mennen advised a suggestion was made questioning the need for parking at the Hawke property lot. Currently the parking is restricted to County employees during the day. As part of the Main Street revitalization would the County considering opening up the lot to the public during the day.

Director Mennen stated while Mr. Glynn is looking at the lot, he should also consider parking also.

Mr. Melick recused himself from the meeting at 7:18 p.m.

**John Gallina, Esquire**

County Route 523/517 Intersection Litigation, Tewksbury Township

Director Mennen explained a working meeting was held with Mr. Gallina, the attorney representing the Melick, LLC, Freeholder Holt, himself and a principle of the LLC participated. The purpose of the meeting was to clarify/answer questions raised about the proposed settlement agreement. Director Mennen reported that any damages would not be paid until each party mitigated their damages. The remainder of the amendments/modifications were administrative in nature.

Director Mennen read from an email from Freeholder Holt which indicates he has reviewed the proposed judgment with respect to this matter. The language is in accordance with the meeting held on April 14, 2010 and he is in support of the judgment and agreement as outlined and he recommends passage of the agreement and the immediate release to the contractor to allow for completion of the final elements of this road project for public safety. If there is an agreement to move forward with this tonight and this Freeholder Board authorizes Mr. Gallina to execute the agreement on behalf of the County, the litigants in this matter has agreed to immediately provide a right of access to the County in order to complete the intersection project and remove the safety concerns.

Mr. Gallina reported the attorney for the LLC has agreed to the order and is sending a signed copy to his office. Provided the County approves the form of order this evening, it will be signed and returned with a right of entry form, so this project can proceed.

Mr. Glynn reported the contractor is on site and is doing the landscaping; as well as putting the signal up. It is now time the contractor has to cross this property which the County needs to ascertain for storm drainage.

Director Mennen explained there is a dispute as to the ability to retain and continue to maintain farmland assessment for the property, in which a portion is required to complete this intersection project. Under the agreement the County will pay the amount of \$12,900 which is an amount derived at by an appraisal and which was directed by the court to be paid. Director Mennen advised the County as also obligated to pay a portion of counsel fees which was directed by court order in the amount of \$13,151.82. Those two amounts are being paid are derivatives of the litigation. Beyond that there is no obligation on the part of the County. If the subject property fails to qualify for farmland assessment by virtue of determination by a tax assessor, the parties have a duty to mitigate, which would mean to find another means to maintain the farmland assessment. Failing all reasonable efforts to accomplish that then there is an additional payment by the County to the aggrieved party to compensate.

Director Mennen stated none of that comes into play unless and until it can be shown that the loss of farmland assessment is directly attributable to the action of the County. Mr. Gallina added solely as a result of the taking.

Mr. Sworen stated he has talked with Mr. Glynn about the importance of the issues and he has met with Freeholder Holt and had long discussions on meetings held. He agrees this is a good settlement; everything is correct. Mr. Gallina is to be complimented for his efforts in putting this together.

Mr. Walton moved and Mr. Mennen seconded a motion approving a settlement agreement with the Melick LLC, in connection with the County Route 523/517 Intersection project in Tewksbury.

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

Mr. Melick returned to the meeting at 7:26 p.m.

### **COUNTY Update**

#### **Vacancy**

Cynthia J. Yard, County Administrator and Cheryl Wieder, Human Resources Director came before the Board concerning a vacancy in the Human Services Department for an individual, Dr. Linda Stampoulos, who will be retiring as of August 31, 2010. The Human Services Administrator, Pamela Pontrelli, has completed the position justification.

Mrs. Yard explained the County has been lucky over the years to have Dr. Stampoulos work with the County. Her title is Supervising Program Development Specialist, but that does not explain what her functional title was. Dr. Stampoulos is the County's Substance Abuse Planner; which the County is required to have and she is also the Municipal Alliance Coordinator; as well as a member of the Health and Human Services Advisory Committee.

Mrs. Yard reported in 2010 the County received a Chapter 51 grant in the amount of \$226,000 and the Municipal Alliance Grant was \$161,000 which Hunterdon was awarded to implement these important programs. Mrs. Yard advised that all but \$2,400 of Dr. Stampoulos' salary is covered by grants; it is an allowable expenditure of grants. Human Services has been good with all of their positions in taking the allowable expenditures from grants to offset salaries.

Mrs. Yard has confirmed with the Finance Director that the 2010 grant is not in jeopardy of being cut, so the County will not received a reduced amount because of Dr. Stampoulos' retirement.

Mrs. Yard and Ms. Wieder recommended the Board refill this position.

Mr. Sworen stated Dr. Stampoulos will be very hard to replace. She puts in many hours for programs. What she has done in Hunterdon County is amazing. It will be difficult to replace her as she will be a major loss in the County and programs such as Hunterdon Drug Awareness.

Mrs. Yard informed the Board that this position once it has been filled, has to become certified as a Certified Prevention Specialist and they are given two years to get that certification.

After further discussion, the Board agreed to post this position and directed the Human Services Director to move forward in filling Dr. Stampoulos' position.

### **FOR DISCUSSION**

#### **"Friends of" project**

Mr. Sworen informed the Board he will be meeting with Shana Taylor of County Counsel's Office concerning the "Friends of" project this week. He is hoping to propose a process to be put in place for the next meeting and hopefully there will be a list of people for the initial start up.

#### **Cost per copy**

Director Mennen reported it is the intent of this Board to endeavor to achieve the actual cost for fees for copies. That initiative has been extended not to just self-service copies but ultimately to requests filed under the Open Public Records Act (OPRA) as well. The Freeholders have charged the County Purchasing Agent, John Davenport and the Director of Central Printing and Mail/PARIS Grant Coordinator, Bob Thurgarland, to take a straw pole of municipalities to see what they are charging in order for Hunterdon to have a point of comparison, since this is the same target audience, being Hunterdon residents.

Mrs. Yard reported that Mr. Davenport and Mr. Thurgarland have reported back to her regarding the municipal pole and except for three municipalities, everyone is on the \$0.75 - \$0.50 - \$0.25 sliding scale. Flemington and Hampton charge \$0.10 per copy and Alexandria now charges \$0.25 for copy.

Director Mennen advised the County within the last several months did away with the \$0.75 - \$0.50 - \$0.25 sliding scale and now charges \$0.25 as an interim step until the County can establish what the actual cost per copy is.

Director Mennen stated there has been confusion on what data points get put into the calculation to determine what the actual cost is. The objective is the County only wants to do this once and it has to be right. The County is doing this under the specter of not too distant litigation against Hunterdon with regard to which the cost is calculated for self-service copy fees. The court recently have clearly chosen to blend the line between self-service and OPRA. There appears to be confusion so Hunterdon is trying to get this right and it only has to be done one.

Director Mennen confirmed that it is still the stated intention of this Board to achieve actual costs.

#### **Resolution concerning "Time of Decision rule"**

County Counsel DeSapio as reviewed legislation, Assembly Bill A-437 concerning the "Time of Decision Rule" and it says those regulations which are in effect on the date of submission of an application for development shall govern the review of the application.

Mr. DeSapio has also reviewed the Municipal Land Use Law and the 45 day review period to determine whether the application is complete runs from the date of submission.

Director Mennen stated the draft resolution calls upon the Governor to conditionally approve and it should say conditionally veto. Mr. DeSapio confirmed it should say Veto.

Mr. Sworen moved and Mr. Walton seconded this:

**See Page 04/20/10-9A**

**RESOLUTION**

**RESOLVED**, Urging an amendment to proposed legislation that would clarify the ordinances and regulations in effect at the time an application for development is deemed complete would apply to the "Time of Decision rule".

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

Grant Award to Alexandria Equestrian for trail development on County land

Director Mennen reported he understands the issue is that grants were applied for to trail work on behalf of the Alexandria Equestrian Trail Association. Initially it was contemplated that the Alexandria Equestrian Trail Association would do the work themselves. This happened in conjunction with the Parks and Recreation Department but over time this evolved and changed to the point where instead of the Equestrian Association doing the work themselves, now it is contemplated that a contractor would perform some if not most of the work. This has now reached the Administrative Office and it appears there were no assurances regarding insurance, rights of entry, or anything in that line. Now, the County is trying to get an understanding of what is going on before bulldozers and other power equipment is permitted to start working on County land.

Mrs. Yard informed the Board that the County was not the recipient of the grant, it was the Equestrian Association. The County's internal policy is that all grants have to go through the Grant Management Team for review and then a recommendation is made to the Freeholder Board. The Purchasing Agent had some interaction with the Alexandria Equestrian Association and he was concerned about work being done on County property; what happens once the work is completed.

Mrs. Yard feels in any case such as this one, it needs to come before the Freeholder Board to agree to support a grant and have the grant recipient do work. Also in question if an agreement is needed between the parties and what insurances are necessary and received. County Counsel has been looking at this because there are a few things that need to happen before work can proceed.

John Trontis, Director of Parks and Recreation said Hunterdon County is very fortunate that volunteer groups do trail work in the County's parks. A couple of groups have received grants on their own. This is the first time that any organization would bring a contractor on board which is why this is being discussed. The group is proposing the contractor would hold the County harmless and as an additional insured.

Mr. Trontis said he is still encouraging volunteer groups to do projects in the County parks and to also link their trails to the County's parks. The concern is that if a trail is coming in from another property that they understand that the public will follow that trail out of the County park onto the other property.

Mr. Trontis said his concern is whether the township would support the project because a piece of township land is involved. He did receive a letter from the township endorsing this project.

Mr. Trontis asked the Board if it is concerned because the group is proposing to bring a contractor onto County park property and if that is the case, will this have to conform to public bidding laws to bring a contractor on board.

Mr. DeSapio advised the policy the County should have is that there should be an agreement between the County and the non-profit group as to what is going to happen; similar to the agreement the County has with the 4-H Fair group. No one should be doing work on County property without there being some kind of agreement that defines the relationship. Mr. DeSapio said in connection with this project, before it can go forward, the agreement would provide that the plan of work to be done would have to be reviewed by the Department of Roads, Bridges and Engineering or the County Project Administrator because the County could then get planner design immunity if the County reviews the project first, in the event someone gets hurt on the trail. Without that review there could be problems. Mr. DeSapio stated the relationship has to be defined after the project is completed and it would have to be approved by the Freeholder Board. The question is whether the non-profit group going to have any rights to manage the County park in that area. Mr. DeSapio told Mr. Trontis these questions don't need to be answered now, but those are the questions that have to be answered so everyone understands the process and the project.

Mr. DeSapio advised when he looked at this a few weeks ago that someone showed him a memorandum or a directive from who provided the grant that it would be subject to all bidding regulations. Mr. DeSapio stated when he discussed this with the Purchasing Agent that if the size of the project came under the prevailing wage it would be required it be done under the Prevailing Wage Law. The County would most certainly need to make sure it had adequate certificates of insurance to protect the County in the event someone gets hurt during the course of construction or that the contractor hurts someone. There is not a problem with the idea but there is a problem with the process. It sounds like the first time anything like this has been done.

Mr. Trontis asked how this can go forward in a timeframe that will allow something to happen this summer.

Mr. DeSapio stated it is up to the Freeholder Board. If the Freeholder Board is prepared to go forward then between Mr. Davenport and Mr. Glynn this can be prepared and his office is there to provide any assistance necessary to put this into an agreement.

Director Mennen confirmed the issue is two grants; one for \$21,000 and \$12,000. One is for a bridge and the other for trails.

Mr. DeSapio said we are talking about ten miles and trails and Mr. Glynn is going to have to determine if there is any impact from this that the County needs to be concerned about as far as storm water management or water run off.

Director Mennen asked if there is a description anywhere of what is being proposed.

Bill Clothier, Parks and Recreation reported Parks is working with John Glynn currently regarding the bridge because he is looking to use materials from bridges that are being removed that can be used here. Mr. Trontis added that the bridge needs to be able to support horse traffic.

Mr. Melick recommended narrowing the scope of the project because just having a bridge is costly.

Mrs. Yard confirmed with Mr. Trontis that no County dollars are being expended.

Director Mennen questioned what material the parking area is proposed to be. Mr. Clothier advised the parking area will be stone.

Director Mennen explained that the Freeholders have been talking about improve, develop and maintain and a lot of that focuses on trails and whether funds could be used for parking lots and things of that sort. This Board is still talking but it isn't exactly an on point conversation to this but it would be nice for the Freeholders to have known a little more about how this was progressing and what the thought was and the overall intention was.

Mr. Trontis apologized for the oversight in not involving the Freeholder Board sooner. Parks and Recreation does create with volunteers miles of trails.

Mrs. Yard stated the difference is that this is County property and someone is coming in to do work and there is the issue of liability and insurance. If someone got hurt the County would be responsible.

Director Mennen explained there are a whole host of points of consideration here that the Freeholders and the County should have had more of a give and take throughout the process. This does not mean it is not a worthwhile endeavor. It doesn't mean something can't happen but the Freeholders need to figure out what the Board feels about it as the stewards of the land; whether or not County Counsel feels the County is adequately protected; particularly is there are going to be contractors on site doing the work; and how to prevent this from happening again.

Mrs. Yard informed the Board there was a discussion this afternoon about developing a policy or a protocol for when things need to come before the Board.

Mr. Trontis advised this is a piece of parkland that has no other welcoming public facilities. This area is being farmed and this improvement will not impact that farming operation. An open space area will be used and it will create a ten mile trail and it will be accessible to equestrian traffic and it will link to a municipal park.

Again Mr. Trontis asked the Board to pardon his oversight and stated he was not aware there was a threshold that was crossed. Miles of foot trails are created every summer, as well as horse trails with volunteers. He will work with whoever the Freeholders direct him to work with, in order to do this as quickly as possible.

Director Mennen explained this needs to go back to step one with an understanding of what the rational was; what the objective is; and how this project go to this point. He questioned if everyone is prepared to have that discussion tonight. He noted that Mr. Davenport and Mr. Glynn are not present at this time, so the discussion won't be tonight. The Freeholders want to be supportive if it is a project worth supporting but this Board does not know enough about it.

Director Mennen stated for those present that this is an internal issue, it is not the issue of the Equestrian Trail Association; but it is an issue that needs to be resolved. It would make sense to have a full blown discussion about with everyone who needs to be present so they can react, respond and be a party to the conversation.

Director Mennen asked if the Alexandria Equestrian Trail Association has the ability to have a pre-meeting with Mr. Glynn, Mr. Davenport, Mr. Bell, Mr. Trontis and whoever else needs to be a party to that, including a Freeholder Liaison. The pre-meeting should be held in advance of the next Freeholder Meeting which takes place on May 04, 2010, and at that meeting a real discussion can take place.

County Counsel DeSapio recommended to Mr. Trontis that someone, within the next week, get a written description of this project. It is also important to have the pre-meeting suggested by Director Mennen. The County should have a document explaining what is being proposed, explaining about the group, show their present plan, how the work will be done and how it will be managed after the work is done. He explained when this discussion takes place at the next Freeholder Meeting the Board will have something in writing.

Mrs. Yard advised most of the grants which come before the Freeholder Board, especially a non-profit applying for a grant, asks for a letter of commitment or a resolution of support from the governing body. She confirmed with the Alexandria Equestrian Trail Association that this grant asked for that.

The Alexandria Equestrian Trail Association advised they did receive that from the municipality.

Mrs. Yard stated the project is on County property. She questioned if this was a project funded in 2008 from the Recreational Trails Program and if the guidelines state where the letter of support should come from.

Mr. Trontis advised he wrote a letter of support, as he does for all volunteer groups who do projects on County parkland. There has never been a proposal to hire a contractor. At the time of grant submission, there was no talk of hiring a contractor.

Mr. Sworen informed the Board that he will join the group to have the pre-meeting, as a Parks and Recreation Liaison.

Mr. Sworen asked the threshold for moving towards prevailing wage and what threshold is set by the state.

Mr. DeSapio informed the Board that the regulations change annually and he will double check on this and he will get the answer to the Board.

Mr. Sworen asked Mr. DeSapio to also looking into insurance requirements and what needs to be provided for this project.

Director Mennen stated if the County receives all this information within the next two weeks, this will be listed on the May 4, 2010 agenda.

#### **CONSENT AGENDA**

Director Mennen announced: "All matters listed under the Consent Agenda are considered to be routine by the Board of Chosen Freeholders of the County of Hunterdon and will be enacted by one motion in the form listed below. There will be no separate discussion of these items. If discussion is desired that item will be removed from the Consent Agenda and will be considered separately."

Mr. Walton moved and Mr. Sworen seconded a motion to approve the claims in accordance with the Claims Register dated April 20, 2010, minus check #127984.

**See Page 04/20/10-11A**

#### **CLAIMS REGISTER**

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

Mr. Sworen moved and Mr. Melick seconded a motion to approve Check #127984 on the April 20, 2010 Claims Register.

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

Mr. Walton moved and Mr. Sworen seconded a motion to approve the regular minutes of April 06, 2010 and the special minutes of March 31, 2010 and April 05, 2010.

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

Mr. Melick moved and Mr. Walton seconded these:

**See Page 04/20/10-11B**

#### **RESOLUTION**

**RESOLVED**, Approving the appointments of temporary, as needed seasonal Recreation Leaders, Parks and Recreation.

**See Page 04/20/10-11C**

#### **RESOLUTION**

**RESOLVED**, Jeffrey Schellhorn, Mechanic, Roads, Bridges and Engineering, leave of absence without pay.

**See Page 04/20/10-11C**

#### **RESOLUTION**

**RESOLVED**, Martin Maier appointed temporary, as needed Laboratory Assistant, Health Department.

**See Page 04/20/10-11D**

#### **RESOLUTION**

**RESOLVED**, Martin Bush appointed temporary, as needed Laborer, Roads, Bridges and Engineering.

See Page 04/20/10-12A

**RESOLUTION**

**RESOLVED**, Approving a modification with the State of New Jersey for the reimbursable ceiling for Contract #TS10010, to reduce funding in the Post TANF Transportation Component by \$9,765.

See Page 04/20/10-12B

**RESOLUTION**

**RESOLVED**, Approving a contract modification with All Quality Care, decreasing the hourly rates for Certified and Non-Certified Home Health Services, for the remainder of 2010. The contract amount of \$90,000 remains the same.

See Page 04/20/10-12C

**RESOLUTION**

**RESOLVED**, Approving a New Jersey Homeless Management Information System Collaborative Participation Agreement with New Jersey Housing and Mortgage Finance Agency, providing the ability to share and identify information on consumers.

See Page 04/20/10-12D

**RESOLUTION**

**RESOLVED**, Approving an InterLocal Health Services Agreement with Alexandria Township, for certain public health activities and services.

See Page 04/20/10-12E

**RESOLUTION**

**RESOLVED**, Approving a contract with Hunterdon Harmonizers for a performance at Deer Path Park on July 8, 2010, for the "Music Under the Stars" concert series, in the amount of \$3,000.

See Page 04/20/10-12F

**RESOLUTION**

**RESOLVED**, Approving a contract with Ragdoll for a performance at Deer Path Park on July 15, 2010, for the "Music Under the Stars" concert series, in the amount of \$3,500.

See Page 04/20/10-12G

**RESOLUTION**

**RESOLVED**, Approving a contract with The Classics for a performance at Deer Path Park on July 1, 2010, for the "Music Under the Stars" concert series, in the amount of \$4,000

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

**PROCLAMATIONS**

Mr. Sworen moved and Mr. Walton seconded this:

See Page 04/20/10-12H

**PROCLAMATION**

**RESOLVED**, Recognizing Glenn Damiano-Szafran for attaining the designation of Eagle Scout.

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

Mr. Walton moved and Mr. Sworen seconded this:

See Page 04/20/10-12I

**PROCLAMATION**

**RESOLVED**, Declaring April 30, 2010 as Arbor Day in the County of Hunterdon.

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

**GRANTS**

Mr. Walton moved and Mr. Sworen seconded this:

See Page 04/20/10-12J

**RESOLUTION**

**RESOLVED**, Approving Area Plan Grant, 10-013, for legal assistance for seniors, Legal Services of Northwest Jersey, in the amounts of \$12,433 in federal funds and \$1,381 in state funds.

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

Mr. Melick moved and Mr. Sworen seconded this:

See Page 04/20/10-1A

**RESOLUTION**

**RESOLVED**, Approving Area Plan Grant, 10-061, for a Caregivers Support Group program, with Hunterdon Behavioral Health, in the amount of \$13,288 in federal funds, \$14,269 in state funds and \$7,498 in local funds.

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

## **CORRESPONDENCE**

A letter was received from Flemington Borough requesting permission to bury a "time capsule" in Court Street Park behind the historic Court House during their celebration of their 100<sup>th</sup> Anniversary, on June 7, 2010. Also, inviting the Freeholders to attend and participate. Mr. Sworen moved and Mr. Walton seconded a motion granting permission provided this is coordinated through the County Department of Roads, Bridges and Engineering.

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

A request was received from Readington Township for requesting permission to use Route 523 during their Memorial Day Parade, on May 31, 2010. Also, inviting the Freeholder Board to participate in the parade and commemorating celebration at Pickell Park. Mr. Walton moved and Mr. Sworen seconded a motion granting permission provided this is coordinated through the County Department of Roads, Bridges and Engineering.

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

A request was received from Somerset Wheelmen for permission to conduct their NJ Masters Cycling Championships, in East Amwell Township, from 7:00 a.m. until 9:30 a.m., on June 12, 2010, utilizing County Roads (Dutch Lane to Old York Road to Manners Road, to Wertsville Road and back to Dutch Lane). Mr. Walton moved and Mr. Sworen seconded a motion granting permission provided this is coordinated through the County Department of Roads, Bridges and Engineering.

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

Correspondence was received from the Hunterdon Walking and Social Club, requesting permission for a memorial tree to be planted at Deer Path Park. Mr. Sworen moved and Mr. Walton seconded a motion granting permission provided this is coordinated through the County Parks and Recreation Department.

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

## **FREEHOLDERS COMMENTS/REPORTS**

### Haz-Mat

Mr. Sworen reported at the Haz-Mat meeting last week there were some ideas for change which will be presented to the Freeholder Board at a future date; such as an account being set up so they get paid directly. Discovered was when the team goes on a Haz-Mat call they bill the responsible party, charging for personnel, material used but there is nothing to reimburse for vehicles, so a process will be put together utilizing what DEP does with vehicle costs, materials and things of that nature.

### Polls

Director Mennen informed those present that the polls are open for another 45 minutes. He noted that it is School Election day.

## **OPEN TO THE PUBLIC**

Director Mennen opened the meeting to the public.

Kat Buttolph, of the Hunterdon Land Trust Alliance asked the Board to proceed with the Urbach application.

Director Mennen advised in March 2010, this Freeholder Board approved funding and proceeding with the County cooperating with that transaction pending the receipt of all appropriate documents.

Ms. Buttolph said at the March meeting when this was approved there was a requirement in getting representation from the sellers that they sign the environmental documents. The sellers will not provide that and she doesn't believe it is required under this application because it is a totally new contract with a nonprofit who is just getting grant funding from the County. The County will not have ownership interest or any liability exposure for this acquisition.

Director Mennen confirmed that Ms. Buttolph wants this Board to agree the environmental documents aren't required.

Director Mennen requested Mr. DeSapio provide advice to the Freeholder Board before he asks for comments from the Board.

Mr. DeSapio provided a history of the County's negotiations with the Urbach's explaining back in 2008 or 2009, the County was going to acquire the property and they were told to sign the regular contract with the County which requires them to represent there are no environmental problems and that the representation survives the closing and title; which means for the public if the County closes and two years later something is found that was known about they are on the hook.

Mr. DeSapio advised what Ms. Buttolph is pointing out and asking the County to waive that requirement because the County is not purchasing the property and has no responsibility for it after the closing; the total responsible will be with the Hunterdon Land Trust Alliance (HLTA).

The HLTA has done its due diligence regarding environmental conditions and the HLTA doesn't feel there is a need for the Urbach's to make representation to survive closing and since the County will not have a risk because it is providing funding under the bond issue that the HLTA does not feel this is a condition that should be imposed. Mr. DeSapio advised this is a policy decision to be made by the Freeholder Board but from a liability point of view, you don't need it.

Mr. DeSapio recalls someone raised the issue about the "bites at the apple". The property owner has been negotiating with the County for years and the County insists on certain requirements and the property owner refuses to do them; is there any reason for the County to require them because the person has gone to a nonprofit and the County is only be asked for a portion of the funding, not all the money. Mr. DeSapio said this is a policy decision; it isn't a legal decision.

Mr. Walton stated he asked that question in March when the Board voted on this project. He asked if the County was going to be given the same guarantees today that the Board asked for two or three years ago but the deal fell apart. Mr. Walton said Margaret Waldock of the HLTA is wrong because the environmental requirements are the same so he is perplexed that the County is now being told they are somehow different and why the County should be waiving something that is needed because the same threshold will be held this time around.

Ms. Buttolph does not recall verbatim what expired at that meeting but she does recall Mr. Walton asking that question. The HLTA contract does include a paragraph which says the seller represents there are no hazardous materials, they have not violated any law requirements and they don't believe the property is an industrial site. The seller has made those representations in the contract with the HLTA.

Ms. Buttolph informed the Board that the Urbach's did not approach the Hunterdon Land Trust Alliance the HLTA went to the Urbach because the HLTA wanted to preserve this property. When the deal did not go forward with the County the HLTA decided to try and negotiate a deal with the Urbach and they did for a significant bargain. The HLTA has Greene Acres funding for this; there is a specific process the HLTA goes through and it does its due diligence; goes out on the land; hires a consultant to do a thorough investigation of what environmental concerns there may or may not be on the property. This property came up without any concerns including minimal pesticides which is unusual. The HLTA feels comfortable taking this property without having some representation that goes beyond the closing by the sellers who are elderly.

Ms. Buttolph stated she has consulted with other environmental experts to make sure that the HLTA is not sticking its neck way out and they are comfortable as well.

Director Mennen confirmed Mr. DeSapio earlier statement relates to environmental contaminations that the seller knew about but failed to disclose. It does not contemplate that after closing there is something they could never have known about that is suddenly found. They are not on the hook for that.

Director Mennen recalls the first go round of discussions for this property. He feels County Counsel previously indicated why the deal feels apart and it was a refusal to signing environmental representations at that time. Mr. DeSapio confirmed that is his recollection.

Director Mennen said the County has indicated whether it has to or needs to, is a different question. Whether the County wishes to obtain representations to obtain a higher level of comfort when public funds are being used for a project; when the County has a very recent history where a seller refused to sign the representations, the County is vested with the authority to say as fiduciaries that the representation is wanted. This Board is within its right to want that representation.

Director Mennen advised this some of the members of this Board has a few concerns as to why there was a refusal to sign the environmental before. He asked what the refusal is to sign. That is a concern.

Director Mennen stated he did not hear anyone on March 2, 2010 object to that condition and now subsequent there appears to be an objection to the condition. Unless a majority of the Board is willing to walk away from the condition that it placed on the County's funding contribution of the property, \$300,000 is a lot of money and it is a fair amount of funding going into the project. If this Board has any concern or reluctance or questions with regard to the environmental issues, then it is imperative to see them through and follow through. Director Mennen has not heard anyone explain why there is reluctance by the seller to sign the documents.

Mr. Sworen said if the County were purchasing the property he would have concerns but the County isn't purchasing the property but public funds are being used. He understands that all funding being used to purchase this property is public funds.

Director Mennen stated the County doesn't control all those dollars; this Board just controls County dollars. The Freeholders are the fiduciaries of these dollars.

Mr. Sworen said the County also pays to the other public dollars. He appreciates what is being said and if the County were the owners, he would agree but the County won't be.

Mr. Sworen asked County Counsel if the same restrictions were issued for any other grants the County contributed towards.

Mr. DeSapio advised Special Counsel Novak handled all the closing up until Urbach. The County hasn't really done any closings since then. He doesn't have the answer to that.

Mr. Melick confirmed this is public money being spent and the HLTA wants the County to waive the environmental requirement. He recalls the original negotiations with the Urbach's three years ago and it was rejected. This could be misconstrued to purchase property when you know there could be a hot spot on it. If there isn't a problem then why isn't the seller signing the environment document and certify the property is okay.

Ms. Buttolph explained it was a point of negotiation. She does not believe there is a problem with the property.

Director Mennen stated that is why it is called a bargain for exchange; it is negotiation; and up to this point it has been the position of this body that with regard to this the County will get the environmental representation. Ms. Buttolph is asking the Freeholders to negotiate against ourselves and relent on a condition that the County has set. The County is being asked to relax a condition and it was a condition that was clearly enumerated three years ago and again at the March 02, 2010 when the contribution was approved.

Ms. Buttolph stated this is a new deal on a different contract that she negotiated and that Margaret Waldock negotiated with the sellers.

Director Mennen explained this Board has a genuine concern because of a refusal to sign a document previously. He asked Ms. Buttolph if she is asking this Board to ignore that concern. The County's concern is that a document which was clearly and appropriate to be signed previously was refused. It leaves this Board wondering why it was refused. Are you asking this Board to ignore that.

Ms. Buttolph asked the Board to accept an indemnification from the Hunterdon Land Trust Alliance.

Mr. Melick feels that would be fraudulent.

Mr. Buttolph feels it would be an offer of comfort for any liability the County might be exposed to.

Harold Quinn, Raritan Township resident, feels the Urbach property is an incredible property in terms of open space.

Director Mennen said this Board agrees. That aspect doesn't have to be lobbied.

Mr. Quinn said in his 30 years of working with NPL sites with the federal government, it is his understanding that if due diligence has been done, then everything has been done. This will get the County nothing.

Director Mennen stated that is like saying if you are buying a house and a home inspector came in and did not find anything but the owner knew it was built on quicksand, that you are okay.

Mr. Quinn said with this property, if something were found ten years later what would matter more would be who put it there, what it is and how it got there.

Amy Greene, Raritan Township Open Space Committee Chairperson informed the Board that the County commissioned her firm to do a preliminary assessment, a Phase I investigation of the property and they did not find any areas of concern. The report was submitted to Greene Acres and they reviewed it and approved it.

Mr. Greene said there are laws to specifically address this issue of potential contamination and there is no contamination on the property. No one has found any hot spots. This has been determined to be a clean site. The additional information we have now is that the seller did certify that they don't know of any contamination. The HLTA has done their due diligence that an investigation was done and that they went further by having the State of New Jersey, Greene Acres approve it. The law says if something is identified that was caused by previous owners, the previous owners retain liability whether it is in the contract or not. She has been by the Raritan Township Attorney to that effect as well. All the partners think this is an ideal project.

Oliver Elbert, Raritan Township Committee informed the Board that he found out today that the Urbach's did sign the statement that was asked for by the Freeholders but they don't want to sign continuing on in the future after closing but it doesn't say that it doesn't extend after closing.

Director Mennen stated under state law it is deemed when you accept a deed the representations that went before it merge with the deed; which means they go away, so you have to specifically indicate that a representation survives the closing of title for it to not merge with the deed and go away when the deed is transferred.

Mr. Elbert assured the Board that Raritan Township does not want to be on the hook either. The Township attorney did feel the seller would still be liable for problems in the future.

Director Mennen questioned if anyone has lobbied as hard with the sellers as is being done here this evening.

Ms. Buttolph stated the HLTA has lobbied very hard and very long.

Linda Tusaro, resident of Raritan Township said she supports what everyone is saying tonight. This is a beautiful piece of land for the County and for the residents that live here. Purchasing this property would help to maintain the rural integrity of the County.

Ms. Tusaro feel if the Freeholders and the County is exonerated from any liability, then based on what Ms. Greene and Ms. Buttolph indicates, the Freeholders need to move forward. This is an elderly couple and all this paperwork may make them nervous. She feels comfortable in knowing studies have been done.

Frances Gavigan, East Amwell Township residents, recalls not long ago there was an issue of a property being preserved in East Amwell to where the owners wanted an assurance that if the County would not pay the full appraised cost that the Township would pay the difference which was the County's. This was deemed a low risk and they group went back to East Amwell Township and asked the Township to pay. She questioned if something along that could help in this instance.

Ms. Buttolph advised Hunterdon Land Trust has already done that through a letter to the County indemnifying them.

#### County Bridge E-174, East Amwell

Ms. Gavigan asked what the Freeholders' calendars look at in order to hold the Ad Hoc meeting concerning Bridge E-174.

Director Mennen informed Ms. Gavigan that while he recognizes she has been the face and voice of this project, it is a matter of protocol. The mayor and clerk have been inquiring on a regular basis about a meeting. The County will be communicating with the Township tomorrow in an effort to establish that working group and get the meeting going.

Ms. Gavigan advised the group is established and holding a meeting tomorrow evening.

Director Mennen will talk with Mr. Glynn and have him call the Township on the Ad Hoc meeting.

#### Urbach property discussion continued

Beryl Doyle, Raritan Township Citizens for Parkland reported to the Board on an article which appeared in the Hunterdon County Democrat on June 15, 2000, which reported on the excitement of then Freeholder Marcia Karrow and then Raritan Township Mayor Dominic Mazzagetti expressed on acquiring 40 acres of farmland in Raritan Township. The article said farmland preservation is a good way to stabilize the tax rate. Mrs. Doyle read the article to the Board encouraging farmland preservation.

Ms. Doyle said the price for the Urbach property has dropped 25% for 108 acres. She did note that the Urbach's are not the first owners of the property.

Mr. Melick stated since the early 1980's he has been involved in preserving land, farmland and the County used to do some beautify deals. The object was to stay ahead of the bulldozer and it seems the bulldozers have left and the developers are gone.

Director Mennen advised the bottom line is this Freeholder Board agreed to partner for the acquisition of this property. No one needs to convince this Board of the regional significance or the importance of the acquisition. The issue is there was a condition to the funding put in place; a condition predicated upon not too distant history and what is being asked of this Board is to relax the condition. In lobbying for that outcome there has been a lot of technical information, albeit hearsay that has been thrown at the Board this evening.

Director Mennen said if there is any inclination to relax that restriction, and he is not advocating there be one, that this Board needs to digest the information and get an opinion letter, from the counsel representing the Hunterdon Land Trust, that the County can rely upon.

Director Mennen said the Freeholders' aren't environmental experts and to sit here and digest this information, and to further relax a condition would be negligent on the part of this Board.

Director Mennen said the Hunterdon Land Trust Alliance should be hitting the seller as hard as it is coming at this Board tonight. The HLTA should be pushing the seller and making them understand the importance of the significance of the property to the region and to the citizens of the municipality by getting them to sign the environmental document.

Mr. Walton explained he is troubled that the sellers could not get in one way and now they are trying an alternative route and trying to get around from signing off on this documentation. This is the public's money and this Board has the duty and responsibility to see that everything is done correctly. The seller not signing off on this just raises his curiosity. He is not prepared to relive them of that requirement.

After further discussion, Director Mennen questioned how the Hunterdon Land Trust feels about the County talking with the seller.

Ms. Buttolph stated the HLTA has no problem with that and she was directed by the Freeholder Director to supply the seller's contact information to the Clerk of the Board.

Director Mennen recommended this issue be revisited on May 18, 2010 and in the meantime the County will communicate with the sellers. Also to be present at that meeting would be Mr. Elbert and a representative of the HLTA.

There being no further business to come before the Board, Director Mennen adjourned the meeting at 9:03 p.m.

Respectfully submitted,

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Denise B. Doolan  
Clerk of the Board.