

Special meeting

HUNTERDON COUNTY BOARD OF CHOSEN FREEHOLDERS

Main Street County Complex, Second Floor
Flemington, New Jersey 08822

June 10, 2010

The special meeting of the Hunterdon County Board of Chosen Freeholders convened in open session at 1:10 p.m. in accordance with the provisions of the Open Public Meetings Act.

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

CONVENE

Deputy Director Holt 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 faxed on or before June 04, 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."

PLEDGE OF ALLEGIANCE

Director Mennen came into the meeting at 1:12 p.m.

EXECUTIVE SESSIONS

Mr. Holt moved and Mr. Sworen seconded these:

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RESOLUTION

RESOLVED, Executive Session to discuss pending land acquisition in Kingwood Township on Horseshoe Bend Road.

See Page 06/10/10-1B

RESOLUTION

RESOLVED, Executive Session with the County Clerk to discuss legal issues related to the case of Gensch versus Hunterdon County.

Warren Cooper, Reporter for the Hunterdon County Democrat objected to the Freeholder Board going into executive session regarding the land acquisition issue in violation of the Open Public Meetings Act. The portion of the OPMA that allows the Freeholders to discuss land acquisition is intended for the protection of the public where the Board does not want that it is going to acquire or trying to acquire a piece of property for fear that the cost of the property would be impacted. If the Board goes into executive session to discuss the details of that now, when all of those issues are resolved, the public knows you are intending or desirous of buying this piece of property, you are doing so in violation of the Open Public Meeting Act.

Gaetano M. DeSapio, County Counsel, advised the limited issues the Board will be discussing in executive session has to do with an attorney-client issue, which has to do with the extent of the exposure of the County in connection with the liability under the contract in the event that the Freeholders don't chose to go forward and how that factors into their decision.

Mr. DeSapio explained the second issue is a report on the extent to which the seller has agreed to comply with the County's requirements for legal protection in regard to environmental issues.

Mr. DeSapio advised both of those issues are a mixed private and public matter but they should be discussed in private first to protect the liability of the County. The question of whether or not the Freeholder Board will purchase the property or not purchase the property is appropriate for public discussion after they know what the varying risks are.

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

The Hunterdon County Board of Chosen Freeholders went into Executive Session at 1:13 p.m. and reconvened in Open Session at 2:20 p.m.

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

Director Mennen advised due to scheduling issues, while the Freeholders are not completed entirely with the executive session topics for the afternoon, with regard to the first topic, in an effort to take action in open session this afternoon, the Board is reconvening in open and will return to executive session after this discussion, to complete the executive sessions today.

Mr. Sworen stated after speaking with the County attorney he would like a resolution to reinstate the contract that was closed a few weeks/month ago and authorize the closing to continue on the Kingwood Township property (Horseshoe Bend Road) based on a number of issues: (1) that satisfactory arrangements for insurance for environmental issues be completed to the satisfaction

of the County's attorney and insurance carrier; (2) that the seller gets all the permits to relocate the driveway before closing to the satisfaction of the County's attorney; (3) that, if the driveway is not done/completed before closing that a \$150,000 escrow be provided to the County to cover that issue; and (4) that all other legal issues that are left will be resolved to the satisfaction to the County's attorney.

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

Motion did not pass.

OPEN TO THE PUBLIC

Director Mennen opened the meeting for public comment.

Mr. Holt explained to those present that he has an appointment to get to and will be unable to attend the rest of the meeting.

Warren Cooper, Reporter for the Hunterdon County Democrat, confirmed with County Counsel DeSapio, that this action means that negotiations have ended for the purchase of the Kingwood Township property.

Mr. Cooper asked for clarification that the Horseshoe Bend acquisition will not take place.

Director Mennen explained this action means that the request to reopen the contract which was terminated on March 16, 2010 was denied.

Mr. Cooper questioned if there is a possibility that a future request to reopen the dialog for this property could come before the Board again.

Director Mennen advised the Board of Chosen Freeholders of the County of Hunterdon is always willing to listen if someone has something they want to say. If they want to come and talk about a new deal with new negotiation at some point in the future, Director Mennen is sure the Freeholders will be happy to listen.

Mr. Holt left the meeting at 2:24 p.m. due to a prior commitment.

The Hunterdon County Board of Chosen Freeholders returned to Executive Session at 2:24 p.m., recessed at 3:12 p.m. and reconvened in Open Session at 3:42 p.m.

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

Director Mennen advised Freeholder Sworen had to leave the meeting at 3:30 p.m., in order to fulfill a commitment to pick up his granddaughter.

Mr. DeSapio returned to the meeting and presented the Board with a resolution. The Board took a few minutes to read the resolution.

The major points of the resolution are as follows:

1. This resolution sets for the reasons for the unwillingness of the Board of Chosen Freeholders to reinstate the Agreement to purchase Block 14, Lot 30 under the same terms and conditions as set forth in the contract of April 17, 2009.
2. The Board has examined the appraisal(s) which served as the basis for the establishment for the purchase price of the property. Those appraisals were dated: March 2002, April 17, 2007 and June 24, 2007. The Freeholders take notice that real estate market values have decreased significantly since the time that the appraisals were performed. It is not in the best interest of the taxpayers to make a decision to purchase property except upon an appraisal based upon current market values.
3. The Freeholders take notice that the Governor of the State of New Jersey has not approved the minutes of various Commissions and Boards that include authorization for the acquisition of real estate where the appraisals which serve as the basis for the transaction are outdated, or stale, or where real estate market values had decreased since the appraisal were performed.
4. Current fiscal conditions effecting County government and the taxpayers' ability to repay obligations warrant not reexamining this transaction until all questions of value are resolved.
5. The original contract which has been terminated provided that if the transaction did not close by August 31, 2009, either party could terminate the Agreement. The closing was delayed through no fault of the County well beyond that date, resulting in the Freeholders exercising its option on May 4, 2010 to terminate the Agreement.

Mr. Melick moved and Mr. Walton seconded this:

See Page 06/10/10-3A

RESOLUTION

RESOLVED, Confirming that the Board of Chosen Freeholders are unwilling to reinstate the Agreement to purchase Block 14, Lot 30 under the same terms and conditions as set forth in the contract of April 17, 2009; and upon examination of the appraisal(s) which served as the basis for the establishment for the purchase price of the property; that were dated: March 2002, April 17, 2007 and June 24, 2007; that the Board feels the real estate market values have decreased significantly since the time the appraisals were performed and that it is not in the best interest of the taxpayers to make a decision to purchase property except upon an appraisal based upon current market values; and that the closing was delayed through no fault of the County well beyond that date, resulting in the Freeholders exercising its option on May 4, 2010 to terminate the Agreement.

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

Questions answered for the press.

There being no further business to come before the Board, Director Mennen adjourned the meeting at 3:50 p.m.

Respectfully submitted,

Denise B. Doolan
Clerk of the Board