

HUNTERDON COUNTY BOARD OF CHOSEN FREEHOLDERS

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

December 13, 2011

The special meeting of the Hunterdon County Board of Chosen Freeholders convened in open session at 9:06 a.m. in accordance with the provisions of the Open Public Meetings Act.

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

CONVENE

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 December 07, 2011, to the Hunterdon County Democrat, The Express, Courier News, Trenton Times, and Star Ledger, newspapers designated to receive such notices and by filing a copy with the Hunterdon County Clerk."

PLEDGE OF ALLEGIANCE

NEW BUSINESS

County Administrator, Cynthia J. Yard, informed the Board that the County has had discussions with Rutgers Cooperative Extension regarding a Memorandum of Understanding (MOU). The County did work with Dr. Katz on this MOU. Mrs. Yard explained the main item was to remove Rutgers' off the County's payroll and to only submit a payment to Rutgers' quarterly. Rutgers' has agreed to everything the County proposed. The authority is kept with the Freeholder Board to determine the operating budget. This MOU kept the objective of the team of people negotiating this MOU: the Human Services Administrator, Shana Taylor, the Human Resource Director, Cheryl Wieder, the Director of Finance, Kim Browne, and Mrs. Yard, who having been working on this for over a year. Mrs. Yard further stated Hunterdon was the last County to realign their Rutgers' agreements.

Mr. Mennen moved and Mr. Sworen seconded this:

See Page 12/13/11-1A

RESOLUTION

RESOLVED, Approving a Memorandum of Understanding with Rutgers' Cooperative Extension, to enhance the understanding and cooperation among the parties as established by federal and state legislation.

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

Mrs. Yard informed the Board the next item, to develop a layoff plan, is only so the County can begin to collect data. There is a \$3 million projected shortfall identified in the Budget and the Finance Team is looking for strategies. The Freeholder Board adopted a resolution on November 01, 2011 discussing keeping the tax rate flat. That resolution and the strategies have been sent to the County's eight bargaining units in November; also a meeting was held on December 07, 2011 with CWA and Matt Giacobbe, Labor Counsel, to begin a dialog. At that meeting, also was to recognize that there are negotiable items and the County is more than willing to have an open, ongoing dialog with any of the unions and work together to bridge the gap of the projected shortfall.

Mr. Melick came into the meeting at 9:08 a.m.

Mrs. Yard was asked to give some background for this resolution. Mrs. Yard articulated 6 points as flows:

1. The County adopted a resolution on November 01, 2011 identifying strategies to maintain a flat tax rate for 2012 (28.78 cents on every 100 dollars).
2. The County identified a potential budget gap of 3 million dollars due to the continued increases in mandated expenses such as pension, health benefits, and other insurances; along with a decrease in revenues, specifically ratable.
3. Along with many cost saving measures, the County is looking at the economy and the efficiency of delivering discretionary services to close the gap.
4. The County recognizes its obligation to negotiate with our bargaining units with regard to furloughs and changes in work hours.
5. The County is prepared to come to the negotiation table to negotiate, as long as those strategies do not compromise the fiduciary responsibilities of the governing body.
6. Due to the minimum 75-day lead time required with the Civil Service Commission, these plans will be developed as one of the many strategies considered to close the budget gap.

Director Holt recognized Adam Liebttag, CWA Representative in the audience.

Mr. Liebtag stated he doesn't have much to say at this point, other than again, there was one brief meeting at the County's request where Administrator Yard and your outside counsel, Giacobbe told them the Freeholders were looking at a projected \$3 million deficit and the CWA is open to discussions about how to trim the County's budget. That was the subtotal of the discussion.

Mr. Liebtag said he thinks this move is premature. The County does not have its ratable information yet. His understanding is that information won't come until January. This seems to be yet another fork in the road where we could have had discussion and this Freeholder Board is opting for action before discussion. It certainly sets the table for a more difficult discussion around these issues, yet alone contract negotiations and to say that the membership is extremely disappointed is an understatement.

Mr. Liebtag said he doesn't think a 5 minute advanced warning meeting classifies as any meeting at all. That is no disrespect to Mrs. Yard or Mr. Giacobbe. He doesn't think there was much to say but it was a 5 minute meeting.

Mr. Liebtag said this meeting notice was posted with 24 hours public posting and you have it at 9:00 o'clock in the morning when no member of the public is even in the room. He is disappointed and he thinks membership is disappointed. Other discussions could have been had first and now we will just have to go into these discussions with a different tenor.

Mr. Liebtag wished the Board farewell.

Mr. Walton moved and Mr. Melick seconded this:

See Page 12/13/11-2A

RESOLUTION

RESOLVED, Authorizing the County Administrator and Human Resources Director to begin to develop a layoff plan for consideration by the New Jersey Civil Service Commission.

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

FOR DISCUSSION

County's housing rehabilitation program loans to eligible citizens

Frank J. Bell, AIA, County Project Administrator and Coordinator for the Housing Small Cities Housing Rehabilitation grant program. Mr. Bell has been discussing with the County Administrator, Cynthia J. Yard the loans which have been provided to various applicants for the County's Housing Rehabilitation program. There have been a number of applicants where the mortgage amount versus the appraised value has been very close. When the applicants need to be loaned money under the program, it turns out to be close to 100% or at 100%. Mr. Bell explained as time goes forward more and more of these applications are coming in. The funding the County receives for the Small Cities Development Block Grant program for the County's Housing Rehabilitation program comes from the State Department of Community Affairs (DCA), and the County puts up a 50% match to the funds. Appraisals are now being done on houses in the program.

Mrs. Yard explained to the Board that every time the County applies for the Small Cities Grant the policy book for the program has to be updated. Currently the policy book is silent on this matter because this was not an issue when the County last applied for Small Cities funding. Mrs. Yard reminded the Board these are life safety repairs and the County also reached out to the DCA, to get a ruling from Bruce Benton because it seems at this time everyone needs septic systems. These are no interest loans being afforded the applicants.

Mrs. Browne advised there is a revolving loan program associated with this housing program, so when a house is sold the County's loan is paid off.

Director Holt stated this is the third application this year, in need of special Freeholder consideration and stated that there are at least two more to come before the Board.

Mr. Bell advised he and Mrs. Yard are concerned because this continues to happen. In addition, there is an applicant from the previous program, where the house has gone into tax sale. This is supposed to be a revolving loan program where the money is supposed to come back to the County to pay for future applications. Some of the applicants are at the point where they can't pay the taxes or they are maxed out on their mortgage. He is asking the Board how it wants to proceed with these applications and questioned if the Board wants to change the policy on the Housing Rehabilitation program or should they continue loaning the money the way it is currently done.

Mr. Bell confirmed for Mr. Walton, that when it comes to getting money back from the home, the County is in most cases in second or third position depending upon the bank.

Mr. Melick suggested forming a subcommittee of the Board to work with Mr. Bell to keep track of these types of cases/applications.

Mrs. Yard further recommended that Mrs. Browne prepare an analysis of the funds in the Revolving fund and project out how long those funds will last and then report back to the Board.

Emergency repairs to the drainage at the Warehouse/Records Retention Center

Mr. Bell reported to the Board on a drainage issue at the Warehouse/Records Retention Center and the need for additional drainage. An area of the Records Center has an existing condition that needs to be corrected. John P. Glynn, Director of Roads, Bridges and Engineering has obtained a quote based on an Engineer's drawing, to install a catch basin and some piping to prevent the water from seeping into the building. There is water infiltration into the Records Center.

After a brief discussion, Mr. Walton moved and Mr. Melick seconded a motion authorizing Mr. Bell and Mr. Glynn to move forward with the emergency drainage repairs at the Warehouse/Records Retention Center, consisting of 130' of pipe and 2 inlets.

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

Open Space Trust Fund

Shana Taylor, Counsel, came before the Board concerning an opinion on the Open Space Trust Fund.

Ms. Taylor informed the Board that she has looked into the Ballot Question with regard to using the Open Space dollars for debt service. Both Ballot Questions which preceded the current question included debt service, which takes this back to 2000, which was the official effective date of the Open Space Ballot question. Ms. Taylor advised it would be appropriate for the Board to go back to 2000.

Ms. Taylor stated that Kevin Richardson, Open Space Trust Fund Coordinator has a better understanding and knowledge with regard to the way the County allocates each year how those dollars will be used. If the Board desires to go back to 2000 for debt service, she would discuss this with Mr. Richardson on how to reallocate those funds for the Open Space dollars.

Mr. Mennen confirmed with Mr. Taylor that the use of the Open Space funds for debt service would be legally acceptable. He confirmed with Ms. Taylor that the use of the funds for debt service is not only in the last question but it is also in the first question.

Mr. Taylor confirmed for the Board that the use of the funds for debt service has been in all three Open Space Ballot questions.

Mr. Mennen confirmed Ms. Taylor would clearly see no impediment to being able to use funds generated for debt service related to transactions from January 01, 2000 forward. He asked about prior to 2000.

Mr. Taylor advised she researched whether ballot questions were given different consideration than statutes or other legal determinations by the government and she was unable to find any different application with regard to retroactivity. Mr. Taylor stated that does not say the Board absolutely could not but there is a standard the Court would follow if they were going to review if a ballot question or a statute could be applied retroactively. Generally that is frowned on.

Mr. Mennen asked if this is a retroactive application because the debt service is a continuing obligation and unless the phrase is used within the Ballot Question itself says for purchases going forward; or words to that effect; he doesn't really think it violates the spirit or purposes or intent of the question. As long as the funds are for the stated purposes, it is a thoroughly appropriate use and the 2000 question going forward are solid.

Mr. Taylor agreed.

Mr. Walton asked what the practice of the municipalities are as there are municipalities in the County that have active Open Space purchases.

Mr. Mennen said if Tewksbury generate funds from an Open Space Tax and use it for debt service for a property that was purchase in the same year, there would be no difference.

Mr. Walton feels it is more of a political standpoint.

Mr. Mennen informed the Board that the County has money sitting in the account that can be used for debt service.

Mr. Sworen asked what is meant by debt service.

Mrs. Browne explained it is the amount owed to Green Acres.

Director Holt further explained that any property that was purchase with Green Acres funds in which there is still an outstanding debt on it. There was a discussion, back at the special meeting held on November 29, 2011, when you were not at the meeting regarding paying off debt that exists from acquisitions and the impact that would have the County in terms of future budgets.

Mr. Sworen confirmed this would include paying off Green Acres on Open Space or Farmland purchases that the County still owns money on.

Director Holt explained the discussion on November 29, 2011 said that the 1999 Referendum began January 01, 2011 with two additional 5 year referendums. There was a reaffirmation that from 2000 forward the County can pay debt service. It has been said that if the County had debt

before that; the question is why could that not also be paid off. If it is determined yes then the Board has to determine what it would mean to the County's budget.

Mr. Sworen said municipalities today receive money from the County, a certain percentage and they can use that money to pay off debt for purchases for open space. He explained that Frenchtown Borough was able to do that last year.

Mrs. Browne advised the County has looked at payments to Green Acres and the last payment to Green Acres will be 2021. In 2011, the County had around \$500,000 in principal and in 2012 there will also be \$500,000 in principal. Before there was an open space tax, the properties that were purchased before that made up around \$350,000 of the \$500,000 and the other two purchases that qualified (using the 2000 benchmark) was around \$150,000.

Director Holt confirmed with Ms. Taylor and Mr. Mennen that there is no reason not to pay off debt service.

Ms. Taylor stated she has found no reason not to go back to 2000. Prior to 2000, generally statutes/ballot questions are not applied retroactively; however, there is a standard that the courts apply if they were to review that issue, whether the County were going to apply retroactively. Ms. Taylor said the standard the courts would use, is whether there would be an unjust result/would anyone have read that ballot question, voted in accordance with the question and felt they were done an injustice by the Board going back prior to debt collected with the first ballot question.

Director Holt confirmed the County has Open Space dollars that could be used to eliminate debt which would have a positive effect on the 2012 and beyond. This is no different than the restructuring of debt the County did a few years ago, to lower the County's costs. The Open Space dollars are used to purchase land and can be used to pay off land which would then positively affect the County's budget.

Mrs. Browne informed the Board that the cost to pay off the debt is around \$3.5 million to \$4 million. She will check to see if the debt can be paid off early.

Mr. Sworen's understanding is if the County has debt service from a property purchased in 1995, the County can still pay the debt service from the Open Space funds but we can't go back and reimburse the budget

Mr. Mennen confirmed there is \$500,000 in currently pay obligations plus interest. The County is looking to fill a shortfall in the County's operating budget of approximately \$3 million, the County could fill approximately 20% of that shortfall by taking the current pay obligation out of the Open Space Tax. Mr. Mennen stated this makes sense and it is appropriate and allowable under the ballot question and under common operating procedure done in every municipality in Hunterdon County that has an Open Space Tax. Mr. Mennen recommended this Board think about putting whatever is necessary in place to move in this direction.

Mr. Sworen said the Board is considering this for 2012 but can it also be done for 2011.

Mrs. Browne advised the County Treasurer has already made those payments, so it would be for 2012.

Mr. Walton asked if a budget transfer can be done.

Mrs. Browne will look at that for the Board.

Director Holt confirmed the Board is in consensus to pay of the debt service with Open Space funds for 2012 and if it is possible to do this for 2011 and transfer the funds back in, it should be done. Also the Board directed Mrs. Browne to look into prepaying the rest of the debt off.

Mr. Melick confirmed with Ms. Taylor that this can be done.

Mrs. Browne confirmed there will be no more research on 2000 and back that the Board is authorizing her to just move forward.

Director Holt stated the issue today is the 2011 and 2012, interest and principal from Open Space.

Mr. Mennen said when talking about applicable debt, we are talking about Green Acres debt. The Open Space Ballot questions don't contemplate only Open Space purchases that are under the auspices of Green Acres. If there anything else that the County has dept service on that qualifies as Open Space.

Mrs. Browne looked at that the last time she did the research and it looks like it is general operating bonding.

Mrs. Browne stated the County does have municipal PIG (Planning Incentive Grant) payments but she doesn't think they can be prepaid. She confirmed for Mr. Sworen that the PIG payments are done through the Open Space Tax.

Garden State Trust
(PILOT – Payment in Lieu of Taxes)

Kim Browne, Finance Director, came before the Board to again discuss an issue which was brought to her attention by the County's auditor that the County was supposed to receive a certain percent from the municipalities from the Garden State Trust funds through a PILOT (Payment in Lieu of Taxes) program. The County's Finance Department has researched back to 2001 of money owed the County from municipalities as part of the Garden State Trust. The auditor explained to Mrs. Browne that the municipalities should be giving money back from money they receive from the Federal government and they are supposed to turn over a certain percentage to the County.

Mrs. Browne is seeking Freeholder direction on how to proceed in going forward in collecting these funds from the municipalities, since they have never returned money to the County.

Mrs. Yard stated since the County has never collected these funds or billed for these funds; so it is possible that the municipalities were unaware they were supposed to provide these funds to the County.

Mr. Mennen confirmed this is a PILOT – Payment in Lieu of Taxes.

Mr. Sworen confirmed the PILOT program comes from when a municipality purchases open space, parkland or there is state property in a municipality. The State started reducing the amount of PILOT funds significantly around four years ago.

Mrs. Browne advised the Board of the amounts to municipalities as was recorded on the Division of Local Government Services website.

Mr. Mennen said when a municipality receives a payment in lieu of taxes by virtue of having some property on their books that doesn't generate a ratable they get a payment from the State of New Jersey through the Garden State Trust and through a statute the County is entitled to 5%. Mr. Mennen feels the municipalities probably were unaware and the County needs to send them a bill.

Mr. Mennen confirmed with Mrs. Browne that if you look over the past decade, it amounts to \$136,000.

Director Holt stated the County first needs to make municipalities aware of this. There should be a formal letter advising the municipalities that the County's auditor brought this to the County's attention and that the municipalities should be aware for their 2012 budget, this should be factored in because the County will be invoicing them for these funds. The letter should also include the chart prepared by the Finance Department showing the charges for the past ten years and state the County is working to find an equitable way in which to settle these accounts.

Mrs. Browne feels once the municipalities receive these funds, they should automatically cut a check to the County for 5%.

After further discussion, the Board directed Mrs. Yard, Ms. Taylor and Mrs. Browne to draft a letter to the municipalities on this matter and present it to the Board for consideration at the next budget meeting.

General Revenue

Mr. Melick stated there is less demand for the County's services which can be shown by the County's agencies not collecting fees, so the workload has decreased. The Planning Board isn't collecting fees and he questioned what they are doing. The intent of the Planning Board was for it to be structured to collect fees for their services.

Pino Consulting proposal/psychiatric hospitals

Mrs. Browne asked direction from the Board concerning the proposal made a few weeks ago by Al Pino of Pino Consulting, Inc. to provide consulting services to reduce the County cost share for patients in State Psychiatric Hospitals. Mrs. Browne and Margaret Pasqua, County Treasurer reached out to Mr. Pino through a telephone conversation to answer questions on his success. While Mr. Pino has not been successful yet, Mr. Pino did just get the State Attorney General's to review this because percentage wise the counties are being charged more than they should be. No one has recouped any funds yet and the process may be a long one but Mrs. Browne and Mrs. Pasqua feel since the County isn't getting any money back at this time, the County should contract with Mr. Pino, who if successful would take a percentage of what is recouped and it would be found money for the County. Mrs. Browne further stated that this service cannot be put out under a Request for Proposal because Mr. Pino has the specialized knowledge and has an understanding of what it wrong and how the Counties can recoup money. The Board agreed and directed Mrs. Browne to get a contract prepared for the Board's approval.

Six County Coalition Meeting

Director Holt thanked the Board, Mrs. Yard, Ms. Taylor, Mr. Wagner, Mrs. Doolan, Mrs. Kelly and anyone else involved in pulling together the 6 County Coalition meeting. It was well attended and the food was delicious.

Mr. Mennen confirmed there is a bill for the food and that Mr. Melick took care of the charges for the location.

Director Holt stated as the Board agreed in November 2011, the Board would cover the cost of food and he noted that Mrs. Yard donated some food items for the event.

Director Holt stated the cost for each Freeholder is \$44.50 to be paid to Mrs. Yard who paid for the event upfront.

COUNTY UPDATE

Cynthia J. Yard, County Administrator, came before the Board to review open County legal matters.

Mr. Mennen stated if Mrs. Yard is going to discuss what the workload is for the legal office it can be done in open session but if the disposition of individual files or groupings of files, then it should be done in closed session.

Mr. Mennen questioned if this subject should be in open session at all.

EXECUTIVE SESSIONS

Mr. Walton moved and Mr. Sworen seconded these:

See Page 12/13/11-6A **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to the Compressed Work Week.

See Page 12/13/11-6B **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to the Health Officer vacancy/reconciliation.

See Page 12/13/11-6C **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to a Part Time Nurse.

See Page 12/13/11-6D **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to the Table of Organization for the County.

See Page 12/13/11-6E **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to contract negotiations.

See Page 12/13/11-6F **RESOLUTION**

RESOLVED, Executive Session to discuss legal issues with regard to the Health Preparedness Grant.

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

The Hunterdon County Board of Chosen Freeholders went into Executive Session at 10:25 a.m. and reconvened in Open Session at 11:40 a.m.

There being no further business to come before the Board, Director Holt adjourned the meeting at 11:40 a.m.

Respectfully submitted,

Denise B. Doolan
Clerk of the Board