

REGULAR MEETING HELD ON WEDNESDAY, JULY 27, 2016

**6:00 PM**

**ORDER OF BUSINESS**

**Item**

1. **CALL TO ORDER BY DIRECTOR** 6:00 PM

2. **ROLL CALL** Freeholder Crabb, Freeholder Lazzaro, Freeholder Rose,  
Freeholder Vohden, Freeholder Director Graham; Acting  
County Administrator, Ron Tappan; County Counsel, John  
Williams; Clerk of the Board, Cathy Williams

3. **MOMENT OF SILENT PRAYER AND SALUTE TO THE FLAG**

4. **PUBLIC STATEMENT**

"Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975 Adequate Notice as defined by Section 3D of Chapter 231, P.L. 1975, has been made by regular mail, such notice being submitted on January 7, 2016 from the Administrative Center of the County of Sussex, located at One Spring Street, Newton, New Jersey to the following:

New Jersey Herald                      WSUS Radio  
New Jersey Sunday Herald      WNNJ Radio  
Star Ledger

and is also posted on the bulletin board maintained in the Administrative Center for public announcements and has been submitted to the Sussex County Clerk in compliance with said Act."

5. **APPROVAL OF AGENDA**

**MOTION** made by Freeholder Rose to approve the agenda, seconded by Freeholder Lazzaro

**MOTION** made by Freeholder Rose to amend the agenda to add a Public Session after each of the presentations and comments restricted only to the items in the presentation and to remove the Public Session Item 8 on the Agenda. Also to add 7.B Certificate of Recognition honoring Wild West City on its 60<sup>th</sup> anniversary, seconded by Freeholder Lazzaro and passed unanimously.

**MOTION** made by Freeholder Vohden to remove 13.D, seconded by Freeholder Crabb

**Discussion:**

Freeholder Crabb said he had the opportunity to sit down with the Administrator the other day and saw the map of what we are going to do. I saw the title but the verbiage that would go with this at the point that we are going to consider it as a Board should have been a result of a complete Board deliberation. Unless there is a real hurry to push this through, I would like to meet as a Board to discuss the ordinance that will be coming up.

Freeholder Vohden said that this ordinance is being labeled as an amendment to the Administrative Code when actually it is a revision of the Administrative Code. He said we are going into reorganization; major changes. These are policy decisions that should be set by the Board and approve each amendment separately.

Freeholder Crabb said we have to certainly appreciate the work that Ron has done with regards to recommendation but at the point of these recommendations, we as a Board have not had an opportunity to discuss these recommendations. It is at the point of the first reading but we have not done our due diligence for it to be on the Agenda.

Freeholder Lazzaro said don't we discuss this after it is approved.

Freeholder Vohden said there is a big difference between a revision and an amendment and I believe this is out of order and this is a revision and it should be brought as amendments to the Administrative Code where they would each be discussed individually. My questions would be where did these amendments come from and who decided on these?

Mr. Tappan said these are my drafts of the amendments.

Freeholder Vohden said these are your suggestions and that is part of your responsibility.

Freeholder Crabb said it is the Board that needs to come up with these recommendations notwithstanding the recommendations that we would see from Ron but perhaps from out corners of the County but we can't just act on a submitted document of recommendations.

Mr. Tappan said my understanding was the first reading is that it gets the ball rolling and it gives the opportunity to have input on it. It is in draft form so we can make revisions, suggestions, etc. to it.

Freeholder Crabb said I don't think we need an ordinance to accomplish any of that.

County Counsel said the motion on the floor is to remove it from the agenda or not.

**On Roll Call the vote was:**

<b>Freeholder Crabb</b>		<b>Yes</b>
<b>Freeholder Lazzaro</b>	<b>No</b>	
<b>Freeholder Rose</b>		<b>No</b>
<b>Freeholder Vohden</b>	<b>Yes</b>	
<b>Freeholder Director Graham</b>		<b>No</b>

## **6. PUBLIC HEARINGS**

**None for tonight**

## **7. PROCLAMATIONS/CERTIFICATES/PRESENTATIONS**

### **A. Presentations**

1. Solar Presentation by David Weinstein, Esq. of Archer & Greiner P.C., Rob Maikis, Sussex County Treasurer and Michael Burdalski, Senior Vice President of Jingoli & Son, Inc.

2. Open Space Plan Proposed Amendment Presentation by Barbara Heskins Davis of The Land Conservancy of New Jersey.

### **B. Certificate of Recognition honoring Wild West City on its 60<sup>th</sup> anniversary 334-2016**

Freeholder Director Graham said the presentation is on solar and it will be from the point of when the settlement was made to where we are today.

Ron Tappan Acting County Administrator made the introductions.

David A. Weinstein, Esq. of Archer & Greiner gave an overview of the settlement and post settlement; Robert Maikis, Sussex County Treasurer spoke about the financial aspect of the project; Chris Cutrona, Owners Representative from Jingoli & Son spoke about the project updates; Ron Tappan spoke about the completed projects and closed the presentation. The entire presentation is available on the County website at [www.sussex.nj.us](http://www.sussex.nj.us) click on to News & Information then solar updates.

After Mr. Maikis spoke there were questions from the Board.

Freeholder Rose said the solar losses go from approximately \$900,000 in 2015 to \$2.6 million in 2016, what was the driver for the increase of the budget and do you think the losses will stay at that level moving forward?

Robert Maikis, Sussex County Treasurer answered the question.

Freeholder Vohden said all the funds that we are talking about are being spent paying down the debt. He also wanted to know if there is a figure that Sussex County has spent any funds other than paying down the debt service on the solar project.

Mr. Maikis answered the question.

Freeholder Rose said the Owners rep was more than 50% of the total monthly costs for SunLight. When does that cost disappear? Is it December 31<sup>st</sup> of this year?

Discussion ensued with the Board.

Freeholder Director Graham asked Mr. Maikis does he think by 2017 he could do an adequate cash flow analysis on reliable revenues.

Mr. Maikis said yes. He said he will have a better handle and better understanding of the production of PPAs and on the SREC's and working that out with SunLight. The one thing that we haven't gotten around to with SunLight is getting a schedule from them on the SREC's that could be sold, when they can be sold and how much can be turned over throughout the year. Right now we are still operating under the post settlement agreement.

Freeholder Rose asked if we miss the 1603 deadline of December 31<sup>st</sup> of this year can we or SunLight still receive tax credits? The 1603 is an offset of future taxes, correct?

Discussion ensued on this question.

Chris Cutrona, Owners Representative from Jingoli & Son spoke about the project updates.

Ron Tappan spoke about the sites that are completed.

Freeholder Director Graham asked after the project is built out who will be the point person maintaining what is going on?

Ron said as of today I am the point person. Once this is all done my facilities' group will manage the day to day issues.

Freeholder Director Graham thanked Ron, Rob and John and their teams, the people who have been behind the numbers. This was not an easy task. Even though it seems like we should know it, it changes day by day that is why it has been such a daunting task.

**MOTION** made by Freeholder Rose to open up to the public, seconded by Freeholder Lazzaro and passed unanimously.

Please Note: Everyone is asked to keep their comments to 5 minutes or less. Please state your name, spell your last name, and state your municipal residency.

### **Comment from John Snyder**

Mr. Snyder said after listening to this and viewing the slides, if this isn't why government should be a lot smaller, I don't know what is. He said what a complicated tangled mess.

We need services for residences obviously, but generating electrical power should not be a government issue between state and federal SRECs, 1603, bond issues, taking money from the Homestead. He said we know who the owner's rep is but who is the owner? What are we getting out of this?

Freeholder Graham and Freeholder Crabb said we own the debt.

Mr. Snyder asked how it was presented that Sussex County Freeholder Board thought this was a good idea.

Freeholder Crabb said some of you were here for the presentations and it wasn't that big of a marquis project. It was something that was presented to us that would allow us to be the conduit to provide savings to schools and other public entities without any risk or up front capital from them and without any risk or up front capital from the County. That is why we went in. We were not the first to do it; it was brought to us as a successful project elsewhere. We went in with the MCI because if you form your own improvement authority you need to put the money up front. The risk to the County was to guarantee the bonds. This collective Board went into that. It was a year process before we went into it. It wasn't as big of a project as selling the Homestead was but we saw it as an opportunity to provide savings and all we had to do at that time was guarantee the debt. When things went bad we tried to manage it as best we could for the tax payers and that is why we are here now.

Freeholder Vohden said when he came onto the Board in 2010, he said things were very dark. We were looking for anyway to make savings. School boards were looking for ways to decrease budget. It was an opportunity for us to get savings at no additional costs to the County and still the question I ask is we have not spent any funds other than paying down the original debt and the debt of the settlement. The schools are still benefiting by those reduced costs. It was a totally different time. We needed to find where we could make savings and we voted for it unanimously. He said the date we voted on this, this room had maybe 10 people and one person commented. The next meeting we went to was the Homestead and there were over 100 people and I think 55 commented and it was public.

### **Comment from Neil Kenny**

Mr. Kenny thanked the Board for the presentation. He said it is mind boggling. He said the SREC's that were talked about, the money that the schools generate they don't get that money back but it diminishes their capital budget for a year. Is that correct?

Freeholder Graham said no, the SREC's are paid directly to SunLight for paying down the debt. The advantages to the local units are they are buying electricity for 9.4 cents if they were usually buying it for 13 cents.

Mr. Kenny said so if they were paying 13 cents and they are paying 9.4 cents and at the same time the student enrollment is down but the budgets are flying through the roof. So they are making more money, spending less and I think the tax payer is getting chafed.

Mr. Kenny questioned where the SunLight money is?

Freeholder Director Graham said that question will be answered at a later date.

#### **Comment from Harry Dunleavy**

Mr. Dunleavy said the two gentlemen that spoke said pretty much what he wanted to say. He said there were dichotomies all over the place tonight. He and his wife were involved in the Homestead issue. He said he would love to look at the accounts and see if the money is still there because he believes there could be some bluffing done. He asked about the Professional Service Agreement with David Weinstein, Esq.

County Counsel said that it is a Professional Service Agreement. It doesn't require formal bidding. It is a formalization to correct the contract. It is entirely appropriate according to our purchasing agent who has been in the game for 40 years.

#### **Comment from Rosanne Salamitri**

Ms. Salamitri thanked the Board for their presentation. She thanked the presenters for their time and efforts. She said that she would like to go on record for stating upfront that whatever transpired in the presentation is not as credible as it could have been if it was conducted by someone other than someone who is heavily connected to John Cantalupo, who is the bond council and therefore a suspect in this matter. She said she believes this presentation was done by one side of the aisle and she said in order for it to be credible, you have to hear both sides. She said she doesn't feel they are getting the other side of the argument. She said she has a problem with renewing Mr. Weinstein's contact as special counsel. As Mr. Dunleavy pointed out, he didn't do such a good job for us. He was the same counsel that represented us on the settlement and that settlement contained hold harmless clauses which is very objectionable for somebody that has spent time in court. She said she wants to make it clear that she has nothing against Mr. Weinstein but she believes his association with Mr. Cantalupo as well as his representation on this settlement should disqualify him. She said Mr. Weinstein is with the same firm as John Cantalupo, the bond council of the structured financed deal that is highly suspect of being investigated. She also said she can't imagine any attorney advising this Board to sign so many hold harmless agreements; it is unconscionable in her opinion. She said on her behalf and others that are concerned about the over 23% of tax bill that goes to this County that fresh eyes would mostly be appreciated instead of insulting us. She said she is very happy that the Board provided the presentation but she is also disappointed on how it was orchestrated.

#### **Comment from Harvey Roseff**

Mr. Roseff thanked the Board for the presentation. He said the one thing that surprised him was when attorney Weinstein said they saw that SunLight made a contribution of \$1 million and they were supposed to contribute \$7.8 million, he feels Mr. Weinstein ignored a lot of facts. He feels there should have been more professional oversight so that the parties meet their promises. He said that did not occur here. He said somebody was supposed to oversee the \$7.8 million and we gave a guarantee and we never got the quid pro quo. He said this did not go bankrupt because SREC's values dropped; it went bankrupt because SunLight did not make the payments to us. He said Amendment 1 was rushed. It was passed without the intelligent oversight and critique of Amendment 1. He asked what the total build out value will be in kilowatts. He said it is a very important number for the public to know because that is what defies this whole project. The last point he made was the funds from the Homestead went to the MCIA. We did not make an investment. We are raising the taxes of every citizen through that \$2.6 million line item in the budget. He said we should identify these things as expenses and it should never be repeated.

#### **Comment from Frank DeWitt**

Mr. DeWitt said that he did stand up at one of the solar presentations and did say something. He wanted the Board to know that with a little bit of research that SunLight was only a 2 year old investment company. He felt we were setting ourselves up for the fall and he doesn't believe the Board was given all the information that was needed. SunLight was presenting it that you needed to hurry and make this vote before December 31<sup>st</sup> because the Federal tax grant would go away and that was true but I did make clear to the Board that day that the Federal tax credit had three more years on it that you really didn't have to rush into the \$30 million decision. He feels one of the things that went wrong at the time was the Board was not speaking to the right people. They were getting advice from a company that was looking to benefit from the project. He said he is concerned going forward about the PPA that is a 15 year PPA. What happens at that point?

Freeholder Crabb said three things could happen. They could decide to continue with the current agreement, they could decide to have the solar installation torn down, or they could decide to buy the solar installation probably for a \$1 from the construction because it is my understanding that is what it would cost to tear it down.

Mr. DeWitt said I just wasn't sure how the end would wind up and I would hate for SunLight to get any money. He said with regard to the presentation, it would have been nice if the numbers were labeled with who was paying what. It was a little confusing. There were a lot of numbers and it really meant nothing because I couldn't tell you who was shelling the money out.

Freeholder Director Graham said everything will be put on the web tomorrow and basically everything gets paid out by SunLight and then we guarantee all the money. He said this is not a final deal. It is a process. He said we are exploring other possibilities and we do have clean eyes looking at it and when you need the advice of somebody who knows what is going on like Mr. Weinstein, we feel at this point we need him.

Freeholder Crabb said the reason the County got involved and agreed to guarantee the bonds, was the fact that we could take debt on far cheaper than what your company could and those savings would be passed on to the entities that had the installations. He said we were being visited by many alternative energy companies during those years and a lot of them had not done anything. They owned gas stations, so when this came along and had the previously established framework that came with MCIA, I am pretty sure that is what tipped the scales.

Mr. DeWitt said there was only one bidder on this and going forward you should solicit more companies to bid on projects.

#### **Comment from Mark Daniels**

Mr. Daniels thanked the Board for the presentation. In the future if you could dumb it down for us. I would like to see for next time exactly what the County is on the hook for, this is what SunLight is on the hook for, etc., make it a little easier for us. He asked what the tax pay household base in Sussex County is.

Freeholder Vohden said in the settlement we were obligated and we bonded for another \$6.75 million. 55 thousands homes in Sussex County, it comes out to about \$120 increase in taxes per home to be paid back over a 15 year period. So it is about \$9 per home for 15 years to pay the settlement but that will be paid back with the SREC's. If they continue at the value they are at they will be covered by SREC's and 1603 and it may not cost us anything.

Mr. Daniels said I thought Freeholder Rose said it would cost a \$2.7 net cost and now you are saying that is not only going to zero but to a surplus.

Freeholder Vohden explained it further and the conversation ensued.

**MOTION** to close the public session made at 8:51 PM by Freeholder Crabb, seconded by Freeholder Lazzaro.

Board took a 5 minute break.

Presentation on Open Space Plan presented by Barbara Heskins Davis of the Land Conservancy of New Jersey and Cliff Lundin.

Mr. Lundin, Chairman of the Open Space Advisory committee introduced the other members of the Open Space committee. He said last November in a referendum, 70% of the voters voted in favor of continuing the Open Space tax. He said the update took a lot of work and a lot of volunteer hours but it was done at no cost to Sussex County. They received a grant from the Open Space Institute OSI through the William Penn Foundation and the ongoing efforts for the Upper Delaware River watershed and that is what paid for this. He said they met with all the municipalities that they could and get their feedback and we had multiple public meetings and multiple opportunities for public comment. He said he has bent over backward to include the public.

Barbara Heskins Davis, Vice President of Program of the Land Conservancy of New Jersey. She said the Land Conservancy of New Jersey completed Sussex Counties' original Open Space and Recreation Plan in 2003 and they worked with the County and produced your Farmland Preservation Plan in 2003 and updated it in 2008 and it needs to be updated again. She explained how the Land Conservancy got involved to apply for the grant to help Sussex County update their plan.

**MOTION** made at 9:20 PM by Freeholder Crabb to open the meeting to the public, seconded by Freeholder Rose and passed unanimously.

#### **Comment from Harvey Roseff**

Mr. Roseff made a comment about a piece of property near Co. Johnson Park and there was a dam on it. He said the public assumed the risk of the dam. He said there was a good winter storm and the whole back end of the dam washed out. It was a dam that got reviewed by a lot of different engineers and we were lucky the storm appeared because Mr. Kellogg made good by fixing the back end of the dam. He said today he went to look at the dam, and he had concerns about the front end of the dam which was falling. He said this dam is falling apart. He asked if this was something that Open Space should pay for.

Ms. Davis said yes, it is part of your Open Space program; it is part of the infrastructure in municipalities.

Mr. Roseff said maintenance should come out of the Open Space Fund?

Ms. Davis said maintenance is part of your Open Space Trust Fund.

Discussion ensued on this.

#### **Comment from Ed Szabo**

Mr. Szabo said he is speaking on his own, and not for any organization. He said he loves Open Space. He has gone to their meetings and has participated and respects everything they do. He feels there should be something written into the ground rules for private property rights, particularly eminent domain.

Freeholder Vohden said there is something in the bylaws for the Open Space Committee; it doesn't say proactive but in all the years that I have worked with them the committee has never been proactive. There are acquisition strategies that say what properties to look at. They encourage projects; they look at projects but nothing proactive. They never go after a new property and there is nothing in the new plan that would change that. They accept applications from willing sellers.

#### **Comment from Neil Kenny**

Mr. Kenny spoke about eminent domain.

#### **Comment from Mary Woods**

Ms. Woods said Hopatcong is going to pass a resolution for eminent domain. A small discussion ensued with Mr. Lundin.

#### **Comment from Glen Hull**

Mr. Hull said if they want your property they will get. He said you all know the situation that my family is going through. He said if they want your property, they will take it so good luck with the eminent domain.

Freeholder Vohden commented in response to Mr. Szabo. He said one of the most common comments that I heard during the discussion on the referendum is why are we going to spend tax payer's money on buying land that is not developable. They do have a point, but the flip side to that is the people who own that property who lost the development rights have the opportunity to just get compensation that is promised in the constitution so the government is paying for that property and the loss of the use of the developmental rights.

**MOTION** made at 9:52 PM to close the public session made by Freeholder Rose; seconded by Freeholder Vohden and passed unanimously.

Freeholder Graham said there is a flip side like Freeholder Vohden said. Sussex County is a younger community and the state didn't have an opportunity to restrict most of Bergen County and Hudson County but they have gone gang busters on Sussex County. We are restricted on streams, corridors, sewer service area. There are so many different things. We can't just keep putting more and more into undevelopable lands.

Freeholder Vohden said it is 36% preserved and 5% farmland preservation.

Freeholder Graham said we have to be very protective that we can still have the ability to grow our County because even though we are in valley right now and it is only 2016.

Mr. Davis said you brought up excellent points and you know your county better than I do. But this plan is one tool in the toolbox in terms of the development and management of your community. What this plan tries to do is to offer the next steps for your open space program. It gives ideas if an application comes in.

Freeholder Graham asked what the next step was.

Mr. Lundin said you have to adopt it or reject it as an update to the Open Space Master Plan. We have a grant deadline.

Mr. Davis said the deadline is this Friday, but she was able to get an extension on the deadline.

**MOTION** to approve the Certificate of Recognition honoring Wild West City on its 60<sup>th</sup> anniversary made by Freeholder Crabb; seconded by Freeholder Lazzaro and passed unanimously.

### **8. FREEHOLDERS' COMMENTS**

Freeholder Crabb said he was going to defer his comments until the next meeting due to the time of the meeting.

Freeholder Vohden said he was going to hold his to the next meeting. He did say that during the solar presentation, he noticed that people in back were straining to hear. Maybe in the future we could get a speaker.

Freeholder Rose said no comments.

Freeholder Lazzaro said no comments.

Freeholder Director Graham said no comments.

### **9. APPROVAL OF CONSENT AGENDA**

- A. RESOLUTION RE: AUTHORIZATION FROM THE SUSSEX COUNTY BOARD OF CHOSEN FREEHOLDERS TO APPROVE THE SUSSEX COUNTY DEPARTMENT OF ENVIRONMENTAL AND PUBLIC HEALTH SERVICES, OFFICE OF MOSQUITO CONTROL TO SUBMIT A GRANT APPLICATION TO THE NJ DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE 2016 COUNTY MOSQUITO IDENTIFICATION AND CONTROL EFFORTS GRANT  
**335-2016**
- B. RESOLUTION RE: AUTHORIZING THE APPROVAL TO ENTER INTO AN AGREEMENT BETWEEN THE COUNTY OF SUSSEX AND UPP TECHNOLOGY, INC. TO PROVIDE THIRD PARTY BILLING SERVICES TO THE OFFICE OF PUBLIC HEALTH NURSING  
**336-2016**
- C. RESOLUTION RE: AUTHORIZATION FOR SUSSEX COUNTY DIVISION OF FACILITIES MANAGEMENT TO ENTER INTO NEGOTIATIONS FOR QUOTES ON THE KEOGH DWYER CORRECTIONAL FACILITY LAUNDRY EQUIPMENT REPLACEMENT  
**337-2016**
- D. RESOLUTION RE: AUTHORIZATION TO EXECUTE A REVISED LEASE AGREEMENT PURSUANT TO N.J.S.A. 40A:12-14(C) BETWEEN THE COUNTY OF SUSSEX AND SCARC, INC. AND TO EXECUTE OTHER RELATED DOCUMENTS, FOR PREMISES LOCATED IN THE TOWNSHIP OF FRANKFORD, COUNTY OF SUSSEX, KNOWN AS LOT 2, BLOCK 23 ON THE FRANKFORD TOWNSHIP TAX MAPS  
**338-2016**
- E. RESOLUTION RE: AUTHORIZING THE ENTRY INTO A PROFESSIONAL SERVICES AGREEMENT WITH DAVID A. WEINSTEIN AND ARCHER & GREINER, P.C. FOR THE PROVISION OF SPECIAL COUNSEL SERVICES RELATED TO THE SOLAR PROJECT WITHOUT COMPETITIVE BIDDING AS A PROFESSIONAL SERVICE PURSUANT TO N.J.S.A. 40A:11-5(1)(A)(I)  
**339-2016**
- F. RESOLUTION RE: AUTHORIZING ADMINISTRATIVE ACTION RECOMMENDED BY THE SUSSEX COUNTY SOLID WASTE ADVISORY COUNSEL (SWAC) FOR TRANSFER OF SOLID WASTE FACILITY PERMIT NO. TRP14001 FROM GRINNELL RECYCLING, INC. TO CAVALIER ENVIRONMENTAL COMPLIANCE SERVICES, INC. FOR THE SOLID WASTE TRANSFER STATION/MATERIAL RECOVERY FACILITY LOCATED AT 482 HOUSES CORNER ROAD, SPARTA, NEW JERSEY, FACILITY ID NO. 21319 AND MODIFYING THE SUSSEX COUNTY SOLID WASTE MANAGEMENT PLAN ACCORDINGLY  
**340-2016**
- G. RESOLUTION RE: AUTHORIZATION TO FILE AN APPLICATION TO NEW JERSEY TRANSIT CORPORATION AND THE U.S. DEPARTMENT OF TRANSPORTATION ON BEHALF OF THE COUNTY OF SUSSEX FOR SENIOR CITIZENS AND PERSONS WITH DISABILITIES CAPITAL, MOBILITY MANAGEMENT AND OPERATING ASSISTANCE PROGRAM GRANT UNDER SECTION 5310 OF THE FEDERAL TRANSIT ADMINISTRATION FOR ONE YEAR REPRESENTING FEDERAL FISCAL YEAR 2015 FUNDING  
**341-2016**

**The Board of Chosen Freeholders of the County of Sussex has reviewed the Consent Agenda consisting of various proposed Resolutions and determined that adoption of the said Resolutions is in and will further the public interest.**

**MOTION** made by Freeholder Crabb to adopt the resolutions; seconded by Freeholder Rose

**On Roll Call the vote was:**

Freeholder Crabb	Yes
Freeholder Lazzaro	Yes
Freeholder Rose	Yes
Freeholder Vohden	Yes
Freeholder Director Graham	Yes

**10. APPROVAL OF MINUTES**

Regular Meeting – July 13, 2016

**MOTION** made by Freeholder Crabb to approve the minutes; seconded by Freeholder Vohden and passed unanimously, Freeholder Rose abstained due to his absent from that meeting.

11. **APPOINTMENTS AND/OR RESIGNATIONS**

None for this evening.

12. **RESOLUTION**

A. RESOLUTION RE: PROVIDING TEMPORARY CLOSURE OF CR 630 IN  
342-2016 BRANCHVILLE BOROUGH

B. RESOLUTION RE: PROVIDING TEMPORARY CLOSURE OF CR 645 IN  
343-2016 SANDYSTON TOWNSHIP

C. RESOLUTION RE: PROVIDING TEMPORARY CLOSURE OF CR 613 IN  
344-2016 SPARTA TOWNSHIP

**MOTION** made Freeholder Crabb to adopt the resolutions; seconded by Freeholder Vohden and passed unanimously.

D. INTRODUCTION FOR FIRST READING – ORDINANCE  
345-2016

**ORDINANCE TO AMEND THE SUSSEX COUNTY ADMINISTRATIVE CODE PUBLISHED 1989,  
LAST REVISED JUNE 10, 2009**

**MOTION** to adopt this Ordinance on first reading made by Freeholder Rose; seconded by Freeholder Lazzaro

**Discussion:**

Freeholder Vohden said he does have a problem with it. He said he believes that the form of a resolution should not be the way we are doing this. He said the Freeholder Board sets policy with recommendations from staff and they should be considering them rather than moving ahead to vote on the recommendations. I believe this is a revision of the Administrative Code. He said he did speak to the state's office of Administrative Code to get an interpretation. They said things can be grouped as one amendment. He said when you get into separate issues, merging departments, getting rid of a department, adding a department each one of them should be a separate amendment. They should be voted on separately and have a discussion on how it got there and why are we doing this maybe as a workshop. But I really think we should follow the code and the statutes.

Freeholder Crabb asked if County Counsel is comfortable going forward with this based on that we just got the verbiage that this Board had nothing to do with putting together and we did not get it 48 hours ahead and I believe one of the recommendations in here is to ultimately post a senior most position. Wouldn't we want to make sure that we are doing 1,000 things right?

County Counsel said I think the procedure meets the statute and it meets the most reasonable interpretation of the code.

Freeholder Crabb said this Board had nothing to do with the construction of this resolution.

County Counsel said that is my answer. I think it meets the statute and its meets the most reasonable construction of the code.

Freeholder Crabb said it didn't meet those two things. I am looking for legal counsel.

County Counsel said that is the counsel, the counsel is the statute. The statute was looked at laboriously by me; the Clerk and we looked at the prior procedures and enlisted the help of the Acting County Administrator. After what is left is the Code and I think it is a reasonable interpretation of the Code.

Freeholder Crabb said but as a Board we had no session on this.

Freeholder Vohden made a comment that information would be distributed at least 48 hours before the Board meeting at which it will be discussed. It does say you can pass it on first reading. Somebody said to me that you do not have to have this information for the first reading. But at the first reading, you need to know what you are doing. You are reading the subject matter. We did not have the subject matter 48 hours before.

Acting County Administration said they did not have the written summary sheet; he went through the organizational chart with the Freeholders.

Freeholder Lazzaro asked how you can meet on anything that isn't presented. He said this is a presentation, there is a motion to adopt an Ordinance, and it is on the board, now we are going to discuss it before it goes for a second reading. It will get discussed again.

Freeholder Vohden said I agree with you if we had the information 48 hours before and why are we going to have an Administrative Code if we are going to ignore that.

Freeholder Crabb said we should meet as a Board to discuss it.

Freeholder Director Graham said we meeting now.

Freeholder Vohden referred to Robert's Rules. There are certain ways of doing things. He said we need a first reading on each amendment.

County Counsel said you start with the state statute. We reviewed the state statute, I did, it is my decision ultimately but I did get assistance because we wanted to be very clear and it complies with 40:41a-101 where it is a procedure available under that statute and then it is a reasonable interruption of the Code. We have had other issues here and this Code is subject to various interpretations.

Freeholder Crabb said the other aspect as I see it is we are still in an interim capacity at the top of the pyramid. Why are we still at an interim position?

Freeholder Vohden said his answer will be no because he did not have the information 48 hours before in violation of the statute of the Administrative Code.

**On Roll Call the vote was:**

Freeholder Crabb	Not voting
Freeholder Lazzaro	Yes
Freeholder Rose	Yes
Freeholder Vohden	No
Freeholder Director Graham	Yes

**MOTION** to authorize the Clerk to advertise this Ordinance as introduced for first reading, and also post same on the bulletin board in the lobby of the County Administrative Center, together with a Notice of Public Hearing stating that a hearing will be held on August 10, 2016 at 5:00 pm prior to final adoption of this Ordinance made by Freeholder Rose; seconded by Freeholder Lazzaro; Freeholder Crabb abstaining; Freeholder Vohden voting no and Freeholder Director Graham voting yes.

**13. AWARDS OF CONTRACTS/CHANGE ORDERS/BIDS**

A. Awards of Contracts

1. RESOLUTION RE: AWARD OF CONTRACT FOR FIRE ALARM  
**346-2016** INSTALLATION, REPAIR, SERVICE AND  
MONITORING SERVICES FOR THE COUNTY  
OF SUSSEX

**MOTION** made by Freeholder Rose; seconded by Freeholder Lazzaro

**On Roll Call the vote was:**

Freeholder Crabb	Yes
Freeholder Lazzaro	Yes
Freeholder Rose	Yes
Freeholder Vohden	Yes
Freeholder Director Graham	Yes

**14. FINANCIAL**

A. RESOLUTION RE: PAYMENT OF BILLS  
**347-2016**

**MOTION** made by Freeholder Lazzaro; seconded by Freeholder Crabb

**On Roll Call the vote was:**

Freeholder Crabb	Yes
Freeholder Lazzaro	Yes
Freeholder Rose	abstained
Freeholder Vohden	Yes
Freeholder Director Graham	Yes

**15. PERSONNEL**

A. Personnel Agenda

None for tonight.

**16. ADMINISTRATIVE REPORT**

- A. Other

Acting County Administrator Ron Tappan said the elevator is still working. The postings will go up. We will take it down on Monday. It will be completely replaced. He met with all staff. The plan from last year was resurrected and the plans that were put into place last year have been activated and it has been communicated to all the constituents that use the building.

**17. COUNTY COUNSEL**

- A. Capital Projects  
B. Litigation  
C. Contract  
D. Other Matters

County Counsel said he is working with special counsel Matt Boxer to provide an update to the Board that will be presented in an attorney client privilege meeting and it will give a progress report with reference to scoping in the Professional Service Agreement. I am hoping to have it by next meeting for Executive Session.

**18. UNFINISHED BUSINESS**

Freeholder Vohden said last March, we went into an Executive session to discuss the appointment of an Acting County Administrator and the appointment process of a new County Administrator. That was four and half months ago and I think we should start that appointment process. I will make a motion at the next meeting that we go forward with that. I do have from the New Jersey Association of Counties, a breakdown of Administrative salaries for all the counties related to their population and the League of Municipalities has a job description for the Sussex County Administrator.

Freeholder Crabb said what is the hold up?

Freeholder Director Graham said we are moving on it now.

Freeholder Crabb said I like Ron, I want to get this thing going especially if we are going into the areas of this Administrative Code vote that you are proposing, and it shouldn't be done on an interim framework.

**19. NEW BUSINESS**

None for tonight.

**20. PUBLIC SESSION FROM THE FLOOR**

**Please Note: Everyone is asked to keep their comments to 5 minutes or less.  
Please state your name, spell your last name, and state your municipal residency**

**MOTION** made at 10:20 PM by Freeholder Rose to open the public session to the floor; seconded by Freeholder Lazzaro and passed unanimously.

**MOTION** made at 10:21 PM by Freeholder Rose to close the public session to the floor; seconded by Freeholder Lazzaro and passed unanimously.

**21. EXECUTIVE SESSION – (Closed Session – If Applicable)**

None for this evening.

**RESOLUTION RE: PROVIDING FOR AN EXECUTIVE (CLOSED) SESSION NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF N.J.S.A. 10:4-12 ET SEQ.**

**WHEREAS**, the subject matter(s) about to be discussed may be excluded from the public portion of the meeting by Resolution of the Board of Chosen Freeholders as an exception to the "Open Public Meetings Act" pursuant to N.J.S.A. 10:4-12 (b); and

**WHEREAS**, it appears necessary for the Board of Chosen Freeholders to discuss such matter(s) in Executive Session.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Chosen Freeholders of the County of Sussex, in accordance with the provisions of N.J.S.A. 10:4-12(b) and N.J.S.A. 10:4-13 that the Board at this time enter into an Executive Session from which the public shall be excluded; and

**BE IT FURTHER RESOLVED**, that the general nature of the subject(s) to be discussed relate to the following item(s) authorized by N.J.S.A. 10:4-12(b) as designated below:

- \_\_\_\_\_ (1) **Matters Required by Law to be Confidential:**
- \_\_\_\_\_ (2) **Matters Where the Release of Information Would Impair the Right to Receive Funds:**
- \_\_\_\_\_ (3) **Matters Involving Individual Privacy:**
- \_\_\_\_\_ (4) **Matters Relating to Collective Bargaining Agreements:**
- \_\_\_\_\_ (5) **Matters Relating to the Purchase, Lease of Acquisition of Real Property or the Investment of Public Funds:**
- \_\_\_\_\_ (6) **Matters Relating to Public Safety and Property:**
- \_\_\_\_\_ (7) **Matters Relating to Litigation, Negotiations and the Attorney Client Privilege:**
- \_\_\_\_\_ (8) **Matters Relating to the Employment Relationship:**
- \_\_\_\_\_ (9) **Matters Relating to the Potential Imposition of a Penalty:**

**BE IT FURTHER RESOLVED** that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Sussex County Board of Chosen Freeholders or provided by law that the public interest will no longer be served by such confidentiality; and

**BE IT FURTHER RESOLVED** that upon completion of the business for which the Board has entered into the Executive Session, the Board shall reconvene and resume its meeting open to the public.

**22. REMINDERS**

<u>Date/Time</u>	<u>Meeting</u>	<u>Location</u>
July 28 – 7:30 pm	Open Space	Freeholder Meeting Room
August 8 – 9:00 am	Planning Board Development Review	Admin Bldg. Conf Rm 3B
August 9 – 7:00 pm	Solid Waste Advisory Council	Freeholder Meeting Room
August 10 – 5:00 pm	Board of Chosen Freeholders	Freeholder Meeting Room

**23. ADJOURNMENT**

**MOTION** made at 10:25 PM to adjourn the meeting by Freeholder Rose; seconded by Freeholder Vohden and passed unanimously.

**DATED:** July 27, 2016

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Catherine M. Williams  
Clerk of the Board