

APPROVED

LEHIGH COUNTY BOARD OF COMMISSIONERS

January 9, 2013

7:30 p.m.

A meeting of the Lehigh County Board of Commissioners was held on this date in the Public Hearing Room of the Lehigh County Government Center, with Lisa Scheller presiding as Chairwoman.

Present: Commissioners Thomas Creighton, III, Percy Dougherty, David Jones, Sr., Daniel McCarthy, Vic Mazziotti, Brad Osborne, Scott Ott, Lisa Scheller and Michael Schware.

Others: Cindy Feinberg, Community & Economic Development Director; Valerie Hildebeitel, Deputy Clerk to the Board; Eman Jarrah, Deputy Solicitor; Frank Kane, Chief of Staff; Tom Muller, Director of Administration; and David Barilla, Clerk to the Board.

Under Executive Sessions, the clerk said none were held since the last meeting of the Board. Under Citizens Input, Joe Hilliard, Lehigh County resident, said the government needs fundamental reforms and restructuring. He said "Leadership for Liberty" has recommended that all grant applicants supply fiscal information including three prior years of budgets, three prior years of audits, and the salary and benefits of its employees. He said this information should be posted on the County's website. He said all grants need a taxpayer cost analysis to see what they really cost.

Hilliard said Lehigh County should amend its Home Rule Charter to withdraw from the defined benefit pension plan. He said we should move forward with a defined contribution plan. He said the Home Rule Charter should be amended to require a super majority of the Board of Commissioners to raise taxes.

Hilliard said he would like to see an evaluation of the ESCO energy program and a review to ensure that bond dollars are not used for operations. He asked that a bi-weekly print out of the budget versus actual activity be posted online.

Hilliard recommended enrolling public employee unions into "Obama Care". He said the SEIU vigorously supported "Obama Care". He said this would save \$9.5 million in Lehigh County health care costs.

There was nothing under the Chair's Review.

Under Old Business, the clerk announced Commissioner Bill 2012-45: Approving Green Future Fund Grants for 2012 (sponsored by Commissioners Mazziotti and Dougherty); the deputy solicitor provided a summary. Commissioner Scheller said this bill was discussed by the General Services Committee on 11/20/12.

Commissioner Schware said he is not questioning the importance of these projects. He said his difficulty has been funding these at a time when County government is budgeted to spend \$4.5 million more than we are taking in. He said the end result of this course is a tax increase. He said we have been told by the Administration that we can expect tax hikes for the next couple of years. He said his position is that if we are going to fund these projects we have to do it responsibly and avoid the tax hikes.

Commissioner Schware said he realizes that Lehigh County's Administration solicited for these projects and the municipalities that applied acted in good faith. He said he has been looking at options to allow us to release the funds at a time when we would normally not do that. He said he met with the County Executive a few times since our last meeting and proposed relatively benign and painless cuts that would allow us to release the funds. He said unfortunately, the response from the County Executive was not in the spirit of cooperation. He said we are at an impasse and we could use the help of everyone in this room to focus on the County Executive and help us reach a compromise.

Commissioner Schware said the projects which were originally budgeted at \$1,061,000 and tonight he is offering an amendment to fund them at a total amount of \$296,514. He said this is the amount the County received in Marcellus Shale impact fees and that money should be designated to park projects. He said he has proposed to the County Executive that a bridge project that has not been approved by the Board for over one year should be replaced with less costly repair work. He said that would free up another \$521,000. He said there is also the possibility of future Marcellus Shale money.

Commissioner Schware said this amendment proportionally funds all of the projects in the total amount of \$296,514. He reviewed the amendment attached as Exhibit A.

The amendment attached as Exhibit A was introduced upon the motion of Commissioners Schware and Ott.

Commissioner Comments

Commissioner Osborne said he would like to discuss the background on this bill which was discussed three meetings ago in the General Services Committee. He said that committee was comprised of Commissioners Mazziotti (Chair), Scheller (Vice Chair), McCarthy, and Dougherty. He said the Commissioners, public, and press in attendance received a presentation by each municipality and a packet of information was left with all Commissioners. He said a lot of time and work went into those presentations.

Commissioner Osborne said at the end of the presentation Commissioner Scheller made a motion to recommend approval of this bill to the full Board. He said that motion was seconded by Commissioner Dougherty and unanimously approved.

Commissioner Osborne said during the full Board meeting later that evening Commissioner Mazziotti confirmed that the total expenditure for this bill is \$1,061,000. He said Commissioner Mazziotti then said that these monies are currently appropriated within the capital fund and there was a recommendation made by the committee to unanimously approve moving ahead with making a recommendation to the full body of the Board.

Commissioner Osborne said Commissioner Dougherty added his comments to which Commissioner Ott said: I just want to say that a vote on this piece of legislation does not constitute my endorsement of everything that Commissioner Dougherty just said. Far from it and I see this more as a carrying through of an obligation that was imposed upon us in a previous time and that we are honor bound to fulfill that obligation.

Commissioner Osborne said he is calling on this Board to confirm to the public this evening that we can remain true to our word and vote for the legislation we supported just three meetings ago without amendment. He said he is asking for this so the public does not lose confidence or trust in this Board. He said if this Board loses the trust and confidence of the public we may never gain it back.

Commissioner Dougherty said his preference is to go forward and fund the whole bill without amendment. He said he will vote for the amendment tonight because Commissioner Schware has included the "whereas clause" that he recommended. He said he highly recommends that if this amendment passes we work with the Administration to get the funding back to what we promised.

Commissioner McCarthy said most of these municipalities have not received any allocations from the Green Future Fund. He said the funds that became available for these grants were generated from the sale of County owned land to Dorney Park. He said in government finance assets should not be sold to pay for operating expenses.

Commissioner McCarthy said these funds are in the budget and our own municipalities have come to us with their priorities. He said he believes that we should go forward with these grants. He said he views this as a commitment that should be honored. He said these are all worthwhile projects. He said this may be the last funding for Green Future Fund projects. He urged passage of the bill without amendment.

Commissioner Jones said he is confused at the well intentioned efforts to find resources to fund a bill that is already budgeted and allocated. He said this amendment would fund the projects at 28% and wait for possible funding, when the projects are already budgeted.

Commissioner Mazziotti said he believes that we do have an obligation to fund these projects and he thinks we made a commitment to do that. He said on the other hand, we have to do what we can to prepare ourselves for a tax increase that the Administration has told us will land on our desks next year.

Commissioner Mazziotti said within the last few weeks we have identified about 30% of the money needed to fund these projects. He said that is not the extent of our efforts; tonight is our down payment. He said we have a number of other items and issues that we are pursuing. He reviewed unspent monies from prior Green Future Fund projects. He said we will be receiving additional Marcellus Shale funds. He said we want some time to look at these issues. He said we want to take action tonight to show

progress. He said we would like some time to work with the Administration to receive their cooperation. He asked for the patience of the municipalities.

Commissioner Schware said all Commissioners should be aware that he was told yesterday by County Executive Hansell that the preliminary close for 2012 does not look as good as what we budgeted for in 2013. He said that means there is a very good possibility that we will have to make up additional funds to cover that shortfall.

Commissioner Osborne said he does not think the financial condition of Lehigh County changed in the last seven weeks when Commissioner Mazziotti chaired a committee that made a unanimous recommendation to the full Board to move forward.

Commissioner Jones said he was unaware of the intent of the County Executive to raise taxes next year. Commissioner Schware said the tax credit expires in 2014 and we were told by the Administration that a millage rate increase can be expected in 2015.

Commissioner Mazziotti said he supports these projects. He said he also has a responsibility to deal with the financial condition of the County and he is trying to do both.

Commissioner Jones asked if the amendment can include a time-frame commitment to fund these projects.

Commissioner Schware said other actions will take the cooperation of the Administration. He said he felt he gave the Administration the most painless proposal he could. He said has not found the Administration to be cooperative. He said if this project is voted down, he does not know if the Administration would bring back this legislation.

Commissioner Mazziotti said he can not commit to freeing up the money for these grants. He said he can commit to offering options to the Administration and he will have those discussions with the Administration before the next meeting. He said one easy option is the saving of \$500,000 on the Reading Road Bridge project. He said the Board can not modify the budget mid-year without the Administration's support.

Commissioner Scheller said a deliberate Board needs time between the committee meetings and the Board meeting to process the impact of the legislation. She said she thinks the process itself can be improved.

Public Comments

Tom Muller, Director of Administration, said the word cooperation really means that the Board wants to reopen the budget discussion that was closed in November. He said the bottom line is that the money is in the Green Future Fund. He said the Administration has been characterized as non-cooperative. He said we are not willing to reopen the budget which is not necessary.

Ron Eichenberg, President of the Lower Macungie Township Board of Commissioners, introduced Commissioners Roger Reis and Doug Brown, Bruce Fosselman, Lower Macungie Township Manager, and Sarah Pandl, Director of Finance. He asked that the Commissioners consider the grass roots economic development impact of these grants. He said this is an economic development program for all communities. He said he is here to ask the Board to fulfill its commitment and vote in favor of this program.

Jerry Stewart, Lehigh County resident, said we were told the money was funded and now we are being told only 27% of the money is available. He said this should be passed. He said the townships were solicited to submit plans and in good faith the Board should follow-through.

Randy Soriano, Salisbury Township Manager, said the townships played by the County's rules and it has now become a budget issue. He said the 2012 Budget was approved and included these funds. He said this is not fair to the municipalities.

Joe Hilliard, Lehigh County resident, said the budget is balanced but is has an operating deficit. He said that has to stop. He said it is programs like this that create operating deficits. He said the Green Future Fund money was never borrowed and therefore does not have to be used for capital projects. He said if the municipalities have these really important projects they should go to their taxpayers for the funds. He said he would end the Green Future Fund program.

Stephanie Stewart, Lehigh County resident, said the Green Future Fund was approved by the people of Lehigh County and she believes that makes it a mandate not an option. She said the amendment to provide less than one-third of the funding is unacceptable. She encouraged the Board to set a deadline if more time is needed.

Neal Novak, Lehigh Valley Road Runners President, said we are the largest road running club in Pennsylvania and we probably use the park systems of Lehigh County more than any other organizations. He reviewed the events hosted and held by the Lehigh Valley Road Runners. He said we are in favor of continuing with trails. He said this program is a quality of life issue. He said on behalf of all of our members, we encourage approving these grants.

Ed Pawlowski, Allentown Mayor, said all Commissioners have expressed that these projects are all worthy initiatives. He said he understands the tough decisions that are involved with budgets. He said tonight is not a difficult decision. He said these dollars are already budgeted. He said he does not understand why this is not passed tonight to fund the projects. He said the Board can then work with the Administration to find extra dollars and by the end of the fiscal year that money would be made up if not more.

Mayor Pawlowski said these funds will leverage additional dollars. He said in Allentown \$324,000 has been designated for the Martin Luther King trail and that is

matched by an additional \$350,000 from the Department of Conservation and Natural Resources (DCNR). He said that money will go away in the next 30 days if we do not execute that contract. He said he can not execute that contract without the matching dollars that will come from the Green Future Fund. He said those dollars will be lost for Allentown and the citizens of Lehigh County.

Mayor Pawlowski answered Commissioner Ott that the City of Allentown's contribution is an additional \$300,000.

Cathy Frankenberg, Appalachian Mountain Club Mid-Atlantic Policy Associate, said there needs to be an endpoint date included in the amendment. She said she does not see trails and parks as a luxury. She reviewed the benefits of trails to communities. She said this program was approved by the voters and these grants should be approved.

Lynn Donches, Emmaus resident, said she enjoys Lehigh County parks. She said she does not believe this is the time to expand the parks system. She said the municipalities should carry over the dollars for these projects to next year, budget those dollars again and do the projects themselves. She said the other alternative would be to scale back the projects. She said this is an issue of fiscal responsibility. She said this is an opportunity to stop spending money that does not have to be spent. She questioned if this was the best way to spend these funds.

Bruce Fosselman, Lower Macungie Township Manager, said this is his fourth meeting. He asked that the Board vote for this or not vote for it. He said the townships are here in good faith. He questioned why Green Future Funds were allocated to Whitehall Township. He said he does not think what is being done is fair.

Debbie Brinton, Salisbury Township Commissioner, said she hopes the Board of Commissioners will honor this commitment. She encouraged the Commissioners to approve the Green Future Fund grants. She said this will impact municipal budgets. She asked the Commissioners to vote on this tonight.

Tom Muller said he would like to clarify that the funding for these projects was in the 2012 Budget. He said we have now moved into 2013 and this funding is indeed adopted. He said there is no guarantee that any excess money would roll into a 2014 Green Future budget that is part of the next budget process.

Commissioner Ott asked if the Administration has a current projection of how we will end 2012 and how that compares to what our expectations were. Muller said no, we will not know that until late February.

John Donches, Emmaus resident, said last meeting he read a letter from then County Executive Don Cunningham explaining how \$32.7 million was spent on projects through the Green Future Fund. He said Don Cunningham said \$32.7 million of a \$30 million allocation was spent. He said this would allow more projects to be completed. He said this would allocate more money to something that was already over allocated.

Commissioner Mazziotti said the \$32 million amount that Mr. Cunningham spoke about includes matching dollars along with the County funds. He said if you just look at County money it is \$20 million. Commissioner Dougherty said the \$10 million for municipalities in the original legislation has not been exhausted.

Nathan Brown, Emmaus Borough Council, reviewed the regional benefits of the Emmaus baseball project. He said the Commissioners could have ended the Green Future Fund in the 2013 Budget. He requested the Board to vote yes or no on this issue. He said the amendment is perceived as a political football. He said he would respect a yes or no vote instead of another meeting. He asked that Commissioner Dougherty not support the amendment.

An Emmaus resident encouraged the Commissioners to stick to the core functions of government. He said he can not believe that we would consider taking money away from bridges to pay for trails and ball fields. He said government is addicted to spending and it is time to stop.

Wes Barrett, Emmaus Borough Council member, said he had a conversation with Commissioner Schware and one of the things he requested was a solid answer by this meeting. He said if any Commissioners approached any of the municipalities as to whether these different funding amounts would work. He said this has become a clear political item and it does not need to be. He asked how it is no longer honorable to approve these grants.

Commissioner Ott said he believes that we are honor bound to keep this commitment. He said that does not imply any particular timeline to keep that commitment. He said he believes that we are also duty and honor bound to the taxpayers of this County to spend their money as responsibly as we possibly can. He said he thinks these projects can be done and he wants to do that in a responsible manner.

Commissioner Dougherty reviewed the timeline that will occur if this bill is amended this evening. He questioned if the City's DCNR grant deadlines could be met. Mayor Pawlowski said we must notify DCNR in the next 30 days.

Commissioner Mazziotti moved to defer consideration of the amendment to Bill 2012-45 and Bill 2012-45. The motion was seconded by Commissioner Dougherty and approved by the following vote: Commissioners Creighton – yes; Dougherty – yes; Jones – yes; McCarthy – no; Scheller – yes; Mazziotti – yes; Osborne – no; Ott – yes; and Schware – yes. The Chair announced the deferral of the amendment to Bill 2012-45 and Bill 2012-45.

The Chair recessed the meeting at 9:23 p.m. The meeting was called back into session at 9:30 p.m.

The clerk announced Commissioner Bill 2012-48: Proposing a Referendum to Amend the Home Rule Charter to Require Voter Approval to Incur Certain Types of Debt (sponsored by Commissioner Creighton); the deputy solicitor provided a summary. Commissioner Osborne said this bill was reviewed by the Administrative Committee on 12/19/12. Commissioner Creighton said this bill should be passed but three of his colleagues requested additional time.

Commissioner Creighton moved to defer consideration of Bill 2012-48 until the March 13, 2013 Board of Commissioners' meeting. The motion was seconded by Commissioner Ott.

The motion to defer was approved by the following vote: Commissioners Dougherty – yes; Jones – no; McCarthy – no; Scheller – yes; Mazziotti – yes; Osborne – no; Ott – yes; Schware – yes; and Creighton – yes. The Chair announced the deferral of Bill 2012-48 until the 03/13/13 Board of Commissioners' meeting.

Commissioner Mazziotti suggested that the bill be reviewed in committee. The Clerk said this is an item for the Administrative Committee to review.

Under New Business, Commissioner Scheller moved that Commissioner Osborne fulfill her committee responsibilities until committees are reassigned later this month. The motion was seconded by Commissioner Ott and approved by a unanimous voice vote.

The clerk announced Resolution 2013-01: Approving an Addendum to Contract for Professional Services with McKesson Medical-Surgical Medimart, Inc. (sponsored by Commissioner Creighton); the deputy solicitor provided a summary. Commissioner Scheller said this resolution was reviewed by the Cedarbrook Committee this evening. Commissioner Creighton said there is no added expense to Lehigh County. Resolution 2013-01 was approved by a unanimous voice vote.

Refer to the Resolution Book for County of Lehigh Resolution No. 2013-01.

The clerk announced Commissioner Bill 2013-01: Approving Reallocated CDBG Subrecipient Funding (sponsored by Commissioner McCarthy); the deputy solicitor provided a summary. Commissioner Scheller said this bill was reviewed by the Development Committee this evening.

Commissioner McCarthy said there are various situations where federal CDBG dollars are unspent. He said through a combination of factors \$143,000 is available from unexpended CDBG dollars. He reviewed the allocations included in the bill. He said these allocations do not involve Lehigh County real estate tax dollars.

Commissioner McCarthy answered John Donches that the federal government does not require unspent dollars to be returned. The Chair announced the bill's first reading. Second reading, discussion and vote will be held on January 23, 2013 in the Public Hearing Room of the Lehigh County Government Center.

The clerk announced Commissioner Bill 2013-02: Approving Deeds of Dedication and Easement Agreements for Land Located in South Whitehall Township (sponsored by Commissioner Mazziotti); the deputy solicitor provided a summary. Commissioner Scheller said this bill was reviewed by the General Services Committee this evening.

Commissioner Mazziotti said this bill would provide right-of-way and access easements to Cetronia Ambulance Corp for the installation of traffic signal equipment and storm sewer management. He said no funds are involved in this transaction. He said the bill was unanimously recommended for approval in committee. The Chair announced the bill's first reading. Second reading, discussion and vote will be held on January 23, 2013 in the Public Hearing Room of the Lehigh County Government Center.

The clerk announced Commissioner Bill 2013-03: Approving a Right-of-Way Agreement with PPL for the Construction, Operation and Maintenance of Electric and Communication Lines in the Township of Whitehall (sponsored by Commissioner Mazziotti); the deputy solicitor provided a summary. Commissioner Scheller said this bill was reviewed by the General Services Committee this evening.

Commissioner Mazziotti said this is a move based on the needs of the County as part of a bridge project. He said there are no dollars being transferred in this transaction. He said the committee unanimously recommended approval by the full Board. The Chair announced the bill's first reading. Second reading, discussion and vote will be held on January 23, 2013 in the Public Hearing Room of the Lehigh County Government Center.

The clerk announced Commissioner Bill 2013-04: Approving a Lease Agreement with JJMN Blessed Bagel, Inc. (sponsored by Commissioner Scheller); the deputy solicitor provided a summary. Commissioner Scheller said this bill was reviewed by the Planning Committee this evening.

Commissioner Osborne added his name as a sponsor. He said the lease is for 3,315 square feet at the Hamilton Financial Center, 640 Hamilton Street. He said the lease has an original five-year term that begins 2/1/13 and goes until 2018. He said the base rate is \$1,800 per month through 1/31/15. He said the rate then increases to \$1,900 per month through 1/31/18. He said the second five year term will be market rate. He said the bill was unanimously recommended by the Planning Committee.

Commissioner Scheller said she concurs with Commissioner Osborne's comments. She said the owners of the bagel bakery have been in the area for 17 years and they currently operate two other bagel stores in the Lehigh Valley. She said they have a track record and want to expand into downtown Allentown.

Glenn Solt said the lease incorrectly states ground floor. He said the location is on the first floor. He said that will be corrected and he wants to make it clear on the record that the location is on the first floor.

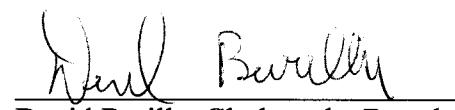
The Chair announced the bill's first reading. Second reading, discussion and vote will be held on January 23, 2013 in the Public Hearing Room of the Lehigh County Government Center.

There were no Committee Reports at this time. There was no Citizens Input on Committee Reports.

Under Commissioner Announcements, Commissioner McCarthy said he would like to announce that he will not be a candidate for reelection as the District Four Lehigh County Commissioner. He said he intends to fulfill his term in 2013.

There was no Citizens Input at this time.

The meeting adjourned at 9:50 p.m.



David Barilla, Clerk to the Board

AMENDMENT TO BILL 2012-45

I move that the fourth Whereas Clause is amended to change the following funding items to the amounts indicated below

<u>Municipality</u>	<u>Purpose</u>	<u>Amount</u>
City of Allentown	MLK Trail, Phase 1	\$90,740.00
City of Bethlehem	Restoration of Sand	\$10,061.00
Borough of Emmaus	Island Lock #41 Community Park	\$19,563.00
Lower Macungie Twsp.	Improvements	
Salisbury Township	Camp Olympic Renovations	\$66,513.00
Upper Saucon Twsp.	Lindberg Park Connection Trail	\$44,832.00
	Saucon Rail Trail Phase 2	<u>\$64,805.00</u>
		\$296,514.00

The following Whereas clause is added to the bill at the bottom of page one

WHEREAS, it is the Board of Commissioners' intention that the remaining funding from the original bill will be allocated at a future date, pending the cooperation of Lehigh County's Administration.

