

Commissioners' Workshop Meeting
Tuesday, October 25, 2005

I. CALL TO ORDER:

The Berks County Board of Commissioners met in regular session on Tuesday, October 25, 2005 at 10:30 A.M. in the thirteenth floor Board Room of the Berks County Services Center, pursuant to due notice to Board members and the public.

Commissioner Chair Judith L. Schwank called the meeting to order with Commissioner Thomas Gajewski and Commissioner Mark L. Scott in attendance. Also present were County Administrator William E. Dennis, County Solicitor Alan Miller, Esq., and Chief Clerk Terry Styer. The Commissioner opened the meeting with a moment of silence and Pledge of Allegiance to the Flag.

II. PRESENTATIONS:

Tami Hildebrand, Executive Director of the Ag Land Preservation Board presented eleven Berks County farms approved for easement purchase from June through October 2005 totaling 1,325 acres and \$2,650,600 in total easement purchase (\$1,144,100 County Funds and \$1,506,500 State Funds) She stated that this brings the total of 375 Berks County farms (representing 44,106.80 acres) preserved to date.

III. DEPARTMENTAL REPORTS / REQUESTS:

Budget Director:

- A. Adopt a resolution authorizing 2005 Budget Transfers in the total amount of \$98,990.00 and Budget Appropriations in the total amount of \$11,288.00 per list dated October 21, 2005. Bob Patrizio presented the budget resolution to the board.

Purchasing:

Contract Coordinator

- 362.05 Resolution authorizing the award of a contract as a result of Request for Proposal #05-11-CN for a two-year contract with the option of extending the contract for an additional two-year term for title search services to:

William C. Brown & Company
629-631 Walnut Street
Reading, PA 19601

Work under the awarded contract will be for tax sales conducted in 2006 and 2007. Total contract amount shall not exceed \$57,000. A motion was made by Commissioner Gajewski, seconded by Commissioner Scott and all voted yes to approve this Resolution.

Human Resources Director:

- A. Adopt Resolution authorizing the Human Resource recommendation as per list dated October 25, 2005. Jennifer Beihn, Deputy HR Director presented the HR recommendation for approval

IV. REPORTS OF COMMISSIONERS:

- A. Commissioner Schwank presented a letter from the **RiverPlace Development Corporation** announcing completion of their Master Plan designed for the revitalized Riverfront along the Schuylkill River. She proposed approval for a three-year grant of \$75,000 per year from the County Growing Greener Fund to utilize in providing leverage additional state and federal grants.
- B. Adopt Resolution authorizing the appropriation of \$212,020 for the express purpose of funding **BARTA's** eligible expenses for the period July 1, 2005 through June 30, 2006. Administrator Bill Dennis reviewed the request and recommended approval. The Commissioners discussed the number of recent phone calls they had been receiving regarding complaints on proposed route changes and while they encourage callers to contact BARTA management in the future – the Commissioners did gain some cooperation from BARTA for the preservation of one route needed by city workers.

Commissioner Schwank

Commissioner Gajewski

- A. Adopt Resolution Authorizing the Chair to execute the Renewal of State Only Permit Application No. 06-05067 (also authorizing a permit fee in the amount of \$375) and the Compliance Review Form. This Pennsylvania Department of Environmental Protection's permit for the Berks County Complex includes the three boilers at the steam plant and the two boilers at the Agricultural Center. Bill Westcott, Engineer for the county explained this required renewal process for existing DEP permits.
- B. Adopt Resolution authorizing payment of invoices under the following Community Development Disbursement Vouchers:
1. No. 514-Home Grant Program-\$13,870.00
 2. No. 2168- Community Development Block Grant Program- \$4,669.80
 3. No. 2167-S-Emergency Shelter Program-\$3,173.72
 4. No. 1265-Property Rehabilitation Program-\$3,200.00
- C. Adopt Resolution assigning Room 154 to Security and Room 155 for storage of the MDJ Wally Scott's excess records.

Commissioner Scott

- A. Adopt Resolution authorizing execution of a contract with Reinsel, Kuntz Leshner to perform an audit of the host fees paid to the County by BFI between the period July 1, 2003 and June 30, 2005 under the terms of the October 12, 1989 Waste Disposal Service Agreement in an amount not to exceed \$12,000. Commissioner Scott explained the escalator clause established in a 1989 settlement agreement between the County and the owners of the Conestoga Landfill that provides language for additional fees to be paid for those tip fees the landfill charges above the \$55.00 per ton rate. He said that due to this language the county might be in a position to receive additional fees based on the type of waste received at the landfill that exceeded the tipping fee scale established in the agreement. As an example he said that Exeter Township pays \$85.00 a ton for disposal of its municipal sewage sludge at the Pottstown Landfill. He also stated that he is not suggesting that the operators of the landfill were not committing any intentional errors; it might have been an oversight by BFI however he felt that the cost of this audit would pay for itself and most likely would provide additional revenue to the County.

Solicitor

- A. Adopt Resolution authorizing execution of a **Settlement Agreement between the County of Berks and New Morgan Landfill Company, Inc. et al.**, concerning litigation instituted by the County in December 2003. Alan Miller County Solicitor explained the following terms of the proposed agreement: such as an agreement to limit the permitted landfill (waste disposal areas) boundaries of their approximate 660 property to 426 acres; limitations of future tonnage capacities to the current proposed expansion application on file at the PADEP along with a 5500 Ton per day limitation for the remaining life of current landfill and 5210 tons per day of the proposed expansion area; \$5,000 contribution for the County to be used in the hiring of a professional consultant to provide evaluation of the odor and gas control plan; \$100,000 per year paid to the County for recycling programs, air quality programs or other similar environmental programs as per the direction of the Commissioners; 50% of the amount in fines paid to the DEP from odor violations will be paid to the County; and the benefits of the Property Value Guarantee Agreement dated April 20, 2000 would apply to existing homes within the subdivision known as Mountaineer Village.; an advisory subcommittee will be formed to provide recommendations to the Landfill on minimizing and controlling odors; for these terms the County will agreement that it will not challenge or appeal or intervene in any decision approving expansion of the landfill but County will reserve the right to make technical comments on the technical phase of the review following the harms/benefits review.

Commissioner Scott reflected on his disappointment on the terms of this settlement in which he stated his refusal to participate unless the Landfill was willing to consider an additional \$1 per ton on host fees to the

County. . He stated that the \$100,000 per yr in this settlement equates to only \$.067 per ton. He also objected most items within the settlement agreement and in particular the fact that the agreement was negotiated on behalf of the county by the County Solicitor instead of by Rhoads and Sinon (the special counsel appointed to represent the County in this litigation.)

Commissioner Gajewski expressed his support to settle this litigation as he felt due to the two returns of the lawsuit from Court of Common Pleas, the county was not in a strong bargaining position to continue and he didn't wish to waste tax dollars as the information from the courts continued to indicate that this lawsuit was going nowhere.

Commissioner Scott argued that the funds used in this litigation are from the County's Environmental Defense fund that was derived from previous settlement agreements with landfills. He said that the county decided to settle way too early in this process.

Commissioner Schwank read a prepared statement what will be attached to these minutes

- 361.05 Resolution authorizing the application for additional Hava (help America to Vote Act) Grant Funds in the amount of \$33,060.88 to be used to improve accessibility of Polling Places in Berks County. A motion to approve this Resolution was made by Commissioner Gajewski, seconded by Mark Scott and all voted yes to approve.

V. MISCELLANEOUS BUSINESS

There being no further business, the meeting adjourned at 11:30 A.M.

Respectfully Submitted,

Terry L. Styer, Chief Clerk

Notes-Landfill Settlement

Commissioner Judy Schwank

October 25, 2005

The Conestoga Landfill has been a thorn in the side of Berks county residents since its inception. Over its years of operation it has been particularly troublesome to the residents

of Southern Berks County who have lived with the environmental problems odors, dust, litter and truck traffic as well as the impact it is purported to have on their property values. Its very existence was foisted upon the county in a legal maneuver that was so egregious that legislation was enacted to prevent this situation from occurring again. If I had my preference the landfill would not exist, but it does and its not going away.

The county has been in litigation with the landfill since late 2003. The settlement presented today represents improvement in the operation of the landfill, reduced tonnage of trash and particularly sludge, compensation for continued odor violations, property value guarantee agreements for the residents of Mountaineer Village - which I feel is extremely important and an end to the expansion beyond the application the landfill is currently seeking. In addition, a one-time payment of \$5,000 for a consultant to review the odor and gas control plan at the landfill and the formation of a citizens committee to make recommendations on odor control. Finally, Conestoga will pay the county \$100,000 annually to be used for environmental projects, land preservation and other quality of life initiatives.

I firmly believe that this money should be held in a separate and restricted account from the county's general funds. Our Solicitor is preparing a resolution to ensure that any additional moneys gained from landfills in the future should be restricted to funding environmental projects.

The lawsuit was initiated by the county under unusual circumstances. Commissioner Scott and former Commissioner Reiver secretly met with the county's environmental counsel and devised the suit. I was purposely and totally excluded from the discussions until a few days before the suit was to be filed. The attorneys finally contacted me or I would have been totally in the dark. I didn't vote for the lawsuit because I didn't know enough about it to make an informed decision. Ultimately three of the four complaints were dismissed in the Berks County Court of Common Pleas.

Some would say that the at least the litigation resulted in a financial benefit for the county. My response is that no amount of money can fully compensate the citizens of Berks County and particularly those in Southern Berks for the price of living near a

poorly operated mega landfill. The litigation has really reached a standstill and is costly. I think the proposed agreement at least brings better management to a situation that we have very little leverage to change. I want to be clear however that settlement does not mean that we will not continue to be vigilant regarding the landfill operations. The settlement isn't necessarily a landmark for the environment in Berks County but a recognition that we have to deal with the existence of the landfill in a more pragmatic way.