

Commissioners' Workshop Meeting Tuesday, March 25, 2008

I. CALL TO ORDER:

The Berks County Board of Commissioners met in regular session on Tuesday, March 25, 2008, 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 Mark C. Scott called the meeting to order with Commissioner Christian Leinbach, and Commissioner Kevin Barnhardt in attendance. Also present were Solicitor Alan Miller Esq., Chief Clerk Terry Styer and County Administrator, William E. Dennis.

Commissioner Scott opened the meeting with a moment of silence and the Pledge of Allegiance to the Flag.

II. CERTIFICATE OF RECOGNITION

A. Commissioner Leinbach presented a Certificate of Recognition to Emily Grimshaw, 2008 YMCA Youth Award Honoree.

III. PRESENTATION/DISCUSSION

Mr. Ed Cone one of the landowners adjoining the proposed Hay Creek trail stated that he was also representing other landowners who are supportive of recreational trails generally but are "unified in not wanting to sell our property rights and not wanting to have our property taken by force or eminent domain."

Commissioner Scott read sections of Mr. Cone's letter that specifically defined the objections and asked the County's Consultant Andrew Strauss to respond.

Chip Karasin, resident of Robeson Township and currently serving on the Robeson Township Planning Commission stood in support of this trail project by stating that the entire project has been "on the agenda in Berks County since 1994". The County Greenway Parks and Recreation Plan, which was adopted following a process of many public hearings, cited this trail as high priority project. She also discussed the Livingston Subdivision, which was filed with the Robeson Township Planning Commission, depicted this trail as a road; her point being that this trail has been public information since 1994 and should have been no surprise to Mr. Cone as the trail was in the direct path of his subdivision.

Jim Thorn spoke in support of the trail and as a representative of the Natural Lands Trust and as the Director of the Hopewell Big Woods area, which he described as the being last remaining area of forested land of this size in the entire New York / Washington D.C. Urban Corridor. He showed a map that depicted the possible connection of the existing Schuylkill, Thun and French Creek Trail in one large loop surrounding the Big Woods area.

Hay Creek Trail discussion continued:

Commissioner Scott then introduced Andrew L. Strauss, AICP/PP of Strauss and Associates/Planners and explained that his firm was contracted by the County to perform the required consulting, surveying, appraisal work for this project. Following a description of his professional experience in other successful trail projects most notably, the 50 mile rail trail acquisition for the Delaware -Lehigh Commission which ran from Allentown to Wilkes-Barre. He said that in his experience most values of property "abutters" increased following the establishment of publicly owned trails. Mr. Strauss said that approximately three years ago adjoining property owners were notified that surveying work was begun for this 9.72 mile rail line. He said he has been meeting with landowners to discuss their concerns and possibilities for fencing, and screening for their properties should this trail be completed. He apologized to landowners for language of his letter regarding the possibility of condemnation by explaining that his task was to move this project forward in a timely manner out of recognition for recent appraisals grant programs and budget cycles.

Commissioner Leinbach indicated that he had questions on what he described as a lack of clarity for the projected costs of the Hay Creek Trail. He described a recent tour he took of the entire length of the trail describing its natural beauty, and vistas however he objects to the use of Eminent Domain proceedings for anything that is not determined to be a critical need such as infrastructure –ie. roads, bridges etc. He said he supports this trail project but only with the property owner's cooperation suggesting that the County should not abandon the project but move forward to purchase all of the properties that are available for sale now and obtain the rest as they become available. Mr. Strauss indicated that the costs surrounding this proposed project are for a multi use trail that is ADA accessible but not intended for motorized uses, however it will need to be built to withstand motorized vehicles for purposes of emergency vehicle access. He offered that the costs will be better defined by the development of a Master Plan for the trail and where the specific details for the construction of the trail will be determined.

Commissioner Scott asked Mr. Strauss if the opposition is successful and no tactic through Eminent Domain is employed by the County, would this trail be a viable project. Mr. Strauss said that of the landowners agreeing to sell currently, the trail length would amount to approximately one mile and therefore the trail would not be a linear connected facility. He stated further that by holding easements to properties that are unlinked, the project would not be viable yet the county would still be responsible for what happened on those easements without any ability to access them.

Commissioner Barnhardt stated his belief in the value of recreational trails including the value that it can add to individual property values. He felt that the active patrol of the trail would decrease the concerns for vandalism. He stated that many hurdles remain including grant applications, preserved farmland, driveway issues but the good news is that fourteen people have agreed to sell their easement for the trail but concerns remain with the proposed costs of the entire project.

Hay Creek Trail discussion continued:

Andy Strauss said any trail system needs a good property management program. He suggested that some of the most successful trail projects statewide have been known to use non-profit "trail tender" organizations for maintenance, monitoring.

Tami Hildebrand, Executive Director of Berks Ag Land Preservation reminded the Commissioners of the 190 acres and the \$390,000 of funds used to preserve some of the farmland that this proposed trail will impact.

Sheila Miller, Berks County Agricultural Coordinator stated her belief that trails are not permitted as exceptions when applying for an appeal before the State Agricultural Lands Condemnation Approval Board, therefore the commissioners may want to reconsider relocating the trail in the vicinity of the two preserved farms.

Another adjoining landowner expressed concern for the proposed 66ft. right of way. His questions were answered by Mr. Strauss by explaining that the majority of the proposed trail follows the original railroad right-of-way and in some areas the width is required for stabilization, grade and slope issues but the need for 66ft is not necessary throughout the entire 9.7 miles and despite this right of way width, the proposed cartway is only planned to be ten to twelve feet in width.

Commissioner Scott disagreed with Commissioner Leinbach's suggestion to move forward and only purchase the properties currently available and wait for the other property owners to decide, as "this could be a huge investment with only a speculative outcome." He recommended that a decision on the eminent domain issue and the consideration for refunding the \$500,000 grant should be reached within the next six months.

Kutztown School District Assessment Appeal

Commissioner Scott introduced William Lammers and Doreen Buchman, Kutztown landowners who were asked to attend the meeting to discuss their issues with the Kutztown School Board who won an appeal for the tax assessment on their 185 acre farm they purchased in Kutztown last March. Mr. Lammers stated that when they purchased the property the annual real estate taxes were \$9,100; the School District filed an appeal of the assessment following the Lammers' purchase of the farm for \$2 million and succeeded in having the property reassessed thereby increasing the Real Estate Tax bill to \$29,600 annually. Mr. Lammers indicated that no improvements were made to the property to cause this increase; it was simply the result of the price paid for the farm. He said the tillable acres on the farm are unable to cover these costs which will force them to either sell or subdivide the property into housing units or some other commercial use.

Commissioner Scott stated that this is a classic case of spot assessment that is a permitted practice of school districts but he felt should be considered unconstitutional as it represents unequal assessment of properties. He questioned- if the County is prohibited from this practice, then why is the School district permitted?

Kutztown School District Assessment Appeal continued:

Commissioner Scott described nearly 100 other properties that have experienced recent sales at a higher rate than what was assessed during the previous 6 months yet the School District did not appeal those properties. He then cited several similar cases, one of which from Chester County known as Lyonville Station that reached the Supreme Court and following the expenditure of approximately \$50,000 before the landowner won his case. He suggested that the County should intervene in some manner to convince the School District to drop this appeal.

Commissioner Leinbach agreed that this type of action causes huge problems for anyone buying real estate and has very serious implications for the farming community. He agreed with Commissioner Scott that the County should intervene in some way saying that "just because it's legal doesn't make it right."

Commissioner Barnhardt recommended that the County first seek the advice of legal counsel and then move forward with any assistance the county could provide.

Clean and Green Assessments:

Commissioner Leinbach called for a discussion on the yearly assessment procedures for properties enrolled in Clean and Green. He referred to correspondence submitted from the Berks County Grange asking that the county reconsider the annual reassessment of all properties enrolled the Clean and Green program. Charles Seidel, President of the Berks County Grange, discussed this request saying that it is one more concern for the issue of profitability of our county's farmers.

Duane Rashlich, Director of Real Estate Assessment discussed his Board of Appeals procedure for all Clean and Green properties.

William "Bill" Zoller, Regional Director, PA Department of Agriculture encouraged the Commissioners to provide direction to the Board of Appeals in this and other matters.

Commissioner Leinbach stated his preference for the Board of Assessment appeals to consider the requests of the Grange.

IV. DEPARTMENTAL REPORTS / REQUESTS:**Budget Department:**

- A. Adopt Resolution authorizing 2008 Budget Transfers in the amount of \$11,298,120 per listing dated March 20, 2008.
- B. Motion authorizing Mark C. Scott as Chairman of the Board, to execute Contract Agreements/ Amendments as furnished by the Contract Coordinator, per attached listing dated March 20, 2008.

Court Administration

- A. Adopt a resolution authorizing execution of a grant agreement and payment requisition on behalf of the Court of Common Pleas, Berks County with the PA Department of Community and Economic Development (DCED) for \$80,000 grant to fund the Graffiti Abatement Program for a three year period beginning in July 1, 2007 through June 30, 2009. Tim Dailey, Criminal Justice Program Director explained that while this grant was originally proposed as a \$250,700.00 application for a three year grant, he was instructed by the state to apply one year at a time at \$80,000 per year.

Community Development

Adopt resolution approving the 2009-2011 Allocation Policy for the Federal Community Development Block Grant (CDBG) Program, Emergency Shelter Grants (ESG) Program, and Home Investment Partnerships (HOME) Program funds.

District Attorney

- A. Adopt a resolution authorizing the District Attorney's office to apply for the Domestic Violence (STOP) Grant, in the amount of \$92,927, for the period of 7/1/08 to 6/30/09.

Election Services

- A. Adopt a Resolution to execute Amendment No. 3 of HAVA Title II, Section 261, Fiscal Year 2008 Grant award, in the amount of \$6,276.09. These funds are being used to improve polling place accessibility. Debbie Olivieri, Director of Elections, attended the meeting to answer questions.

Human Resource Director:

- A. Human Resource Recommendations per list dated March 25, 2008.

Industrial Development Authority:

- A. Tom McKeon, Executive Director, BCIDA announced that an agreement for on negotiated changes to Tilden Tax Increment Financing project resulted in an increase from the 18% tax increment to 36%.

V. COUNTY ADMINISTRATOR REPORT

- A. Administrator Dennis provided his weekly report (attached)

VI. REPORTS OF COMMISSIONERS

Commissioner Leinbach

- A. Commissioner Leinbach presented a draft letter to Ms. Patricia Giles of United Way of Berks County regarding a proposed funding towards programming efforts at the Community Corrections Center. The Commissioners agreed to send the letter.

Commissioner Barnhardt

- A. Commissioner Barnhardt proposed the including of County Part Time employees into certain areas of the Employee Recognition Program. He indicated that this change will not dramatically change the cost and projections indicate that it will remain within the approved budget line item.

Commissioner Scott

- A. Adopt a Resolution to appoint Tony J. Sacco, Wyomissing, PA to the Berks County Solid Waste Authority for a 4 year term ending 12/31/2010, replacing Ruth Baker, whose term expired.

There being no further business the meeting adjourned at 12:45 PM.

Respectfully Submitted,

Terry L Styer, Chief Clerk