

COUNTY COMMISSIONERS' MEETING MINUTES
Wednesday, October 29, 2003

The Board of Commissioners met today in regular session.

Present at today's meeting were:

Paul Thibault, Chairman
Howard "Pete" Shaub, Vice Chairman
Ron Ford
BOARD OF COUNTY COMMISSIONERS

Timothea M. Kirchner
COUNTY ADMINISTRATOR

Terry L. Styer
CHIEF CLERK

Commissioner Thibault called the meeting to order at 9:15 a.m. followed by the Pledge of Allegiance.

The minutes of October 22, 2003 Commissioners' Meeting Minutes were approved as distributed.

Also present:

Reverend Edward Bailey, Resident
CITY OF LANCASTER

Thomas Beckett, Senior Vice President
FAIRMOUNT CAPITAL ADVISORS, INC.

Jim Clymer, Resident
MANOR TOWNSHIP

Dave Doolittle, Resident
MARTIC TOWNSHIP

Chris Gibbons, Principal
CORCORD PUBLIC FINANCE

Rodney Gleiberman, Resident
WEST LAMPETER TOWNSHIP

Charles Gray, Resident
PHILADELPHIA

Ron Harper, Jr., Resident
STEVENS

Mike Heberline, Resident
EAST LAMPETER TOWNSHIP

Mervin Heller, Jr., Esquire
SPECIAL COUNSEL

Lois Herr, Resident
MOUNT JOY TOWNSHIP

Gail Hines, Resident
MANHEIM TOWNSHIP

Dave Hixson, Executive Director
CONVENTION CENTER AUTHORITY

Jack Howell, Resident
CITY OF LANCASTER

Kathy Huber, Resident
EAST PETERSBURG BOROUGH

Richard Kneedler, Resident
LANCASTER TOWNSHIP

Arthur Morris, Resident
CITY OF LANCASTER

Valerie Moul
REGISTERED VOTER

Nelson Polite, Sr., Resident
CITY OF LANCASTER

Doug Rauch, Esquire
SPECIAL COUNSEL

George Rettew, Resident
EAST HEMPFIELD TOWNSHIP

Charlie Smithgall, Mayor
CITY OF LANCASTER

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Commissioners Meeting Minutes
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ORDINANCE NO. 73

On motion of Commissioner Ford, seconded by Commissioner Thibault;

DECLARING THE GUARANTY OF THE LANCASTER COUNTY CONVENTION CENTER AUTHORITY'S GUARANTEED DEBT SERVICE RESERVE FUND NOTE IN CONNECTION WITH SAID AUTHORITY'S HOTEL ROOM RENTAL TAX REVENUE BONDS, SERIES OF 2003 FOR THE BENEFIT OF THE COUNTY OF LANCASTER TO BE A PROJECT OF THE COUNTY FOR WHICH LEASE RENTAL DEBT IS TO BE INCURRED; STATING THE REALISTIC ESTIMATED USEFUL LIVES OF THE FACILITIES RELATING TO THE BONDS; DETERMINING TO INCUR LEASE RENTAL DEBT IN A MAXIMUM PRINCIPAL AMOUNT OF \$25,000,000 IN RESPECT OF SAID PROJECT, SUCH DEBT TO BE EVIDENCED BY THE COUNTY'S GUARANTY AGREEMENT WITH RESPECT TO SAID NOTE; AUTHORIZING CERTAIN COUNTY OFFICERS (A) TO PREPARE, CERTIFY AND FILE WITH THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT THE DEBT STATEMENT REQUIRED BY SECTION 8110 OF THE LOCAL GOVERNMENT UNIT DEBT ACT AND AUTHORIZING THE PREPARATION OF BORROWING BASE CERTIFICATE, AND (B) TO THE EXTENT FEASIBLE, TO CAUSE TO BE PREPARED AND FILED, STATEMENTS REQUIRED BY SECTION 8026 OF THE DEBT ACT WHICH ARE NECESSARY TO QUALIFY ALL OF SUCH LEASE RENTAL DEBT FOR EXCLUSION FROM THE APPROPRIATE DEBT LIMITS AS SELF-LIQUIDATING DEBT; APPROVING THE FORM OF, AND AUTHORIZING, SUBJECT TO CERTAIN CONDITIONS, EXECUTION AND DELIVERY OF THE AFORESAID GUARANTY AGREEMENT AND APPROVING THE FORM OF, AND AUTHORIZING EXECUTION AND DELIVERY OF A REIMBURSEMENT AGREEMENT AND A CONTINUING DISCLOSURE AGREEMENT; REPEALING INCONSISTENT PRIOR ORDINANCES; SETTING FORTH CERTAIN CONDITIONS TO THE EXECUTION AND DELIVERY OF THE AFORESAID GUARANTY AGREEMENT; AND AUTHORIZING THE PROPER OFFICERS OF THE COUNTY TO TAKE ALL REQUIRED, NECESSARY OR DESIRABLE RELATED ACTION IN CONNECTION WITH SUCH PROJECT AND THE EXECUTION AND DELIVERY OF THE GUARANTY AGREEMENT.

(for completed text, please refer to Ordinance No. 73 in the Ordinance Book)

Before voting on Ordinance No. 73, Commissioner Thibault asked for public comments.

Mervin Heller, Jr., Esquire explained that he was hired as Special Counsel because there was a conflict of interest with the County's Solicitor regarding this matter. In his role as Special Counsel, Attorney Heller reported that he met with the Commissioners on an individual basis in compliance with the Sunshine Law, met with the Convention Center Authority staff and met with the County's professional staff and professional advisors to ensure that the guarantee was in accordance with the County's needs. Attorney Heller noted that the following requirements must be met for the County to guarantee the bond:

- There has to be sufficient credit enhancement, such as bond insurance, to insure that this was the best rated bond.
- There has to be sufficient funds to complete the construction of the convention center in full accordance with the final plan and specifications prepared by the architect and approved by the convention center.
- There must be a new hotel designed to support that convention center and provide sufficient rooms and amenities as a headquarters hotel for the convention center.

Doug Rauch, Esquire, Special Counsel, presented an overview of Ordinance No. 73, noting that it meets the above-described requirements of the County.

Chris Gibbons, Principal, Concord Public Finance, reported that he agrees with the numbers presented by the Convention Center Authority's financial advisor, Fairmount Capital Advisors, which were based on feasibility studies completed by Price Waterhouse Coopers and the internal numbers of the professional staff of the authority. He believes that this is the best financial option for the project due to the layers of protection that are in place to protect the County's guaranty from ever being used such as:

- The Authority's financing structure is a gross revenue pledge, which means the first \$2.5 million collected in hotel tax will go toward the debt service repayment.
- The Authority will provide full funding of one year's debt service payments in the Debt Service Reserve Fund.
- The ability exists to recapture 20% of the hotel tax currently going to the Convention and Visitors Bureau for repayment of debt service should the need arise.
- The ability exists to raise the hotel tax to 5% should the need arise.
- Additionally, under the proposed legal documents, there will be a provision and requirement that should the County pay on the guaranty, it would be entitled to reimbursement from future revenues of the Authority.

Based on these layers of protection in place, Mr. Gibbons believes the risk of County tax dollars ever used to pay debt service is extremely low and he described that risk as follows:

- The partial guaranty places a cap on the County's financial exposure. If the guaranty were fully used, the average County taxpayer would pay \$5.70 per year based on a house assessed at \$100,000.
- The partial guaranty will not affect the County's bond rating or count against the County's borrowing limits.
- Without the partial guaranty, there is no project as currently contemplated.
- In other financings in which Concord Public Finance has acted as financial advisor to the County, there have been taxpayer dollars used to finance other public projects. Should the convention center perform as projected, no taxpayer dollars will be used to finance the convention center.

Dave Hixson, Executive Director of the Convention Center Authority, commented that this Board of Commissioners has always stood firmly behind the convention center project by supporting the Authority's vision and mission, helped in weathering three and one-half years of litigation and was committed to delivering a successful project that will define this county for future generations. On behalf of the Convention Center Authority, Mr. Hixson asked the Commissioners to stand behind this project one more time by backing half of the Convention Center Authority's total \$40 million bond package. Mr. Hixson stated that this project is the economic catalyst that will drive the revitalization efforts of the city and county, bringing hundreds of new jobs, bringing hundreds of thousands of new visitors to the county annually and generating hundreds of millions of dollars in new spending of tax revenues.

Tom Beckett, Senior Vice President, Fairmount Capital Advisors, Inc., delivered a visual presentation which outlined the project, the convention center's cash flow, the plan of action that increases the Authority's ability from \$25 million to \$40 million to fund the project, and a workable plan for a financially self-supporting convention center.

Commissioner Shaub asked if projections were performed on lost revenues below the \$80 million revenue stream and what effect it would have on the overall operating costs.

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ORDINANCE NO. 73 - continued:

Mr. Beckett responded that he did not run these projections. However, he pointed out that you can run different scenarios and the reality is that the bulk of the revenues to support the debt and the convention center comes from the hotel tax which hasn't been below the \$80 million level in many years.

Ron Harper, Jr., a resident of Stevens, asked when Attorney Heller first had individual discussions with the Commissioners in order to allegedly evade the Sunshine Law.

Commissioner Thibault responded that Mr. Harper has launched a lawsuit against the County on the questions of the Sunshine Law; therefore, he was not sure that the Commissioners were at liberty to discuss this matter.

Attorney Heller stated that he felt comfortable with the way the Commissioners operated which was in compliance with the Sunshine Law.

The following individuals urged the Commissioners to vote in favor of Ordinance No. 73 and support the guarantee bond. Summarizations of their comments follow.

Richard Kneeder, Lancaster Township
Lois Herr, Mount Joy Township, and Chair of the Lancaster County Planning Commission
Valerie Moul, Registered Voter
Representative Mike Sturla, City of Lancaster
Mike Heberline, East Lampeter Township, and Downtown Business Owner
George Rettew, East Hempfield Township, and Chair-Elect of the Lancaster Chamber of Commerce
Arthur Morris, City of Lancaster
Dave Doolittle, Martic Township
Reverend Bailey, City of Lancaster
Jack Howell, City of Lancaster, and President of Lancaster Alliance
Nelson Polite, Sr., City of Lancaster, and Member of Lancaster City Council
Charles Gray, Philadelphia
Charlie Smithgall, Mayor of Lancaster City

- The convention center project has a promise of revitalizing the City; creating job opportunities – both temporary during its construction and permanent during its operation; and creating increased business activities.
- There is a very low level of risk to the taxpayers and no risk to the County's borrowing capacity. The risk that the Commissioners would be taking on behalf of the citizens of Lancaster County is minimal compared to the risk involved in not doing this. There is no financial reason to oppose this Ordinance.
- Government has a responsibility to its citizens to lead and support economic development initiatives. One of the purposes of government is to create opportunities.
- The Commissioners need to look at the current circumstances, look at the safeguards and make the determination of how safe this is for the taxpayers. The Commissioners cannot be afraid of their shadows.
- Public/private partnerships have been a way of life. The city is not competing against the county; we are competing against Baltimore, New York and other metropolitan areas.
- This is an opportunity to build the convention center to a scale that makes economic sense and will have economic sustainability.
- It is ironic that three to four years ago the opposition was based on unfair competition and fear of success, and now it is talking about fear of failure.
- The project will fail without the bond guarantee. The Commissioners need to show courage, tackle the difficult challenges and approve the final necessary step to allow this convention center project to move forward.

The following individuals voiced their opposition to Ordinance No. 73 and the County guaranteeing the bond. Summarizations of their comments follow.

Ron Harper, Jr., Stevens
Gail Hines, Manheim Township
Jim Clymer, Manor Township
Kathy Huber, East Petersburg Borough
Rodney Gleiberman, West Lampeter Township

- If you don't pay attention to history, you are doomed to repeat it, such as the past revitalization failure at Lancaster Square. Convention centers from Pittsburgh to Baltimore are failing and are not economically sustainable.
- Government should not be involved with the convention center. The only people who will benefit from this project are Penn Square Partners. Penn Square Partners should provide additional funding for this project.

- It is easy to invest other people's money in a risky venture. The next Board of Commissioners will be put in a box if this Ordinance is approved.
- It is fundamentally unfair for the county to impose a tax on an industry which will finance its competition. Private enterprises should invest their money in this project.
- The data presented by the Convention Center Authority is flawed. The Authority needs to come back with a financial analysis that is based on facts before the Commissioners can make an informed decision.

Commissioner Shaub thanked the Convention Center Authority for their time and effort during this process. He was appreciative of the passion expressed by individuals represented at today's meeting. Commissioner Shaub acknowledged that the Commissioners are faced with a very difficult decision, and that the decision is not about pro city or pro county. He stated that he has been pro city since taking office; however, he represents the interests of the entire county. He pointed out that there are a lot of people in this county with differences of opinions on the role of county government and who have concerns about the risks involved and previous commitments made to the public. When this project started there were commitments made to the public; therefore, Commissioner Shaub stated that the Commissioners, as public officials, owe a responsibility to represent all the people across the County and to uphold any promises.

Commissioner Ford commented that this has been a lengthy community-involvement process. During the initial stages there were discussions about a private-public partnership which Commissioner Ford understood would involve the Commissioners at some point. He believed that the layers of protection outlined at today's meeting certainly protect the taxpayers of this county. If you say you support this project, but not the mechanism to fund this project to make it successful, it is just words according to Commissioner Ford. Commissioner Ford stated that this is not going to be the most popular decision; however, being popular is not the issue here. He believes that there are ample studies; there is ample protection to the tax payers; and that the Commissioners' support of this guarantee is the right thing to do.

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ORDINANCE NO. 73 - continued:

Commissioner Thibault thanked everyone for coming out on this important issue. He stated that the discussion which occurred years ago about instituting a room tax was geared toward the idea of a convention center and hotel project to grow tourism, not to create more competition. He pointed out that the Watt and Shand building at Penn Square symbolizes the heart of this county seat. Commissioner Thibault commented that we are beneficiaries of the work and the risks taken by our elders and our predecessors, and that it is incumbent on every generation to prepare for future generations. He further stated that the Commissioners are being called upon to act, not with a view to themselves, because from a political aspect the easiest thing would be to avoid this whole issue, but to decide the County's future and our children's legacy. Commissioner Thibault said that one of the great honors of being elected as a County Commissioner is that people put their trust in you and call on you to devote your life to their interests, not to look for an easy way out of a critical decision. He considered this to be one of those critical moments and was very proud to be here during this process.

There being no further comments, Commissioner Thibault called for the vote on Ordinance No. 73.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: No
Commissioner Ford: Yes

Commissioner Thibault called for a ten minute recess. The time of the recess was 10:57 a.m.

The meeting was reconvened by Commissioner Thibault at 11:15 a.m.

Present at today's meeting were:

Paul Thibault, Chairman
Howard "Pete" Shaub, Vice Chairman
Ron Ford
BOARD OF COUNTY COMMISSIONERS

Timothea M. Kirchner
COUNTY ADMINISTRATOR

Terry L. Styer
CHIEF CLERK

Also present:

Jan Beitzer, Executive Director
DOWNTOWN IMPROVEMENT DISTRICT

Stephanie Horst, Prevention Specialist
DRUG AND ALCOHOL COMMISSION

Dave McCudden
COUNTY ENGINEER

Dave Mueller, Director
JUVENILE PROBATION AND PAROLE DEPARTMENT

Timothy Smedick, Executive Director
HISTORIC PRESERVATION TRUST

Scott Standish, Director of Heritage Planning
PLANNING COMMISSION

Kim Sullenberger, Deputy Director
WORKFORCE INVESTMENT BOARD

Carole Wilson, Historic Preservation Planner
PLANNING COMMISSION

RESOLUTION NO. 77 OF 2003

On motion of Commissioner Shaub, seconded by Commissioner Ford;

WHEREAS, Sealed proposals were received by the County of Lancaster on Wednesday, October 22, 2003 at 11:00 a.m. for repaving the parking lots at the Lancaster County Prison.

NOW, THEREFORE, BE IT RESOLVED BY THE LANCASTER COUNTY BOARD OF COMMISSIONERS, That a contract be awarded to the following company, for the item and amount specified, which is the lowest and/or best bid received, and is in accordance with the advertisements, specifications and bids received therefor, and a contract therefor directed to be drawn, subject to the filing of a Performance Bond.

<u>Contract Awarded To:</u>	<u>For:</u>	<u>Amount:</u>
Pflumm Contractors Millersville, Pennsylvania	Repaving the parking lots at the Lancaster County Prison	\$32,177.00

Motion passed unanimously.

On motion of Commissioner Ford, seconded by Commissioner Shaub, it was agreed for the County of Lancaster, acting on behalf of the Lancaster County Planning Commission, to approve the following:

Agreement With: Kise Straw & Kolodner
Philadelphia, Pennsylvania

Purpose: Professional consultant services to assist the Planning Commission in developing a County-wide Plan for Preservation of the County's Historic and Cultural Resources in accordance with the provisions of the 2000 amendments of the PA Municipal Planning Code.

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Lancaster County Planning Commission-continued:

Amount/Term: Not to exceed \$95,000.00 for the period October 29, 2003 through December 29, 2004.

Commissioner Thibault announced that Commissioner Shaub had to leave the Commissioners' meeting to attend a Candidates' Forum at the Rotary Club.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: Absent for the vote
Commissioner Ford: Yes

Timothy Smedick, Executive Director of the Historic Preservation Trust, commented that Kise Straw & Koloher stresses economic development along with historic preservation which he felt was extremely important. He reported that the Historic Preservation Trust is supportive of this plan and thanked the Commissioners and the Planning Commission staff for their efforts in this process.

On motion of Commissioner Ford, seconded by Commissioner Thibault, it was agreed for the County of Lancaster, acting on behalf of the Lancaster County Workforce Investment Board, to approve the following:

20. Agreement With: Neighborhood Services
Lancaster, Pennsylvania

Purpose: To provide intensive case management services under the Pennsylvania Department of Public Welfare's Retention, Advancement and Rapid Reemployment grant.

Amount/Term: Not to exceed \$133,095.00 for the period November 1, 2003 through October 31, 2004.

21. Agreement With: Urban League of Lancaster County, Inc.
Lancaster, Pennsylvania

Purpose: To provide intensive case management services under the Pennsylvania Department of Public Welfare's Retention, Advancement and Rapid Reemployment grant.

Amount/Term: Not to exceed \$19,844.00 for the period November 1, 2003 through February 29, 2004.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: Absent for the vote
Commissioner Ford: Yes

On motion of Commissioner Ford, seconded by Commissioner Thibault, it was agreed for the County of Lancaster, acting on behalf of the Juvenile Probation and Parole Department, to approve the following:

Grant-In-Aid Application

Juvenile Court Judges' Commission
Harrisburg, Pennsylvania

With:

Purpose:

To apply for \$101,488.00 (100% State funding) for the improvement of juvenile probation services and \$681,445.00 (100% State funding) for specialized probation services.

Term:

July 1, 2003 through June 30, 2004.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: Absent for the vote
Commissioner Ron: Yes

On motion of Commissioner Ford, seconded by Commissioner Thibault, it was agreed for the County of Lancaster, acting on behalf of the Drug and Alcohol Commission, to approve the following:

Agreement With:

Barry Bruce and Company
Lancaster, Pennsylvania

Purpose:

To conduct a comprehensive media campaign, including broadcast and cable television, billboards and bus ads, to raise awareness of the Tobacco-Free Coalition and the hazards of smoking.

Amount/Term:

Not to exceed \$65,165.00 for the period July 1, 2003 through June 30, 2004.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: Absent for the vote
Commissioner Ford: Yes

Jan Beitzer, Executive Director of the Lancaster Downtown Improvement District, thanked the Commissioners for the new streetlights that are within the historical keeping outside of the Courthouse. She commented that the streetlights improve the appearance and increase the light levels in this area.

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On motion of Commissioner Ford, seconded by Commissioner Thibault, the meeting was

adjourned at 11:32 a.m.

Motion passed.

Commissioner Thibault: Yes
Commissioner Shaub: Absent for the vote
Commissioner Ford: Yes

Respectfully submitted,

Lisa Johnson
Assistant Chief Clerk
Commissioners' Office