

MINUTES**June 7, 1995**

The Board of Chosen Freeholders of the County of Warren met in regular session in the Greenwich Township Municipal Building, 321 Greenwich Street, Stewartsville, New Jersey on Wednesday, June 7, 1995 at 7:00 p.m.

The meeting was called to order by Director Susan Dickey at 7:10 p.m. and upon roll call the following members were present: Freeholder Susan Dickey, Freeholder Ann Stone and Freeholder Kenneth Miller.

The Pledge of Allegiance to the Flag was led by Director Dickey.

Director Dickey read the following statement: "ADEQUATE NOTICE OF THIS MEETING WAS GIVEN IN ACCORDANCE WITH THE OPEN PUBLIC MEETINGS ACT BY FORWARDING A SCHEDULE OF REGULAR MEETINGS OF THE BOARD OF CHOSEN FREEHOLDERS TO THE WARREN COUNTY CLERK, THE STAR/GAZETTE, BLAIRSTOWN PRESS, THE NEWS, STAR-LEDGER AND THE EXPRESS-TIMES AND BY POSTING A COPY THEREOF ON THE BULLETIN BOARD IN THE OFFICE OF THE BOARD OF CHOSEN FREEHOLDERS. FORMAL ACTION MAY BE TAKEN BY THE BOARD OF CHOSEN FREEHOLDERS AT THIS MEETING. PUBLIC PARTICIPATION IS ENCOURAGED. IN ORDER TO ASSURE FULL PUBLIC PARTICIPATION, THOSE INDIVIDUALS WITH DISABILITIES WHO WISH TO ATTEND THE MEETING SHOULD SUBMIT ANY REQUESTS FOR SPECIAL ACCOMMODATION ONE WEEK IN ADVANCE".

A. OPEN DISCUSSION**1. Stewart's Hunt Development public access easement.**

Mr. Mike Amonson, a resident of Stewart's Hunt, addressed the Freeholders on the public access issue, speaking on behalf of the affected home owners. Mr. Amonson also provided a written copy of his remarks, which took about 15 minutes. A copy of those remarks is incorporated as a part of these minutes by reference.

Briefly, the owners feel that they were misinformed with regard to the easements that cross their property, and that they never were aware that these easements meant public access. Some of these paths come very close to their buildings. While they have no objection to the conversation easement, they strongly object to having members of the public passing through their property unannounced and unattended. They feel betrayed by Toll Brothers, the developers; their attorneys and mortgage companies; the Township; and County Planners. Proposed compromises on the part of the county and owners have met with no success.

Their position is that they want the immediate removal of public access from their property. They requested a resolution by the Freeholders, pass or fail, at the June 14, 1995 meeting.

Mr. William Hensler stated he lived in Morris County until 1985, and their Freeholders build a 10 mile path through 10 townships. His property was close to it, and during the daytime it was good, but at night, it became a hangout. Mrs. Dickey asked if it was open to the public at all times, and that this was an aspect that was not reviewed. Mr. Hensler said it was open dawn to dusk, but some did not abide by the rule. In response to a question from Mrs. Stone, Mr. Hensler stated it was built with Green Acres money.

MINUTES**June 7, 1995**

Robert Barth, speaking as a member of the Canal Society of New Jersey, supported the Morris Canal Committee of Warren County in trying to preserve the history, and that they have a good start. If the easement was improper, it should be fixed, in whatever manner it can be done. This path has an excellent opportunity for a walking path, and the continuity of the canal is a good recreational opportunity. The experience in the Paulins Kill Valley Trail is that problems are minimal, with most problems coming from local residents. The maintenance of the trail can be state, county or volunteer. He suggested the Morris Canal Committee try to work out a solution for everyone involved.

Wayne Willever, the Police Chief in Greenwich, stated he has concerns as to how to police the path. They receive 3 or 4 complaints per week for mini-bikes, etc. They are not equipped to patrol the canal path.

Len Frank, chair of the Friends of the Morris Canal of Warren County, also referred to the Paulins Kill Valley Trail, stating that the state came in years ago to use the railroad bed, and the local residents were concerned with dumping, unsavory characters and the inability of police to monitor. The state bought and developed the trail, and it is now a part of the Kittatiny Valley Park. State said they'd have 2 full time Rangers to patrol, and no motorized vehicles are allowed. Owners near the trail have prospered, and their values have gone up. He just wanted to ease the fears as to what will happen to your property. They are also trying to create a mini-park at Saxton Falls along the Morris Canal. The county could make up a team to develop a management plan to operate the canal. The plan could be reviewed in public at Greenwich. If we set a precedent of not allowing public access, we would set a path to destroy a valuable piece of history.

Mrs. Stone asked what purpose a management plan would have if the trail is in one's backyard. The County researched trying to move the trail, and it can't be done.

Mr. Frank said these arguments have been made before. Mrs. Stone replied that those houses were there before the trail was done.

Another resident stated he lived on the canal, and was forced to move in and had to sign a non-litigation waiver. He said he didn't want anyone in his backyard, it is his, he cleaned it, and he does not want anyone, not even a ranger, in it.

Mike Gordon was concerned more people will use the canal as a pathway through town. He stated that the owners will preserve the canal, but don't want all these people coming through their backyards.

Dave Carmary indicated he moved from Somerset County, and has walked the D&R Canal, and it was a wonderful experience. He has read various books on the canal. In 1924, several commissions were formed on its closure, some parts were returned, some given to railroads and municipalities were offered the land. If no one wanted it, it was offered to the highest bidder. If sold to private owner, there was no longer any public use. The Morris Canal in this area is pristine, with many animals making a home in it. If you put walking paths in it, it will ruin the canal. In some lots, the canal cuts through the middle of the property. The public should be able to view the canal from a park area, not walk through it and destroy the ecology. He does not want to see it developed.

Lanyz Metz, a member of the Morris Canal Committee works for the Hugh Moore Park in Pennsylvania. He also has a connection to the Delaware Canal, which is 60 miles long and 30 feet wide. Thousands walk the Delaware Canal each year, and there are very

MINUTES**June 7, 1995**

few problems. Because it is continuous, it retains its value, its historical function. It is designed to be linear. The properties along the Delaware Canal retain and increase in value, and the same can happen along the Morris Canal. When the plans were made, there were no lots laid out.

Steve Wilson, owner of Lot 31, said that they cleaned the canal, using 4 dumpsters already, and are not yet finished. They want to preserve it, but don't want the problems of public access. When access was announced, the assessments dropped, because of the public access.

Gladys Egler of the Morris Canal Committee stated it is a good thing in Warren County that we can live history, not just read about it.

Rich Pace from Washington Township indicated that about 13 years ago he moved to this area. He liked the Morris Canal. No one followed up on Toll Brothers. The canal path could be moved, and owners should not be held responsible for any liability for what happens of the canal. He asked the Freeholders to keep the Morris Canal.

The owner of Lot 24 indicated that the only way to make the canal continuous was to go through the middle of his lot. He said you don't understand if you think the owners will stop fighting public access.

Doris Rayna, Greenwich Township Planning Board Chair, testified that she didn't like the big brother attitude of some of the county committees telling the local people what they need. Toll Brothers only came to the local Board to give the easement, not public access. If the canal in Easton is working fine, that's great, but at least that canal has water in it. This canal is beautiful just as it is, and they want to see it stay that way.

James Lee, a resident of Greenwich and local canal historian and a representative to the Committee, said when this proposal was offered, there were no lot plans, etc. There was no reason to come to the Township at that time. The owners' gripe is with Toll Brothers and their own attorneys. The easement was there, and that should be no problem. He moved here 49 years ago, and has the Morris Canal in his front yard. Thousands have asked to visit and they are welcomed. The canal is picking up, it is on the state and national registry of historic places. If you don't accept that it is in your backyard, and you won't accept a compromise, you leave no area to reach an agreement.

Mrs. Stone reported that she agreed that the easement was handled properly, as she worked on it as mayor and on the Planning Board. However, they never discussed public access.

Another homeowner was concerned that the owners were not informed, that the town and county knew about the access, but it was kept a secret from the buyers.

A Washington Borough resident spoke that he supports the county having the Morris Canal and recreation, and also supports the owners. There are only a limited number of options. First, abandon the trail; second, maintain the trail; third, bring the trail off site on undeveloped property. If the adjacent land owner doesn't want to sell or give an easement, the county could use eminent domain, but that would create its own set of problems.

MINUTES**June 7, 1995**

A Stewart's Hunt owner Enriquez Hermez said he moved from New York City, buying his home in 1993 because he wanted to get away from the city. Now, he regrets having moved here due to this problem. If he had known, he wouldn't have purchased his home. It is a tough choice for the Freeholders. There is a liability issue. Who can guarantee him that after the trail is made, it will remain in the same condition. If anything happens, the owners will go after the township first, then the county and then whoever else is involved. If the canal had been laid out before, then the owners would have no gripe. But there were assurances that no one could build there, and no markers to show the canal. If police cannot protect the White House, how can they protect Stewart's Hunt?

Robert Shandor, Chair of the Recreation Committee, said if residents would work with the commission, we could work out a management plan. Maybe they could organize hikes on a limited basis, and let residents develop the plan. We could relocate the path to the southern berm. There should be no need to take down any trees. Mr. Shandor asked Mrs. Stone what would be wrong with moving the path to the south.

Mrs. Stone responded that this would only move it to someone else's property, and those owners don't want it either.

Mr. Shandor said this linkage may take 10-15 years, maybe 25 years, and may not occur until after the property changes hands.

Mrs. Stone replied that she is a strong supporter of home rule. Its not just the home owners that don't want it, but the township doesn't want it either.

Mr. Wilson asked why the Planning Board wasn't involved in 1992 when the access was added, then they could have gotten a set back and the problem wouldn't exist today.

Mr. Shandor said he wasn't on the board then. There was no legal violation. Each buyer had an attorney, and the information was there on file. Why hasn't Mr. Amonson sued as threatened in February? Mr. Amonson replied that they hoped to settle this matter without suit.

Bud Baxter asked about the continuity. Where does it end? At the squad building, at Route 22, where?

Another resident said we have Merrill Creek, let's spend more time there and not worry about the canal.

Christine Avise, an owner, said she thought she was paying extra for privacy and trees. If you want to preserve the area, find another area. If public access stays, they will erect a fence which will destroy the canal.

Mrs. Rayna again spoke about the lack of a continuous canal. At this time, there is no 5 mile stretch, no 2 mile stretch, maybe not even 1 mile. There has been too much county time spent on this issue. If the property is going to increase because of the canal, in 15 years the owners will come to the county and ask for public access to increase the value of the property.

A Mr. Werkheiser said it would be to your advantage to have it maintained, rather than have others use it inappropriately. The response to that was that there is no path there now, and that is why no one comes through. The only reason to keep continuity is to be eligible for Green Acres money.

MINUTES**June 7, 1995**

Paul Riley, an owner, said he wanted the Freeholders to listen to the township officials and police chief. We have heard that the canal was here first and people are infringing on it. That is ludicrous. It is his property, no one else can be there without his permission.

Dennis Bertland, chair of the Morris Canal Committee, said he thought the canal in the long run will be a benefit to all. We will need open space in the future, and if we don't get it now, it will be too late.

Florence Hightman of the Committee said when this issue came up, they tried to work with owners. He feels we should talk with the county, planning board, township and owners and try to resolve.

Harry Hamlin, a land owner between Stewart's Hunt and Jim Lee's property, said he was always opposed to the project. He wrote to the Freeholders with a proposal about his farm and the canal that runs through it. It is too bad Toll Brothers did not have integrity on this matter. The owners have their whole lives in their homes. He has been involved in the family farm for 50 years, and he understands that his front acres are on a list of another Warren County park project. He was so upset that he has offered to sell the whole farm if Warren County wants it, but wants to keep the house and barn. He opined that Toll Brothers should buy the houses back and change to one-half acre lots and sell them to those who know the canal is there.

Dave Dietrich, from Franklin Township, said when he purchased the property, the easement was a public record and that was missed. If the answer is to give up the canal, 100 years from now the resource won't exist. The suggestions to work out agreements should be explored. There should be a schedule of organized tours, and no access at other times.

John Van Dyke from the Greenwich Township Committee spoke. If Toll Brothers had done what they should have, made it known that there was public access, we wouldn't be here on this matter. We blame the homeowners and the attorneys, but now the county is tied in because they have control. He is in favor of rescinding the public access, but doesn't want to let Toll off the hook. He thinks it proper for the County to rescind access, as although it would be a loss of some history, it is a bigger wrong to the owners. Maybe the County should go after Toll. If you give control back, then can negotiate with each owner to gain access. It may be costly, but maybe Toll would pay.

A resident said that they have gone to all the meetings with the committees and boards, and got no movement. The county people have made more concessions in the past two and one half hours tonight than they did in the past 8 months.

Mrs. Dickey stated they have heard some new information tonight. They have walked the property. There is a difference in information between the owner, county planning board, township and township planning board and the Freeholders. We need to have a history put together, either the planner or attorney, to have better understanding before making a decision.

MINUTES**June 7, 1995**

Dave Dech, Planning Director, said he has information in the office. We will need to get information from other files, such as those of the township. Mr. Wallace, County Counsel, said if Mr. Dech gets the information, he can help put it together if necessary.

There were numerous comments between supporters of the access and lot owners opposed to it. Mr. Amonson asked if the Freeholders would put the issue on the agenda for the June 14 meeting.

Mrs. Dickey stated that it would be on the June 28 meeting agenda, but for discussion, not necessarily for a resolution. Mr. Miller said the Freeholders, as a Board, have not discussed this issue. While recognizing the letter in January from the owners, and the request by Mr. Amonson for a June 14 resolution, he asked who committed to a vote on this issue for that date. Mr. Amonson said he made the request this evening, and that the owners want to know where the Board stands.

Mr. Miller responded that Mrs. Dickey has been very clear, the individual members have worked on this, but not as a Board. We need to gather information and discuss it as a governing body.

Mr. Shandor said if the Freeholder vacate access, they probably will see litigation to prevent it.

Mrs. Dickey said the issue will be on the June 28 agenda for discussion, maybe a decision which may lead to a resolution after that.

Mr. Wallace asked if all the owners are willing to agree to limited access, and what language might be needed to guarantee such limited access. It is something that the owners need to discuss among themselves.

2. Four way stop sign in center of town.

Mrs. Stone reported that the county is doing a study and survey of the intersection, and then it will go to the state DOT for approval. We should have information by the end of the summer.

Mr. Gordon said that rather than a sign in town, to avoid the problem by a light on Route 22 to allow a left turn to access Route 78.

The township is already being looked at due to the proposed mall. The police chief favors a 4 way stop sign. Mr. Miller said it may be better to try for a stop light, which could become necessary in the future anyway.

A resident said another hazard is the narrow roadway over the railroad, making it hard to see approaching traffic.

The Township Council members thanked the Freeholders for holding the meeting in their municipality.

There was one item which needed to be discussed by the Board in Executive Session.

MINUTES

June 7, 1995

RESOLUTION 377-95

On motion by Mrs. Stone, seconded by Mr. Miller, the following resolution was unanimously adopted by the Board of Chosen Freeholders of the County of Warren at a meeting held June 7, 1995.

RESOLUTION AUTHORIZING THE WARREN COUNTY BOARD OF CHOSEN FREEHOLDERS TO HOLD AN EXECUTIVE SESSION ON JUNE 7, 1995. THE GENERAL NATURE OF THE SUBJECT TO BE DISCUSSED INCLUDES VARIOUS PERSONNEL MATTERS, CONTRACTS, LITIGATION, LAND ACQUISITION AND ATTORNEY/CLIENT PRIVILEGED COMMUNICATIONS. IT IS ANTICIPATED THAT THE ABOVE STATED SUBJECT MATTER WILL BE MADE PUBLIC AT SUCH TIME AS THE PUBLIC INTEREST PERMITS DISCLOSURE AND/OR WHEN A REQUEST IS MADE CONSISTENT WITH THE OPEN PUBLIC MEETINGS ACT AND WITH STATUTORY AND COMMON LAW "RIGHT TO KNOW" PROVISIONS

WHEREAS, Section 7 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances presently exist, **NOW, THEREFORE, BE IT RESOLVED** by the Board of Chosen Freeholders of the County of Warren in the State of New Jersey, pursuant to Section 8 of said act, as follows:

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matter.

2. The general nature of the subject matter to be discussed is:

1. Various personnel matters.
2. Contracts.
3. Litigation.
4. Land acquisition.
5. Attorney/client privileged communications.

3. It is anticipated that the above stated subject matter will be made public at such time as the public interest permits disclosure and/or when a request for disclosure is made consistent with the Open Public Meetings Act and with statutory and common law "right to know" provisions.

4. This resolution shall take effect immediately.

I hereby certify the above to be a true copy of a resolution adopted by the Board of Chosen Freeholders of the County of Warren on the date above mentioned.

s/Naomi J. Stout, Deputy Clerk

ROLL CALL: Mr. Miller: yes Mrs. Stone: yes Mrs. Dickey: yes

On motion by Mrs. Stone, seconded by Mr. Miller, the meeting returned to Open Session at approximately 10:55 p.m.

ROLL CALL: Mr. Miller: yes Mrs. Stone: yes Mrs. Dickey: yes

On motion by Mr. Miller, seconded by Mrs. Stone, and there being no further official business to come before the board at this time, the meeting adjourned at 10:55 p.m.

ROLL CALL: Mr. Miller: yes Mrs. Stone: yes Mrs. Dickey: yes

ATTESTED TO:

Naomi J. Stout, Deputy Clerk