

**August 30, 2010**

On the above date at 1:30 P.M., the Luzerne County Board of Commissioners convened a special meeting with the following present: Maryanne Petrilla, Chairman; Thomas P. Cooney, Commissioner; Stephen Urban, Commissioner; Douglas Pape, Chief Clerk/County Manager; Vito DeLuca, County Solicitor

Maryanne Petrilla called the meeting to order and asked everyone to join in saying the Pledge of Allegiance.

It is noted that all meetings are electronically recorded

**CALL TO ORDER.....Maryanne C. Petrilla, Chairman**

**ANNOUNCEMENTS.....Douglas A. Pape  
County Manager /Chief Clerk**

No announcements.

**DISCUSSION OF AGENDA ITEMS.....Maryanne C. Petrilla, Chairman**

The purpose of today’s special meeting is to ratify the filing of a complaint today in Lackawanna Court which is to protect Luzerne County's investment in the AAA baseball franchise owned by the Stadium Authority. Let me give you a little history, at the onset of the agreement between Luzerne County and Lackawanna County, Luzerne agreed to help fund the acquisition of the NE baseball franchise. We entered into a contract with Lackawanna County and the Stadium Authority which governs how the proceeds of any future sale of the franchise would be divided. The parties agreed that, in the event of a sale of the franchise, the Stadium Authority would only have a right to the first \$345,000 of the gross proceeds and no more. The parties further agreed that the gross proceeds over that amount would be divided evenly between Lackawanna County and Luzerne County. In reaching this agreement, the parties discussed and rejected the idea that the proceeds would or could be used first to retire existing debt (or for any other purpose) prior to the distribution to the parties. Both the Stadium Authority and Lackawanna County have reneged on that deal. They have been covert in their dealings regarding the franchise. The Stadium Authority and Lackawanna County have taken the position that debt, including any debt owed to Lackawanna County, should be paid off out of the proceeds first and before any distribution to the parties, and that Luzerne County is at most entitled to only half of the "net" proceeds of any sale. In fact, the Stadium Authority has now totally repudiated its commitment to Luzerne County by entering into a loan agreement that requires it to use all of the proceeds for repairs to the Stadium or for the construction of a new Stadium. While Luzerne County’s ultimate goal is to keep baseball in Northeast Pennsylvania thereby maintaining for this region the economic, social and other benefits that flow from the operation of a AAA baseball franchise, Luzerne County brings this lawsuit to ensure that the rights of our citizens and their interest in this franchise are protected. With that, Luzerne County is asking the Court to rule that the Stadium Authority's rights in the gross proceeds of any sale are limited to \$345,000 and that Luzerne County is entitled to one-half of the gross proceeds over and above \$345,000. And that’s it, the bottom line is, the people of Luzerne County have a proprietary interest in this franchise and it is our responsibility to protect it.

**FURTHER DISCUSSION FROM COMMISSIONERS**

**Commissioner Stephen Urban**

This has been a long process. I have been a commissioner for eleven years. I just discovered this relationship back in 2000 with Lackawanna County. I followed it through. We made sure we paid our half of our obligation, which was \$1 million, which was paid off in 2007. In 2007 as a commissioner, when

Bob Cordaro handed me a copy of an agreement with Mandalay and the Yankees, at an airport meeting, I said, "What's this all about Bob?" Ever since then we did what was right for the people of this county. No.1 we had a public vote I believe in August of 2007, rejecting the agreement. We followed up with that by hiring two law firms. A law firm in Scranton and a law firm in Harrisburg to look into what our obligations were and what we believed we were going to get from this agreement. This agreement in my opinion was not in concert with the agreement in 1986. The 1986 agreement was seriously changed with the new agreement that Bob Cordaro had entered into on behalf of the Stadium Authority and Lackawanna County. To our dismay on September 11, 2007 there was a press conference called here in Luzerne County and that press conference all at once was cancelled. I never had any discussions with the law firms at the time. I was kept out of the loop. In June I started going back and tried to reconstruct what happened after looking over the fact that Luzerne County had paid these two law firms about \$60,000. We were able to find out that actually a lawsuit was in fact written up and ready to be turned over to the courts on September 11, 2007. But for some unknown reason Jim Blaum, on the advice of former Commissioner Skrepenak called up and told the attorneys to not file the lawsuit. To me after looking at the original lawsuit, after bringing that to the attention of my fellow commissioners and solicitor, we do have a cause of action here. And the cause of action is to protect the residents of Luzerne County. Our residents are important to us. We do own half the franchise. We paid for half the franchise and we're entitled to half the proceeds of the franchise. No one can arbitrarily change the terms of an agreement without a vote from the Board of Commissioners. I think the Lackawanna County Commissioners have been stubborn in not wanting to sit down and negotiate with us and abide by an agreement that was entered into by two former Boards of Commissioners. That's why we're here today. Again, I want to echo what Maryanne said, we don't want to sue a Board of Commissioners but this is what it comes down to and we're going to do it.

**Commissioner Thomas Cooney**

My comments are simply that every resident of Luzerne County should be disappointed today. Disappointed in that we had to resort to this and we have to try and keep a family oriented, economic development tool in Northeastern Pennsylvania, we have to sue a fellow county and it's Stadium Authority.

**PUBLIC COMMENT ON AGENDA ITEMS**

No Public Comment

**COMMUNICATIONS – DOUGLAS A. PAPE, COUNTY MANAGER/CHIEF CLERK**

**MOTION**

**Settlement Agreement - Bartleson v. Luzerne County Children and Youth, et al, 3:09-cv-00031**

Request a Motion to approve settlement agreement in the matter of Bartleson v. Luzerne County Children and Youth, et al, 3:09-cv-00031 and make payment pursuant to said settlement agreement in the amount of \$47,500.00 subject to Solicitor review and approval.

It was moved by Commissioner Urban, seconded by Commissioner Cooney  
**"AYES" PETRILLA, COONEY, URBAN**

## MOTION

### **Ratification of Agreement to retain Legal Counsel for Litigation**

Request a motion to ratify agreement between Luzerne County Commissioners and Reed Smith, LLC for the purpose of filing action against the County of Lackawanna and the Multi-Purpose Stadium Authority of Lackawanna County (MPSA) at the negotiated rates and terms as specified in the engagement letter dated August 5, 2010. (See attached.)

It was moved by Commissioner Urban, seconded by Commissioner Cooney  
“AYES” PETRILLA, COONEY, URBAN

## MOTION

### **Authorization to file litigation**

Request a Motion to authorize the filing of litigation in the matter of Luzerne County vs. the County of Lackawanna and The Multi-Purpose Stadium Authority of Lackawanna County.

It was moved by Commissioner Urban, seconded by Commissioner Cooney  
“AYES” PETRILLA, COONEY, URBAN

## **END OF COMMUNICATIONS**

### **MEDIA QUESTIONS**

#### **Sarah Buynovsky from WNEP**

If someone could address, obviously there are two Lackawanna County Commissioners facing federal charges, you also mention Commissioner Skrepenak, do you think there was anything criminal involved in the lack of filing the lawsuit or what was going on behind the scenes with the whole Mandalay deal?

#### **Commissioner Petrilla**

I was personally very surprised to learn we had gone so far in preparing a lawsuit and it was called off at the last minute. It truly was the last minute. I think it was supposed to be filed in the morning and maybe a half hour beforehand it was cancelled. We don't have the answers to that. I don't think any of us do. Commissioner Urban was a commissioner at that time so he was very surprised as he just mentioned but he may have some more insight .As far as I know it was a big surprise to us.

#### **Commissioner Urban**

My understanding in talking with the former attorneys leading up to the suit, who have a conflict now, they are no longer representing us, they indicated who met with them and that was Commissioner Skrepenak. As you remember Commissioner Tucker, who is now deceased, was also a commissioner at the time. I think she was kept in the dark on this. Greg was calling all the shots himself and for some unknown reason he told Jim Blaum that morning to call and cancel the lawsuit.

#### **Commissioner Petrilla**

And we don't know why.

#### **L.A.Tarrone, WYLN**

Two quick questions. I remember a year before that Skrepenak and Vonderheid talking about filing suit against Lackawanna when the whole ordeal started. Can you tell us the retaining fee this law firm is going to get?

**Commissioner Urban**

What happened after that Mandalay agreement was handed to us, we took it back and reviewed it and had a formal vote of the Board of Commissioners where we voted to reject the agreement. Then we voted separately to hire two law firms, one law firm in Harrisburg and one law firm in Scranton to look for our rights and look what our interests were and that's where they came up with the lawsuit that was never filed.

**Sarah Buynovsky from WNEP**

Do you feel the Lackawanna County Board of Commissioners strong armed Luzerne County in a sense in that they took over these negotiations and had these covert meetings?

**Commissioner Petrilla**

I believe Lackawanna County has proceeded with whatever decisions they had made without any regard to Luzerne County. It's troubling and at the same time it helped us make the decision we made today, to go forward and have the courts decide. Have the courts tell us and tell them what we own because we're interested in protecting the right of Luzerne County and keeping baseball in Northeastern Pennsylvania.

**L.A.Tarrone, WYLN**

Do you have a preference whether the club is publically owned as it is now or owned by a private...inaudible?

**Commissioner Urban**

Anything that becomes public ownership they can simply leave. Now the ownership is between two counties. As long as you own the franchise you have the right to a team here. If it's sold publically they can take the team wherever they get the best deal.

**Commissioner Petrilla**

LA, In regard to your second question; Vito, how much are the fees?

**Solicitor, Vito DeLuca**

The hourly billing rates are \$395 for all attorneys, \$195 for paralegals, and the estimated cap on the litigation to the point of filing the complaint was estimated at \$17,500.

**Commissioner Urban**

We spent almost \$60,000 several years ago and have nothing to show for it.

**Mike Buffer, Citizens Voice**

Likened to the expense of hiring Reed Smith.....inaudible

**Commissioner Urban**

They were conflicted out.

**Commissioner Petrilla**

Things have changed in their firm since that time which has caused them to have a conflict of interest. So they were not able to proceed with the case for us.

**Mike Buffer**

Can you elaborate more on what that conflict of interest is?

**Commissioner Cooney**

One of the partners has a relationship with him.

**Commissioner Petrilla**

I think one of the partners married a relative.

**Commissioner Urban**

Of one of the Commissioners.

**Commissioner Petrilla**

It has a family background in the law firm.

**Commissioner Urban**

They disclosed that to us during our discussions.

**Mike Buffer**

What about having Vito handle the suit in-house, saving the expense of outside counsel?

**Commissioner Petrilla**

Vito's work has saved us a tremendous amount this far working with Reed Smith.

**Vito DeLuca**

This would be beyond the ability of my office to handle. There are special issues regarding baseball franchise issues that I would not be able to handle. It requires an expert in the field.

**Mike Buffer**

How did you come to the decision to employ Reed Smith for this particular suit?

**Vito DeLuca**

I had made the recommendation to the Commissioners. We looked at other firms. We had some discussions with other firms. We had a relationship with Reed Smith. We had negotiated a lower fee per hour than what they normally charge. In addition they have great experience with contracts. They were able to put this together in the time that was required to have it put together.

**Mike Buffer**

When did they start working on drafting this complaint?

**Vito DeLuca**

About two weeks ago.

**Sarah Buynovsky from WNEP**

When will it be filed?

**Commissioner Petrilla**

It has been filed. It should be there now. It was being delivered this morning by messenger from Philadelphia.

**Sarah Buynovsky**

The retainer is \$395 hourly and \$195 hourly per attorney, per paralegal?

**Vito DeLuca**

Correct.

**Commissioner Petrilla**

But it's capped.

**Vito DeLuca**

It's capped at \$17,500.

**Mike Buffer**

What about after that, are those rates still in effect?

**Vito DeLuca**

Yes.

**Sarah Buynovsky**

Inaudible.....What are you hoping for?

**Commissioner Petrilla**

We want to make sure first of all with all the rumors of the franchise being sold, we wanted to make sure that the franchise was not sold, so that was first and foremost. Our main priority is to make sure this is settled before any decisions are made about selling the franchise. We want to keep baseball here in Northeastern Pennsylvania.

**Mike Buffer**

Where is the suit being filed?

**Commissioner Petrilla**

Lackawanna.

**Mike Buffer**

Do you have any concerns of a conflict of interest filing there?

**Commissioner Petrilla**

Well we had to file there. The law is the law.

**Commissioner Urban**

The Stadium Authority is in Lackawanna County, so it's Lackawanna County.

**Mike Buffer**

Is there an opportunity to file in a neutral court like the Commonwealth Court?

**Vito DeLuca**

The initial jurisdiction is the Court of Common Pleas. It was filed where it must be filed.

**Mike Buffer**

Do you think there is a conflict of interest for a Judge from Lackawanna County to be ruling on.....

**Commissioner Petrilla**

I think that's an ethical question. But the law stated we must file in Lackawanna so that's where we filed. Certainly if we're not happy with the decision we have the right to appeal it. Hopefully it won't come to that.

**FINAL COMMENTS**

**Commissioner Petrilla**

I want to thank everyone for coming on such short notice. As Tom said this is not a happy day for us but it is something we had to do to protect the residents of Luzerne County.

**MOTION TO ADJOURN:**

It was moved by Commissioner Cooney, seconded by Commissioner Urban  
"AYES" PETRILLA, COONEY, URBAN

*Respectfully submitted,*



*Jennifer Thomas, Recording Secretary*