



COUNTY OF UNION

OFFICE OF THE COUNTY COUNSEL
Robert E. Barry, Esq., County Counsel

CONFIDENTIAL MEMORANDUM

BOARD OF CHOSEN FREEHOLDERS

DEBORAH P. SCANLON
Chairman

ALEXANDER MIRABELLA
Vice Chairman

LINDA CARTER

ANGEL G. ESTRADA

CHRISTOPHER HUDAK

MOHAMED S. JALLOH

BETTE JANE KOWALSKI

DANIEL P. SULLIVAN

NANCY WARD

GEORGE W. DEVANNEY
County Manager

M. ELIZABETH GENIEVICH,
C.M.C., M.P.A.
*Deputy County Manager/
Director of Administrative
Services*

ROBERT E. BARRY, ESQ.
County Counsel

NICOLE L. DIRADO,
C.M.C., M.P.A.
Clerk of the Board

TO: Lawrence M. Caroselli, Director
Department of Finance

CC: Robert E. Barry Esq., County Counsel
Alfred J. Faella, Director, Dept. of Parks & Comm. Renewal
Victoria Durbin-Drake, Administrator, Open Space,
Recreation and Historic Preservation Trust

FROM: Burton Zitomer, Esq.
Assistant County Counsel, Green Acres

SUBJECT: USE OF TRUST FUND DOLLARS FOR PARK
MAINTENANCE

DATED: April 27, 2011

This office has been asked to render an opinion relative to the issue of whether Trust Fund monies may be used to offset maintenance expenses incurred in the operation of the County's open space, recreation areas and historic sites? Further, if the answer to this question is "Yes", what is the County's legal authority for doing so?

I. Historical Background:

On February 5, 2001, the Board of Chosen Freeholders of Union County (the "Board") adopted Ordinance No. 5242001 (copy attached). This ordinance was the result of an initiative taken by the

ADMINISTRATION BUILDING

Elizabethtown Plaza

Elizabeth, NJ 07207

(908)527-4250

fax(908)289-4230

www.ucnj.org

We're Connected to You!

Page Two...

Board with regard to placing before the voters of the County a public referendum on the question of whether Union County should create an Open Space, Recreation and Historic Preservation Trust for the purposes stated in the referendum question. This question was approved by the voters of the County in the prior year's General Election held in November of 2000.

The language of the Referendum Question basically parrots the language of the statute (NJSA 40:12-15.2) which allows a governing body to establish such a Trust through the passage of a question put before the voters for the purposes enumerated in the statute.

II. Legal Discussion

The allowable expenditures for the Trust monies are clearly set forth in the statute (NJSA 40:12-15.2) as well as in the Referendum Question. The question, in part stated that the Trust monies could be used for"(c) the maintenance of lands acquired for recreation or conservation purposes..." (emphasis added)

As an aside it is worth noting that the question does not limit maintenance to properties solely acquired by the Trust, but rather, in its literal reading, would seem to apply to all properties in the County set aside for open space purposes.

III. Conclusion :

My view is that Trust monies can be used to maintain our parks and other open space and historic sites without running afoul of the mandates of the Referendum.

BZ

Attachment