

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING
ROOM 113
THURSDAY, APRIL 14, 2005
8:30 A.M.**

Commissioners Present: Bernie Heier
Bob Workman
Ray Stevens

Commissioners Absent: Larry Hudkins, Chair
Deb Schorr, Vice Chair

Others Present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Kristy Mundt, Deputy County Attorney
Bruce Medcalf, County Clerk
Ann Taylor, County Clerk's Office

Commissioner Stevens opened the meeting at 8:31 a.m.

AGENDA ITEM

**1 APPROVAL OF THE STAFF MEETING MINUTES OF THURSDAY,
APRIL 7, 2005**

MOTION: Workman moved and Stevens seconded approval of the Staff Meeting minutes of April 7, 2005. Workman, Stevens and Heier voted aye. Motion carried.

2 ADDITIONS TO THE AGENDA

- A. Lincoln-Lancaster County Ecological Advisory Committee (EAC)
- B. Request from Clerk of the District Court for Renewal of Software Maintenance for Kofax Ascent Capture License (Exhibit A)
- C. Board of Health Appointments (Exhibit B)
- D. Interlocal Agreement Between the City and County for the 2005 Byrne Justice Assistance Grant (JAG) Program Award

MOTION: Heier moved and Workman seconded approval of the additions to the agenda. Workman, Stevens and Heier voted aye. Motion carried.

3 LEGISLATIVE UPDATE - Gordon Kissel, Legislative Consultant

Gordon Kissel, Legislative Consultant, gave a legislative update (Exhibit C). He also reported that:

- A compromise has been reached on LB 645 (Prohibit an agency or political subdivision of the state from providing certain telecommunications services). There will be a strict prohibition on retail by the power companies and a study on wholesale, with a two-year moratorium. Once the study is completed, the issue will come back to the Legislature to see how a power supplier might be able to provide some of that service.
- Senator Beutler has offered an amendment to LB 40 (Change the documentary stamp tax fee) to increase it an additional \$0.05 for county use.

4 SUBMIT TITLE V CRIME COMMISSION GRANTS AND JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT (JAIBG) - Kit Boesch, Human Services Administrator

Kit Boesch, Human Services Administrator, reported recommendations from the Juvenile Justice Review Committee (JJRC) for juvenile justice funding (see agenda packet). She requested authorization to submit two programs for Title V funding through the Nebraska Crime Commission. She said a letter from the County Board, prioritizing the programs, is required and recommended prioritization of the Court Appointed Special Advocates (CASA) Minority Outreach Program. Boesch also requested authorization to submit requests for Juvenile Accountability Incentive Block Grant (JAIBG) and LB 640 funding.

MOTION: Heier moved and Workman seconded to approve submission of the funding requests. Heier, Workman and Stevens voted aye. Motion carried.

ADDITIONS TO THE AGENDA

D. Interlocal Agreement Between the City and County for the 2005 Byrne Justice Assistance Grant (JAG) Program Award

Kristy Mundt, Deputy County Attorney, presented the interlocal agreement for signature, noting that the City has agreed to provide the County \$173,782 from the Justice Assistance Grant (JAG) award for the Law Enforcement Program.

Stevens questioned whether the Board can take action, as the item was an addition to the agenda.

Kerry Eagan, Chief Administrative Officer, said the Board could declare the item an emergency.

Mundt said she does not recall whether the Board took action on the agreement at the public hearing on March 1, 2005, but said the City is under the impression that the Board has approved the agreement. **NOTE:** A later review of the minutes revealed that no action was taken.

MOTION: Workman moved and Heier seconded approval of ratification. Heier, Workman and Stevens voted aye. Motion carried.

5 PENDING LITIGATION - Kristy Mundt, Deputy County Attorney

MOTION: Workman moved and Heier seconded to enter Executive Session at 8:53 a.m. for discussion of pending litigation. Workman, Heier and Stevens voted aye. Motion carried.

MOTION: Workman moved and Heier seconded to exit Executive Session at 9:18 a.m. Heier, Stevens and Workman voted aye. Motion carried.

6 CONDITIONAL AND CONTRACT RE-ZONING - Kristy Mundt, Deputy County Attorney

Kristy Mundt, Deputy County Attorney, gave an overview of a legal opinion relating to conditional and contract rezoning (see agenda packet). She said contract zoning is when a governing body and a property owner exchange binding promises. In conditional zoning, a zoning ordinance is passed upon the condition that a landowner perform a certain act prior to, simultaneously with, or after the passage of the zoning resolution. There is no enforceable contract and the agreement is typically in the form of a covenant or a deed restriction. She recommended that the County administer the concept of conditional zoning in the same manner as special permits. Currently, an applicant who is granted a special permit must sign a letter of acceptance agreeing to be bound by the conditions of the special permit embodied in the county resolution. The applicant is required to file the resolution and letter of acceptance with the Register of Deeds and the conditions run with the land. Mundt said The Nebraska Supreme Court addressed the legality of conditional rezoning in *Giger v. City of Omaha*, 232 Neb.676 (1989) and held that conditional rezoning is valid, but not without limitation.

Mundt also addressed the issue of whether the Lancaster County Zoning Regulations should specifically authorize conditional rezoning. She said the Nebraska Supreme Court touched on that issue in the *Giger* case and held that there is an implied grant of power to the County in the zoning regulations. Mundt noted that other jurisdictions have taken a different position than Nebraska.

Marvin Krout, Planning Director, appeared and said if this is a tool that the County Board wants to use in the future, it should explain how and when it would apply in the zoning ordinance.

Stevens noted the Rural-to-Urban Transition Streets (R.U.T.S.) Program and said one issue being looked at is whether the County should require an additional 10 feet of right-of-way on section line roads. He asked whether that could be made a condition of a special permit or a change of zone.

Krout said right-of-way is specified as 50 feet in the code and said the code should be changed if an increase is desired.

It was noted that a landowner could voluntarily make the dedication.

Brief discussion also took place regarding County Change of Zone 04080, from AG Agricultural District to I Industrial District, requested by Capital Concrete Company, on property generally located at the northeast corner of Highway 2 and Highway 42 (South 162nd Street) in Lancaster County, Nebraska. Mundt said the County Board could amend the County Zoning Regulations to include a special permit provision for the operation of concrete and asphalt plants. She said it might also be feasible for the developer (Capital Concrete Company) to enter into private agreements with the surrounding landowners incorporating the proposed conditions, so the landowners, rather than the County, would be responsible for the enforcement of such conditions.

Eagan said the applicant has indicated that an option on the land is running out and has requested Board action on the application by the end of April.

Board consensus was to remove County Change of Zone 04080 from Pending, at the applicant's request.

The Planning Department was asked to follow-up on water quantity on the site.

- 7 NEBRASKA ASSOCIATION OF COUNTY OFFICIALS (NACO) LEASE FOR PURCHASE OF COMPUTER EQUIPMENT FOR INFORMATION SERVICES** - Dave Kroeker, Budget and Fiscal Officer; Doug Thomas, Information Services Director; Randy Ober, Technical Support/Operations Coordinator

Doug Thomas, Information Services Director, said IBM has indicated that the existing operating system and associated hardware will go unsupported, effective March, 2007. He presented Cost/Benefit Analysis New Processor/Disk Storage Device (Exhibit D). He said the low bid was from MSI of Omaha for approximately \$286,000 and requested

authorization to proceed with a 60 Month Lease/Purchase through the Nebraska Association of County Officials (NACO).

MOTION: Workman moved and Heier seconded to approve the concept of a Nebraska Association of County Officials (NACO) lease/purchase for the equipment. Workman, Heier and Stevens voted aye. Motion carried.

8 CLAIMS FOR REVIEW

- A. County Sheriff - Payment voucher dated March 22, 2005, payable to Jeffrey Bliemeister in the amount of \$222.32. Payment includes \$100 for replacement of clothing destroyed during a homicide investigation while in Florida. There is not a provision in the Sheriff Deputy's contract to reimburse for ruined clothing.

Bill Jarrett, Chief Deputy Sheriff, appeared and gave a brief explanation of the claim.

Board consensus was to place the item under Claims for Review on the Tuesday, April 26, 2005 Board of Commissioners Meeting agenda.

- B. Families First & Foremost (F³) - Payment voucher dated March 31, 2005, payable to Three Eagles Communications for invoice 5066-00002-0002 in the amount of \$2,975. Payment exceeds the \$1,000 agency limit. (No informal bids)

MOTION: Heier moved and Workman seconded to: 1) Handle the claim through the regular claims process; and 2) Send a letter to Renee' Dozier, Families First & Foremost (F³) Director, reminding her to follow the county purchasing policies when making purchases. Workman, Stevens and Heier voted aye. Motion carried.

9 ACTION ITEMS

- A. Microcomputer Request C#2005-108 from County Attorney for \$1,184.50 from Drug Forfeiture Fund

MOTION: Heier moved and Workman seconded approval. Heier, Workman and Stevens voted aye. Motion carried.

- B. Letter to Nancy Montanez, Nebraska Department of Health & Human Services (HHS) Director, Regarding Integrated Care Coordination Unit (ICCU) Contract

MOTION: Heier moved and Stevens seconded approval. Heier, Stevens and Workman voted aye. Motion carried.

10 ADMINISTRATIVE OFFICER REPORT

- A. Seasonal Power Purchase Agreement with Lincoln Electric System (LES)

Eagan noted that the reimbursement rate is slightly less than last year.

The Board scheduled the item on the Tuesday, April 19, 2005 Board of Commissioners Meeting agenda.

- B. Agenda Items for Joint Lincoln Public Schools/City/County Meeting (Monday, May 2, 2005 at 7:30 a.m. in Room 113)

Workman suggested a presentation from Roger Figard, City Engineer, on infrastructure.

- C. Agenda Items for City-County Common Meeting (Monday, May 2, 2005 at 8:30 a.m. in Room 113)

Stevens suggested discussion of Southwest 40th Street.

- D. The Hartford Deferred Compensation Plan (457) Contract Options

Eagan recommended that the County accept the option to stay with the existing contract.

The Board scheduled the item on the Tuesday, April 19, 2005 Board of Commissioners Meeting agenda.

- E. Health Insurance Portability & Accountability Act (HIPAA) Policies

Tom Fox, Deputy County Attorney, appeared and explained that the deadline for security policies for electronic protected health information is April 20, 2005.

The Board scheduled action on the Tuesday, April 19, 2005 Board of Commissioners Meeting agenda.

ADDITIONS TO THE AGENDA

A. Lincoln-Lancaster County Ecological Advisory Committee (EAC)

Heier suggested that the Board give direction to the Lincoln-Lancaster County Ecological Advisory Committee (EAC) as to whether the Subcommittee on Acreage Developments should evaluate and prepare a report on every acreage development that comes before the Board and whether committee members should testify before the Lincoln City/Lancaster County Planning Commission.

MOTION: Workman moved and Stevens seconded to inform the Lincoln-Lancaster County Ecological Advisory Committee (EAC) that the Subcommittee on Acreage Developments may evaluate acreage developments and prepare reports at its own discretion, or at the County Board's request, and that if a report is prepared, a copy should be sent to the landowner. Heier, Workman and Stevens voted aye. Motion carried.

B. Request from Clerk of the District Court for Renewal of Software Maintenance for Kofax Ascent Capture License (Exhibit A)

MOTION: Workman moved and Heier seconded approval. Workman, Stevens and Heier voted aye. Motion carried.

C. Board of Health Appointments (Exhibit B)

Board consensus was to schedule the appointments on the Tuesday, April 19, 2005 Board of Commissioners Meeting agenda.

11 DISCUSSION OF BOARD MEMBER MEETINGS

A. Parks & Recreation Advisory Board - Stevens

Stevens said discussion focused on expansion of disc golf in Tierra Park, municipal golf course revenue, and the budget request and possible reductions in service.

B. Region V Governing Board - Schorr

No report.

C. Meeting of Public Building Commission (PBC) Chair, Vice Chair and Mayor - Hudkins

No report.

D. Public Building Commission (PBC) - Hudkins, Workman

Workman said discussion focused on the Lincoln-Lancaster County Health Department expansion project and the lawsuit from the State related to water damage from a burst pipe in the storage facility at 9th and K Streets.

E. Board of Health - Hudkins

No report.

12 ADJOURNMENT

MOTION: Heier moved and Workman seconded to adjourn the meeting at 10:23 a.m. Heier, Stevens and Workman voted aye. Motion carried.

Bruce Medcalf
Lancaster County Clerk