

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, SEPTEMBER 25, 2007
COUNTY COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.

Commissioners Present: Bob Workman, Chair
Bernie Heier, Vice Chair
Larry Hudkins
Deb Schorr
Ray Stevens

Others Present: Kerry Eagan, Chief Administrative Officer
Tom Fox, Deputy County Clerk
Dan Nolte, County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 9:30 a.m..

1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, September 18, 2007.**

MOTION: Stevens moved and Heier seconded approval of the minutes of the Board of Commissioners meeting held on September 18, 2007. Stevens, Schorr, Heier and Workman voted aye. Hudkins was absent from voting. Motion carried.

2) **CLAIMS: Approval of all claims processed through Tuesday, September 25, 2007.**

MOTION: Heier moved and Stevens seconded approval of all claims processed through September 25, 2007. Schorr, Heier, Stevens and Workman voted aye. Hudkins was absent from voting. Motion carried.

(Hudkins entered the Hearing Room.)

3) **PUBLIC HEARINGS:**

A. County Special Permit No. 07033, requested by Greg Sanford, to allow mining and extraction of soil on approximately 159.39 acres, more or less, generally located on the east side of North 56th Street/Highway 77, between Branched Oak and Davey Roads, Lancaster County, Nebraska. (See New Business Item 5A for correlating resolution.)

The Chair opened the public hearing and asked if anyone wished to appear in favor of the proposal.

The oath was administered to Mark Hunzeker, attorney appearing on behalf of Greg Sanford, applicant.

Hunzeker gave a brief overview stating that the proposal is almost identical to a previous proposal which was before the County Board approximately one year ago. He stated it maintains the drainage in the same direction and will be regulated by State and Federal authorities. The Planning Commission, he said, proposed the following conditions to which they object: 1) Restriction of the hours of operation from 9 a.m. to 4 p.m. Monday through Friday; 2) \$5,000 performance bond and 3) Access to site shall be limited to Highway 77.

The following individuals were administered the oath and provided testimony in opposition to the proposal addressing concerns relating to safety, enforcement and oversight of conditions placed upon the special permit, access to the proposed site, hours of operation, warning signs for entering and exiting trucks, removal of dirt/spills upon the road and, collection of sales tax as well as property tax which is no longer has greenbelt status. It was also suggested that a moratorium be declared on soil mining to allow a task force to be created to discuss such issues as oversight/enforcement of conditions placed on such proposals, development of regulations, inspection fees, development of stringent re-seeding and vegetative guidelines.

Martha Minchow, 8181 Davey Road, Lincoln, Nebraska.

Sheila Collins, 1805 Davey Road, Lincoln, Nebraska.

Tom Keep, 8601 Davey Road, Lincoln, Nebraska.

Marlene Tracy, 17500 North 84 Street, Lincoln, Nebraska.

Joni Christensen, 8405 Davey Road, Lincoln, Nebraska. Submitted documentation pertaining to Special Permit No. 1816A (Exhibit 1).

Gary Sherman, 6305 Agnew Road, Ceresco, Nebraska. Submitted written testimony relating to soil mining regulations (Exhibit 2).

Phil Pfeiffer, 15400 North 56 Street, Lincoln, Nebraska.

Karen Kurbis, 17500 North 84 Street, Lincoln, Nebraska. Submitted documentation relating to soil mining (Exhibit 3).

3) **PUBLIC HEARINGS CONTINUED:**

Carol Sherman, 6305 Agnew Road, Ceresco, Nebraska. Submitted written comments (Exhibit 4).

Christopher Collins, 1805 Davey Road, Lincoln, Nebraska. Submitted documentation relating to small business loans (Exhibit 5).

John Baumgartner, 6030 Davey Road, Lincoln, Nebraska.

Jerry Minchow, 8181 Davey Road, Lincoln, Nebraska.

The oath was administered to Mike DeKalb, Planning Department.

In response to question asked by Schorr, DeKalb stated no soil mining permits have been rejected. Also discussed were types of restrictions/conditions placed upon special permits to avoid future construction of motor sports facilities, slick road conditions, performance bonds, inspection and permit fees and collection/payment of property tax.

The oath was administered to Norm Agena, County Assessor/Register of Deeds.

In response to a question regarding soil mining properties having greenbelt status, Agena explained when his office is aware that soil mining is taking place they recapture the value on the portion being mined.

Stevens asked if there was a way to obtain a survey map indicating an applicant is in compliance of conditions at the end of a soil mining project.

DeKalb explained the drawings, which would be a part of the applicant's file, show existing and proposed final contours. He suggested that once a project is completed there be certification by an engineer indicating that it is 'finished as shown'.

Discussion took place regarding the process for revocation/review of the special permit. DeKalb explained the process and added that the Board could request the applicant to appear at a County Board meeting upon renewal of a permit.

Stevens asked what options the County Board would have if it were brought to their attention by Building and Safety that an applicant was not complying with the conditions of a special permit.

3) **PUBLIC HEARINGS CONTINUED:**

DeKalb stated he thought the Board could request the permit be brought back to them for a hearing to inquire whether the applicant was in compliance with the conditions. If it is found that the applicant is not in compliance, the permit could be repealed by the Board or it could be sent back to Building and Safety to follow their provisions of enforcement.

Heier submitted an email from Jeff Atkinson in support of the special permit (Exhibit 6) and an email from Shannon McGovern also supporting the special permit (Exhibit 7).

In closing, Hunzeker stated the property would not be managed by Mr. Sanford. He explained Sanford will be entering into an agreement with a contractor and that it will be supervised by engineer hired by Sanford. The contractor will be responsible for all of the conditions of approval for the special permit and any National Pollutant Discharge Elimination System (NPDES) permit issued. Hunzeker added that the agreement will include inspection by the engineer to ensure compliance and determination of how much soil is being removed.

Discussion took place regarding hours of operation.

The Chair asked if anyone else wished to provide testimony.

No one appeared and the hearing was closed.

4) **OLD BUSINESS:**

A. A resolution instituting eminent domain proceedings against Douglas B. and Kimberly K. Rath, Trustees, Project C55-M-407(1), Tract No. 4 (Northwest 70th Street between West Adams and West Superior Streets). (R-07-0068)

Tom Fox, Deputy County Attorney, stated he spoke with Mr. Rath's attorney who indicated all documents are on Mr. Rath's desk for signature.

MOTION: Stevens moved and Heier seconded approval of Resolution 07-0068 instituting eminent domain proceedings against Douglas B. and Kimberly K. Rath, Trustees, Project C55-M-407(1), Tract No. 4 (Northwest 70th Street between West Adams and West Superior Streets). Heier, Schorr, Stevens, Hudkins and Workman voted aye. Motion carried.

5) **NEW BUSINESS:**

A. A resolution in the matter of County Special Permit No. 07033, requested by Mark Hunzeker on behalf of Greg Sanford, for authority to do mining and extraction of soil on approximately 159.39 acres, more or less, generally located on the east side of North 56th Street/Highway 77 between Branched Oak Road and Davey Road in Lancaster County, Nebraska. (R-07-0089)

MOTION: Heier moved and Hudkins seconded approval of Resolution 07-0089 in the matter of County Special Permit No. 07033, requested by Mark Hunzeker on behalf of Greg Sanford, excluding hours of operation from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m. and allow operation during daylight hours on Saturdays and Sundays with no time limits.

Extensive discussion took place regarding limiting operation to weekdays (Monday through Friday) and hours of operation including limiting access onto Highway 77 during specific hours.

FRIENDLY AMENDMENT: Stevens moved that the hours of operation be limited to one-half hour after sunrise to one-half hour before sunset, excluding 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m..

Heier accepted the friendly amendment, however, the seconder did not concur.

Heier withdrew his original motion.

MOTION: Schorr moved and Hudkins seconded to approve County Special Permit No. 07033 as outlined by the Planning Commission with the following modifications: Operation be Monday through Friday during daylight hours with the exception that access to Highway 77 be prohibited from 7:30 a.m. to 8:30 a.m. and 4:30 p.m. to 5:30 p.m.; access be limited to Highway 77 and to include certification of final contours by an engineer at the conclusion of the project.

FRIENDLY AMENDMENT: Heier made a friendly amendment to allow daylight operating hours on Saturdays.

The maker of the motion denied the friendly amendment.

5) **NEW BUSINESS CONTINUED:**

Discussion took place regarding signage on Highway 77.

ROLL CALL: Schorr, Stevens, Hudkins, Heier and Workman voted aye. Motion carried.

MOTION: Stevens moved and Heier seconded to ask the applicant to request signage pertaining to truck traffic on Highway 77 from the State Department of Roads. Heier, Schorr, Hudkins, Stevens and Workman voted aye. Motion carried.

MOTION: Heier moved and Stevens seconded to allow mining and extraction of soil during daylight hours on Saturdays. Stevens and Heier voted yes. Schorr, Hudkins and Workman voted no. Motion failed.

MOTION: Stevens moved that the hours of operation be changed to commence one-half hour after sunrise and cease one-half before sunset as opposed to daylight hours.

No second was made and the motion failed.

MOTION: Heier moved and Schorr seconded to direct the County Attorney's Office to draft a resolution pertaining to County Special Permit No. 07033 for placement on the agenda for Tuesday, October 2, 2007. Schorr, Hudkins, Stevens, Heier and Workman voted aye. Motion carried.

B. A resolution directing the Lancaster County Treasurer to issue tax sale certificates to the County on all parcels of real estate where there are delinquent taxes and also directing the Lancaster County Attorney's office to begin tax foreclosure proceedings. (R-07-0090)

MOTION: Stevens moved and Heier seconded approval of Resolution 07-0090 directing the Lancaster County Treasurer to issue tax sale certificates to the County on all parcels of real estate where there are delinquent taxes and also directing the Lancaster County Attorney's office to begin tax foreclosure proceedings. Stevens, Heier, Schorr, Hudkins and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

C. An application for a Special Designated Permit from Meier's Cork 'N Bottle to provide liquor beverage service at a retirement party on Friday, October 5, 2007 from 5 p.m. to 10 p.m. at Country Pines located at 6305 West Adams Street, Lancaster County, Nebraska.

MOTION: Stevens moved and Schorr seconded approval of an application for a Special Designated Permit from Meier's Cork 'N Bottle to provide liquor beverage service at a retirement party on Friday, October 5, 2007 from 5 p.m. to 10 p.m. at Country Pines located at 6305 West Adams Street, Lancaster County, Nebraska. Heier, Schorr, Hudkins, Stevens and Workman voted aye. Motion carried.

D. An application for a Special Designated License from PRA Inc. d/b/a Misty's Steakhouse and Brewery to provide liquor beverage service at a wedding reception on Wednesday, October 17, 2007 from 4 p.m. to 1 a.m. at Country Pines located at 6305 West Adams, Lancaster County, Nebraska.

MOTION: Heier moved and Hudkins seconded approval of an application for a Special Designated License from PRA Inc. d/b/a Misty's Steakhouse and Brewery to provide liquor beverage service at a wedding reception on Wednesday, October 17, 2007 from 4 p.m. to 1 a.m. at Country Pines located at 6305 West Adams, Lancaster County, Nebraska. Schorr, Hudkins, Stevens, Heier and Workman voted aye. Motion carried.

E. An amendment to an agreement with PharMerica under County Contract No. C-01-568 for pharmacy and related services at the Lancaster County Corrections Department. The original agreement will be amended to extend the term of the contract to November 15, 2007. (C-07-0381)

MOTION: Hudkins moved and Stevens seconded approval of an amendment to an agreement with PharMerica under County Contract No. C-01-568 for pharmacy and related services at the Lancaster County Corrections Department. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

F. An amendment to an agreement with PharMerica under County Contract No. C-01-569 for pharmacy and related services at the Lancaster County Community Mental Health Center. The original agreement will be amended to extend the term of the contract to November 15, 2007. (C-07-0382)

MOTION: Hudkins moved and Stevens seconded approval of an amendment to an agreement with PharMerica under County Contract No. C-01-569 for pharmacy and related services at the Lancaster County Community Mental Health Center. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

G. A grant contract with the People's City Mission for funding for the Family Shelter Program, in the amount of \$39,375, and the Day Services Program, in the amount of \$24,650. Total amount of the grant contract is \$64,025. Term of the grant contract is July 1, 2007 through June 30, 2008. (C-07-0383)

MOTION: Stevens moved and Heier seconded approval of a grant contract with the People's City Mission for funding for the Family Shelter Program, in the amount of \$39,375, and the Day Services Program, in the amount of \$24,650. Schorr, Hudkins, Heier, Stevens and Workman voted aye. Motion carried.

H. A grant contract with the Child Guidance Center for funding for outpatient services, in the amount of \$29,550. Term of the grant contract is July 1, 2007 through June 30, 2008. (C-07-0384)

MOTION: Stevens moved and Hudkins seconded approval of grant contract with the Child Guidance Center for funding for outpatient services, in the amount of \$29,550. Heier, Schorr, Stevens, Hudkins and Workman voted aye. Motion carried.

I. A grant contract with Heartland Big Brother/Big Sisters for the client services program, in the amount of \$16,006. Term of the grant contract is July 1, 2007 to June 30, 2008. (C-07-0385)

MOTION: Stevens moved and Heier seconded approval of a grant contract with Heartland Big Brother/Big Sisters for the client services program, in the amount of \$16,006. Schorr, Stevens, Hudkins, Heier and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

J. An interlocal agreement with the Village of Bennet for law enforcement services within the Village limits. The Lancaster County Sheriff will assign one deputy to duty in the Village limits and provide a cruiser. The Village will reimburse the County at the overtime rate of pay for the Deputy assigned. Term of the agreement will be from September 1, 2007 to August 31, 2008. (C-07-0386)

MOTION: Hudkins moved and Heier seconded approval of an interlocal agreement with the Village of Bennet for law enforcement services within the Village limits. Schorr, Stevens, Hudkins, Heier and Workman voted aye. Motion carried.

K. An interlocal agreement with the Village of Denton for law enforcement services within the Village limits. The Lancaster County Sheriff will assign one deputy to duty in the Village limits and provide a cruiser. The Village will reimburse the County at the overtime rate of pay for the Deputy assigned. Term of the agreement will be from September 1, 2007 to August 31, 2008. (C-07-0387)

MOTION: Hudkins moved and Heier seconded approval of an interlocal agreement with the Village of Denton for law enforcement services within the Village limits. Heier, Schorr, Hudkins, Stevens and Workman voted aye. Motion carried.

L. An amendment to an agreement with the State of Nebraska, Department of Education for the National School Lunch Program and related programs at the Lancaster County Youth Services Center found at County Contract No. C-06-0508. (C-07-0388)

MOTION: Stevens moved and Schorr seconded approval of an amendment to an agreement with the State of Nebraska, Department of Education for the National School Lunch Program and related programs at the Lancaster County Youth Services Center found at County Contract No. C-06-0508. Schorr, Hudkins, Stevens, Heier and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

M. A contract with Encore Rehabilitation Services, L.L.C. for physical, occupational and speech therapy services at Lancaster Manor. Term of the agreement is between November 1, 2007 and October 31, 2008. The cost for such services are pursuant to the rates in Attachment No. 1 of the contract. (C-07-0389)

MOTION: Heier moved and Hudkins seconded approval of a contract with Encore Rehabilitation Services, L.L.C. for physical, occupational and speech therapy services at Lancaster Manor subject to receipt of a modified certificate of insurance and proof of professional liability insurance. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

N. An amendment to County Contract No. C-07-0007 between Key Rehabilitation, Inc. and Lancaster County. The amendment changes the billing section of the contract to allow Key Rehabilitation to bill the County for services provided to Lancaster Manor residents at a specified rate. The amendment is necessary due to Lancaster Manor becoming a Medicare provider. (C-07-0390)

MOTION: Stevens moved and Schorr seconded approval of an amendment to County Contract No. C-07-0007 between Key Rehabilitation, Inc. and Lancaster County. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

O. Utility Permit No. 896 allowing the City of Lincoln to install a 16 inch water line on Holdrege Street between North 87th and North 98th Streets at no cost to Lancaster County. (C-07-0391)

MOTION: Hudkins moved and Stevens seconded approval of Utility Permit No. 896 allowing the City of Lincoln to install a 16 inch water line on Holdrege Street between North 87th and North 98th Streets at no cost to Lancaster County. Schorr, Hudkins, Heier, Stevens and Workman voted aye. Motion carried.

5) **NEW BUSINESS CONTINUED:**

P. A quitclaim deed with Ruthelen S. and Lyle D. Sittler, Kristen Sue Eggerling, Jana Nicholle Hafer and Meghan Elizabeth Sittler, Grantees, and Lancaster County, Grantor, regarding real property legally described as a part of the north one-half of the north one-half of the northeast one-quarter of Section 11, Township 8 North, Range 5 East of the 6th Principal Meridian, Lancaster County, Nebraska.

MOTION: Schorr moved and Heier seconded approval of a quitclaim deed with Ruthelen S. and Lyle D. Sittler, Kristen Sue Eggerling, Jana Nicholle Hafer and Meghan Elizabeth Sittler, Grantees, and Lancaster County, Grantor, regarding real property legally described as a part of the north one-half of the north one-half of the northeast one-quarter of Section 11, Township 8 North, Range 5 East of the 6th Principal Meridian, Lancaster County, Nebraska. Heier, Schorr, Hudkins and Workman voted aye. Stevens voted no. Motion carried.

Q. Authorization of Wells Fargo Bank, as Trustee, to disburse and make payment from the Lancaster County Limited Tax Building 2004 Construction Fund to Berens-Tate Consulting Group, in the amount of \$2,500, for arbitrage rebate calculations.

Dennis Meyer, Budget & Fiscal Officer, gave a brief overview.

MOTION: Heier moved and Stevens seconded approval of the authorization of Wells Fargo Bank, as Trustee, to disburse and make payment from the Lancaster County Limited Tax Building 2004 Construction Fund to Berens-Tate Consulting Group, in the amount of \$2,500, for arbitrage rebate calculations. Schorr, Stevens, Hudkins, Heier and Workman voted aye. Motion carried.

R. A political subdivision tort claim filed against the Lancaster County Corrections Department by Daniel Stueck, in the amount of \$19.95, for damaged property.

MOTION: Heier moved and Stevens seconded denial of a political subdivision tort claim filed against the Lancaster County Corrections Department by Daniel Stueck, in the amount of \$19.95, for damaged property. Stevens, Heier, Schorr, Hudkins and Workman voted aye. Motion carried.

6) **ADJOURNMENT:**

MOTION: Stevens moved and Heier seconded adjournment of the Board of Commissioners meeting at 12:42 p.m.. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

Dan Nolte
County Clerk

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, SEPTEMBER 18, 2007
COUNTY COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE REGULAR BOARD OF COMMISSIONERS
MEETING**

Commissioners Present: Bob Workman, Chair
Bernie Heier, Vice Chair
Larry Hudkins
Deb Schorr
Ray Stevens

Others Present: Kerry Eagan, Chief Administrative Officer
Tom Fox, Deputy County Clerk
Scott Gaines, Deputy County Assessor/Register of Deeds
Dan Nolte, County Clerk
Gwen Thorpe, Deputy Chief Administrative Officer

The Board of Equalization meeting was called to order at 12:42 p.m..

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, September 18, 2007 and approval of the minutes of the Board of Equalization pertaining to greenbelt disqualifications hearings held on April 27th, May 1st, May 3rd and 4th, May 8th, May 10th and 11th and May 15th, 2007.**

MOTION: Schorr moved and Heier seconded approval of the minutes of the Board of Equalization meeting held on Tuesday, September 18, 2007 and approval of the minutes of the Board of Equalization pertaining to greenbelt disqualifications hearings held on April 27th, May 1st, May 3rd and 4th, May 8th, May 10th and 11th and May 15th, 2007. Hudkins, Stevens, Schorr, Heier and Workman voted aye. Motion carried.

2) **ADDITIONS AND DEDUCTIONS:**

Approval of 77 additions and deductions to the tax assessment rolls per Attachments "A" and "B".

MOTION: Hudkins moved and Heier seconded approval of the additions and deductions to the tax assessment rolls. Schorr, Hudkins, Heier, Stevens and Workman voted aye. Motion carried.

3) **MOTOR VEHICLE TAX EXEMPTIONS:**

**Christian Church in Nebraska
Congregation of Benedictine Sisters
Cristo Rey Catholic Church
Development Services of Nebraska Inc.
Sisters of Mary, Queen of Mercy**

MOTION: Stevens moved and Heier seconded approval of the motor vehicle tax exemptions. Heier, Schorr, Stevens, Hudkins and Workman voted aye. Motion carried.

4) **APPEAL OF PENALTY ON PERSONAL PROPERTY FOR 2007:**

John V. Juricek (25 percent penalty)

Scott Gaines, Deputy County Assessor/Register of Deeds, stated the County Board has no authority to waive the penalty. Recommendation was denial.

MOTION: Heier moved and Stevens seconded to accept the recommendation of the Deputy County Assessor/Register of Deeds and deny the appeal of penalty on personal property for 2007 for John V. Juricek. Schorr, Stevens, Hudkins, Heier and Workman voted aye. Motion carried.

5) **NOTICE OF PROPOSED CHANGE IN EXEMPTION STATUS:**

Southgate United Methodist Church

Gaines stated the property was sold by the church to a private individual.

MOTION: Schorr moved and Stevens seconded to remove the exemption for 2007 for Southgate United Methodist Church. Stevens, Heier, Schorr, Hudkins and Workman voted aye. Motion carried.

6) **NOTICE OF CHANGE IN TAX STATUS AND TAXABLE VALUATION FOR PROPERTY TAXATION PURPOSES FOR 2006 AND 2007:**

Donna M Grant

Gaines stated the property was sold by the Veterans Administration to a private individual in 2006.

MOTION: Hudkins moved and Stevens seconded to send notice of change in tax status and taxable valuation for 2006 and 2007 for Donna M. Grant. Heier, Schorr, Hudkins, Stevens and Workman voted aye. Motion carried.

7) **ADJOURNMENT:**

MOTION: Schorr moved and Hudkins seconded adjournment of the Board of Equalization meeting at 12:46 p.m.. Schorr, Hudkins, Stevens, Heier and Workman voted aye. Motion carried.

Dan Nolte
County Clerk