

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 113
THURSDAY, JULY 31, 2008
8:30 A.M.**

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

Commissioners Absent: Bob Workman, Chair

Others Present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Ann Taylor, County Clerk's Office

The Vice Chair opened the meeting at 8:30 a.m.

AGENDA ITEM

**1 APPROVAL OF THE STAFF MEETING MINUTES OF THURSDAY,
JULY 24, 2008**

MOTION: Stevens moved and Hudkins seconded approval of the minutes of the July 24, 2008 Staff Meeting. Hudkins, Schorr, Heier and Stevens voted aye. Motion carried.

2 ADDITIONS TO AGENDA

None were stated.

3 BOARD OF CORRECTIONS - Mike Thurber, Corrections Director

Separate minutes.

- 4 **A) PROPOSED AMENDMENTS TO COUNTY AIR POLLUTION CONTROL PROGRAM AND REGULATIONS; AND B) PROPOSED FEE AMENDMENTS (BODY ART AND PIERCING, WASTE WATER SYSTEMS AND INSPECTIONS AND AIR POLLUTION)** - Scott Holmes, Environmental Health Division Chief, Lincoln-Lancaster County Health Department; Rick Thorson, Environmental Health Supervisor, Air Quality Division; John Chess, Environmental Health Supervisor, Water Division

A) Proposed Amendments to County Air Pollution Control Program and Regulations

Rick Thorson, Environmental Health Supervisor, Air Quality Division, said the changes are necessary in order to be consistent with State and Federal air quality regulations. He said the majority of the changes pertain to Prevention of Significant Deterioration (PSD) regulations.

Heier asked whether it will slow the process.

Scott Holmes, Environmental Health Division Chief, Lincoln-Lancaster County Health Department, said no, the PSD regulations are being modified to enhance the process and said there is a quick turnaround for permits.

Thorson said other changes include clarification to existing provisions:

- * Notification requirements for the relocation of mobile asphalt batch plants
- * When a construction permit is required for emergency electrical generators and adding changes to sulfur content of fuels used for such equipment
- * When a construction permit fee is charged.

B) Proposed Fee Amendments (Body Art and Piercing, Waste Water Systems and Inspections and Air Pollution)

Holmes said the fee increases are necessary to meet the revenue projected in the Health Department's Fiscal Year 2008-09 budget. The overall increase is approximately three percent.

Stevens asked whether the department has had feedback regarding the property transfer fee.

Holmes said the response has been positive.

5 RECORDS MANAGEMENT STAFFING - Brian Pillard, Records & Information Manager

Brian Pillard, Records & Information Manager, said one of his Stores Clerks was in a serious accident and will be on medical leave for an extended period of time. He said he will need to hire a temporary employee and asked whether the Board would prefer it be through a direct hire or a contract with a temporary agency. Pillard said the cost will be greater if he goes through a temporary agency.

MOTION: Hudkins moved and Schorr seconded to authorize Brian Pillard, Records & Information Manager, to hire a temporary County employee by direct hire.

It was noted the temporary employee will not be eligible for benefits.

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

Pillard said he also has an employee in a job-sharing position who will be going on family leave. She works 21 hours per week and receives benefits. Her counterpart works 19 hours per week and is not eligible for benefits. That employee is willing to work full-time during the absence and would be eligible for benefits during that period.

NOTE: Employees who work 20 hours or more are eligible for benefits.

MOTION: Schorr moved and Hudkins seconded to authorize Brian Pillard, Records & Information Manager, to offer temporary, full-time employment to the employee who works 19 hours per week, as outlined. Hudkins, Schorr, Heier and Stevens voted aye. Motion carried.

6 A) GREENBELT PROTEST PROCESS; B) VALUATION PROTESTS; AND C) POTENTIAL LITIGATION - Mike Thew, Chief Deputy County Attorney

A) Greenbelt Protest Process

Mike Thew, Chief Deputy County Attorney, reviewed a legal opinion that a blanket motion covering all 2008 Assessor greenbelt disqualifications would render the Board of Equalization's (BOE's) decision arbitrary, as a matter of law. He said the BOE needs to hear each and every protest and consider the unique circumstances of each case.

Schorr asked whether the BOE could hold the protests open until the Nebraska Supreme Court issues a ruling on last year's greenbelt disqualifications, which were appealed.

Thew said no, the BOE must decide the protests within 30 days or lose jurisdiction.

Hudkins asked whether the BOE can stipulate the same ruling as last year, if there are no changes in the property owner's situation.

Thew said tax information differs from year to year. He said a property owner could submit their testimony in writing and ask that a transcript of their hearing last year be made a part of the record.

B) Valuation Protests

Heier expressed concern whether proper notice had been sent to property owners whose property values were being protested by another party to a higher value.

Thew said the Court of Appeals has indicated, in a published case, it can find no historical, statutory authorization for another taxpayer, or resident, to protest the assessed value on another property, except to equalize its value with the protester's. He said there are no requirements that he can see in the State Statutes regarding what kind of notice would need to be given to the property owner. Thew noted the County Clerk's website states the protest filer will receive notice by mail of the referee hearing date, time and location, as will the property owner, should the names differ. He said it does not appear the statement originated from a requirement in the Statutes, rather from an abundance of caution to make sure everyone has their say in the matter. Thew noted the latest version of Statute 77-1502 addresses the issue of the Clerk giving notice of the Board's action to the owner of the property, if the owner was not the protestant. He added there is an abundance of case law which indicates a property's value cannot be raised without notifying the owner. Thew said in this case, property owners whose values were protested were sent notices last Friday of hearings that were held Tuesday. He said it is possible some did not receive the notices until after their hearing was held and said they may have a legitimate claim regarding the adequacy of notification. The notices indicated the referee had recommended no change and it was not necessary to appear unless the property owner disagreed with the recommendation. Thew said the property owners may not have been aware that additional evidence in support of raising their value could be presented at the hearing. The protester actually submitted evidence at the hearings.

Thew said the Board needs to review the evidence and if it concludes the evidence is sufficient to justify a increase in the values, the Board should extend the deadline and give the property owners sufficient notice so they have an opportunity to submit evidence. If the evidence is not deemed sufficient, then the notice is no longer a issue.

Tom Kubert, Referee Coordinator, appeared and indicated the individual referees recommended the County Assessor's value be upheld in all of the cases in question, based on the evidence presented to them at the referee hearings.

Schorr asked Kubert whether he foresees any changes, based upon information presented on Tuesday.

Kubert said he has analyzed the relevant market information, with respect to equalization, and will have a final recommendation for the Board later in the day.

In response to a question from Schorr, Kubert said the Tax Incremental Financing (TIF) agreement did not figure into his decision. He said it is a private agreement and is not relevant to market value.

C) Potential Litigation

MOTION: Schorr moved and Hudkins seconded to enter Executive Session at 10:21 a.m. for discussion of potential and pending litigation. Hudkins, Schorr, Heier and Stevens voted aye. Motion carried.

MOTION: Stevens moved and Heier seconded to exit Executive Session at 10:32 a.m. Hudkins, Schorr, Heier and Stevens voted aye. Motion carried.

7 JAIL BOND FINANCING UPDATE

Eagan said the Jail Bond Financing Committee has met twice to discuss the Public Building Commission (PBC) and Joint Public Agency (JPA) models. He noted the City has expressed interest in the JPA model and said a question arose regarding whether the City can lend its levy authority to the JPA, which would extend across the County. Loren Wismer, Bond Counsel, has indicated the City's levy authority ends at City limits. Eagan said another option would be for the City to lend some of its levy authority to a JPA and have the County put in the \$2 million that is not limited by State Statutes. Issues to be resolved include the City's payment of \$1.4 million for operating costs and City prisoner medical expenses. He said the interlocal agreement with the City for the housing of prisoners in the jail is key under either scenario and needs to be renegotiated to extend for the life of the bonds. Renegotiation of the Community Corrections contract is also recommended.

Brief discussion took place regarding a letter Mayor Beutler sent to Kim Etherton, Community Corrections Director, regarding the house arrest program (Exhibit A).

MOTION: Stevens moved and Hudkins seconded to form a committee to renegotiate the interlocal agreement with the City for the housing of prisoners in the jail, to be comprised of one (1) County Commissioner (Commissioner Stevens); one (1) member of the City Council; Mayor Beutler, or his representative; Mike Thurber, Corrections Director; Kim Etherton, Community Corrections Director; Tom Casady, Chief of Police; Terry Wagner, Lancaster County Sheriff; Kerry Eagan, Chief Administrative Officer; Lauren Wismer, Gilmore & Bell PC (Bond Counsel); Scott Keene, Ameritas Investment Corporation; and representatives of the City Attorney and County Attorney's Offices. Hudkins, Schorr, Heier and Stevens voted aye. Motion carried.

Stevens exited the meeting at 10:52 a.m.

8 BOARDING CONTRACT WITH THE NEBRASKA DEPARTMENT OF HEALTH & HUMAN SERVICES (HHS) AT YOUTH SERVICES CENTER (YSC) - Michelle Schindler, Youth Services Center (YSC) Director

Michelle Schindler, Youth Services Center (YSC) Director, said she has met several times with representatives of the Nebraska Department of Health and Human Services (HHS) and said HHS has proposed to enter into a contract with the County for the provision of detention services for youth committed to, or placed with the State's Office of Juvenile Services (OJS), at a daily rate of \$236. She said that is the County's projected cost.

In response to a question from Schorr, Schindler said she will meet regularly with HHS to monitor numbers and discuss potential changes.

Stevens returned to the meeting at 10:57 a.m.

MOTION: Schorr moved and Hudkins seconded to direct Michelle Schindler, Youth Services Center (YSC) Director, to finalize a contract with the Nebraska Department of Health and Human Services (HHS) for the provision of detention services for youth committed to, or placed with the State's Office of Juvenile Services (OJS), at a daily rate of \$236. Schorr, Hudkins, Heier and Stevens voted aye. Motion carried.

9 PENDING LITIGATION

Item was moved forward on the agenda.

10 ACTION ITEMS

- A. Microcomputer Request C#48650, \$1,594.47 from Public Defender's Budget for Two (2) Printers and One (1) Scanner

Eagan said the funding source should be the Microcomputer Fund, not the Public Defender's budget.

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

11 ADMINISTRATIVE OFFICER REPORT

- A. One and Six Year Road and Bridge Improvement Program Hearing Date

Board consensus was to schedule the hearing on November 20th, at 7:00 p.m.

- B. Lobbyist Contract

Eagan said Gordon Kissel, Legislative Consultant, has offered to serve as lobbyist for the same contract price as last year.

MOTION: Hudkins moved and Stevens seconded to move forward with a two-year contract with Gordon Kissel, Legislative Consultant, at the same contract price as last year. Stevens, Heier, Schorr and Hudkins voted aye. Motion carried.

- C. Surplus Property Update (North 27th Street and Highway 34)

Brief discussion took place regarding a request from Jim Burden, 7000 Northwest 27th Street, to purchase two tracts of surplus property adjacent to his property (see June 12, 2008 Staff Meeting minutes).

Hudkins said he spoke with Merrill Cook, an adjoining property owner, and said he would prefer the property not be sold. **NOTE:** The property provides access to Cook's property.

Board consensus was to not proceed with sale of the property.

Eagan said he will notify Burden of the Board's action.

D. Amend Comprehensive Plan to Include New Jail

Mike DeKalb, Planner, appeared and said the Planning Department will initiate a text amendment to the Comprehensive Plan to add a subsection titled Adult Detention Facility to the Public Safety Section under the Community Facilities heading. He suggested the following language:

The current county adult corrections facility next to the "Hall of Justice and Law Enforcement Center" is currently experiencing severe overcrowding. A new jail facility is needed and will be needed for projected inmate growth. A new facility should be built in the near term.

E. City-County Common Agenda Items (August 4, 2008)

It was noted discussion of the proposal to form a Joint Public Agency (JPA) to finance the new jail and use of prisoners for City services have been scheduled on the agenda.

There was general consensus to add discussion of the interlocal agreement with the City for the housing of prisoners in the jail to the agenda.

12 DISCUSSION OF BOARD MEMBER MEETINGS

A. Railroad Transportation Safety District (RTSD) Treasurer Meeting - Stevens, Schorr

Meeting was rescheduled.

B. Meeting with The Clark Enersen Partners (Horse Track) - Stevens, Schorr

No report.

C. Lincoln Independent Business Association (LIBA) Monthly Meeting - Heier, Stevens

Stevens reported there was discussion of the jail and budget.

D. District Energy Corporation (DEC) - Hudkins, Heier

Hudkins said the DEC passed resolutions to: 1) Proceed with engineering for design of the heating and cooling systems for the new jail; and 2) Participate in financing the heating and cooling systems for the new jail.

13 ADJOURNMENT

MOTION: Schorr moved and Stevens seconded to adjourn the meeting at 11:00 a.m. Stevens, Heier, Schorr and Hudkins voted aye. Motion carried.

Dan Nolte
Lancaster County Clerk