

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, OCTOBER 6, 2009
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.

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

Commissioners Absent: Bob Workman

Others present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer and
Interim Lancaster Manor Administrator
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

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 29, 2009.**

MOTION: Hudkins moved and Stevens seconded approval of the minutes. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

- 2) **CLAIMS: Approval of all claims processed through Tuesday, October 6, 2009.**

MOTION: Stevens moved and Schorr seconded approval of the claims. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- 3) **NEW BUSINESS:**

- A. **A resolution in the matter of an application for a Class C (beer, wine & distilled spirits, on & off sale) liquor license from Ron's Pub, Inc., d/b/a Ron's Pub, and a Corporate Manager application from James P. Stewart, located at 13940 "O" Street, Lincoln, Lancaster County, Nebraska. (R-09-0080)**

MOTION: Stevens moved and Schorr seconded approval of the resolution. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

3) **NEW BUSINESS CONTINUED:**

- B. **A resolution authorizing the installation of a "School Bus Stop Ahead" sign (S3-1) on Firth Road, approximately 500 feet west of 17185 Firth Road for eastbound traffic, and authorizing the installation of an "Engine Braking Prohibited" sign (R42-1) on S. 148th Street, 1000 feet south of Highway 34 for northbound traffic. (R-09-0081)**

MOTION: Hudkins moved and Stevens seconded approval of the resolution. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

- C. **A resolution in the matter of directing the Lancaster County Engineer to conduct a study regarding the vacation of a portion of N. 98th Street from Ashland Road to a point approximately 1,600 feet south of Ashland Road lying in the Northeast Quarter of Section 2, Township 12 North, Range 7 East of the 6th Principal Meridian, Lancaster County, Nebraska. (R-09-0082)**

MOTION: Stevens moved and Hudkins seconded approval of the resolution. Stevens, Schorr, Hudkins and Heier voted aye. Motion carried 4-0.

- D. **A recommendation from the Purchasing Agent and County Engineer to award a contract to Winter Equipment Company, Nebraska Machinery Company and Valk Manufacturing Company for the annual supply of grader blades at an estimated yearly cost of \$48,000. (B-09-0076)**

MOTION: Hudkins moved and Stevens seconded approval of the recommendation. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- E. **A recommendation from the Purchasing Agent to award a contract to Waste Connections of Nebraska, Inc., for waste hauling services for all City of Lincoln, Lancaster County and Public Building Commission facilities at an annual cost of \$17,658.00. (B-09-0077)**

MOTION: Stevens moved and Hudkins seconded approval of the recommendation.

Hudkins encouraged County departments to consolidate their pick-up sites.

ROLL CALL: Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- F. **Request for a one-step pay increase for Jodi Goff, an employee with Department of Motor Vehicles, due to exceptional circumstances.**

MOTION: Hudkins moved and Schorr seconded approval of the pay increase.

Stevens noted the effective date is August 27, 2009.

ROLL CALL: Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

3) **NEW BUSINESS CONTINUED:**

- G. **A grant contract with Cedars Youth Services for the Skills and Asset Building in Juvenile Justice Programs as part of Lancaster County's Graduated Sanctions programming in the amount of \$15,000. Term of the grant contract is July 1, 2009, through June 30, 2010. (C-09-0527)**

MOTION: Schorr moved and Stevens seconded approval of the grant contract. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

- H. **A grant contract with Berniklau Educational Solutions Team (BEST) for the management of a juvenile day reporting center, in the amount of \$102,000. Term of the grant contract is July 1, 2009, through June 30, 2010. (C-09-0528)**

MOTION: Stevens moved and Schorr seconded approval of the grant contract. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- I. **An architectural agreement with Larry Chilese Architect for window replacement, in the amount of \$2,050, for the County Engineering Department District 1 Maintenance Building, located at 13959 Oldfield Street, Waverly, Nebraska. (C-09-0529)**

MOTION: Stevens moved and Schorr seconded approval of the agreement. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

- J. **A site lease agreement between District Energy Corporation and Lancaster County to lease a portion of real estate described in Exhibit A for the purpose of the District Energy Corporation providing thermal services and emergency power to the new Lancaster County jail. Term of the lease is for 20 years and the lease shall commence on October 1, 2009. (C-09-0530)**

MOTION: Stevens moved and Hudkins seconded approval of the agreement. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

- K. **A contract between Public Safety Consultants, L.L.C., and Lancaster County for negotiation services for the initial negotiations with Lancaster County's current VEBA vendor Nationwide Retirement Services. The County will pay \$170 per hour, for no more than 15 hours, for the services. Services shall be completed by December 31, 2009. (C-09-0531)**

MOTION: Hudkins moved and Stevens seconded approval of the contract. Stevens, Schorr, Hudkins and Heier voted aye. Motion carried 4-0.

3) **NEW BUSINESS CONTINUED:**

- L. **Assignment and consent to assignment of the hospice agreement between Saint Elizabeth Regional Medical Center and Lancaster County, on behalf of Lancaster Manor, approved by the County on December 8, 1998, found at County Contract No. 19982891. The assignment assigns the duties of Saint Elizabeth Regional Medical Center to CHI Nebraska Health at Home, L.L.C. CHI Nebraska Health at Home, L.L.C., is a new limited liability company formed by Saint Elizabeth Regional Medical Center, Saint Francis Medical Center in Grand Island and Good Samaritan Hospital in Kearney for the purpose of combining their home health, hospice and infusion operations. (C-09-0532)**

MOTION: Stevens moved and Hudkins seconded approval of the assignment. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- M. **Notice and acknowledgement of assignment regarding GE Government Finance, Inc., assigning all of its rights to lease payments under the lease agreement signed on or about September 15, 2009, by the County. GE Government Finance, Inc., will be assigning its rights to General Electric Capital Corporation. The lease agreement was part of the transaction for industrial development bonds issued by the County for the Plastic Companies Enterprises, Inc., project. The County authorized the bonds on September 15, 2009. (C-09-0533)**

MOTION: Stevens moved and Hudkins seconded approval of the notice. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

- N. **A political subdivision tort claim filed against Lancaster County Corrections by James Earl Jones for lost property in the amount of \$179.95.**

Tom Fox, Deputy County Attorney, explained this was a claim for tennis shoes lost at the jail. He said the Corrections Department's investigation indicated shoes were lost but they could not establish a match for the shoes described by Jones. He added the Board's options would be to approve the claim for \$179.95, deny the claim, or approve the claim for another amount.

MOTION: Hudkins moved and Schorr seconded denial of the tort claim.

Stevens stated he will support the motion only because the claimant could not establish the value of the shoes.

ROLL CALL: Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

- 4) **CONSENT ITEMS:** *These are items of business that are routine which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:*

4) **CONSENT ITEMS CONTINUED:**

- A. **Receive and place on file the following:**
1. **County Clerk monthly report for September, 2009**
 2. **Lincoln Housing Authority 2009 Annual Report**
 3. **Lincoln Airport Authority 2008-2009 Audit Report**
- B. **A right-of-way contract between the County Engineer and Lyle and Betty Stolte, in the amount of \$2,736, located at 15280 Roca Road; Project No. CP-R-184. (C-09-0534)**

MOTION: Hudkins moved and Stevens seconded approval of the consent items. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

5) **PENDING:**

- A. **A resolution in the matter of County Change of Zone No. 08050, requested by Michael and Judith Rosecrans, to change the zoning on 8.84 acres, more or less, from AG Agricultural to B Business on property generally located one-half mile south of the corner of Hickman Road and Homestead Expressway/Highway 77 in Lancaster County, Nebraska. (R-08-0093) (Item placed on pending on November 4, 2008.)**

6) **PUBLIC COMMENT:** Item held until after announcements.

7) **ANNOUNCEMENTS:**

- A. **The Lancaster County Board of Commissioners will not hold a Staff Meeting on Thursday, October 8, 2009. The next Staff Meeting will be held on Thursday, October 15, 2009, beginning at 8:30 a.m., in Room 113 on the first floor of the County City Building.**
- B. **Public hearings will be held on Tuesday, October 13, 2009, at 9:30 a.m. in the County Commissioners Hearing Room, Room 112, on the first floor of the County-City Building regarding the following:**
1. **An application for a catering license in connection with a Class Y (Farm Winery) liquor license for WunderRosa, L.L.C., d/b/a WunderRosa Winery, located at 2361 Wittstruck Road, Roca, Lancaster County, Nebraska.**
 2. **An application for an amusement license from Cornhusker Council Boy Scouts to hold a carnival from October 28, 2009, to October 31, 2009, at the Cornhusker Council Boy Scout Outdoor Education Center, located at 600 S. 120TH Street, Walton, Lancaster County, Nebraska.**

7) **ANNOUNCEMENTS CONTINUED:**

- C. **The Lancaster County Board of Commissioners meeting is broadcast live at 9:30 a.m., on Tuesdays and rebroadcast at 1:30 p.m., and 6:30 p.m., as well as on Saturday afternoon on 5 City-TV, Cable Channel 5. In addition, this meeting may be viewed on Nebraska On Demand Time Warner Channel 101 and is available on the Internet 24 hours a day at www.lancaster.ne.gov. Click on 5 City-TV Video On Demand.**

Schorr exited the meeting to attend an event at the Chamber of Commerce regarding the potential new downtown arena.

RETURNING TO AGENDA ITEM NUMBER 6

The following people appeared to oppose the sale of Lancaster Manor. Most of the speakers asked to delay the sale of the Manor until after Thanksgiving, presenting pies as a reminder of their request.

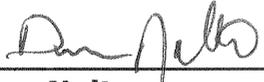
- ❖ Kandra Hahn
- ❖ Bob Ripley
- ❖ Russ Workman
- ❖ Julie Felzien
- ❖ Bobbie Kierstead
- ❖ Dick Patterson
- ❖ Ivan Pettit
- ❖ Mike Kadavy
- ❖ Virginia Degenhardt
- ❖ Virginia Kune
- ❖ Mary Howard
- ❖ Bonnie Kadavy
- ❖ Ida Berdue
- ❖ Nancy Hammond
- ❖ Fran O'Leary
- ❖ Gail Ogden
- ❖ Crystal Sato
- ❖ John Cole
- ❖ Lela Shanks – Exhibit A (letter opposing Manor sale)
- ❖ John L. Austin

A summary document was submitted by the "Pumpkin Pie Brigade" (Exhibit B).

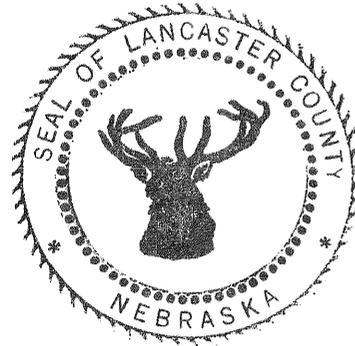
Hudkins moved to delay the sale of Lancaster Manor until after Thanksgiving. Motion died due to the lack of a second.

8) **ADJOURNMENT**

MOTION: Stevens moved and Heier seconded to adjourn the Board of Commissioners Meeting at 10:37 a.m. Hudkins, Stevens and Heier voted aye. Schorr was absent. Motion carried 3-0.



Dan Nolte
Lancaster County Clerk



MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, OCTOBER 6, 2009
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE REGULAR BOARD OF COMMISSIONERS MEETING

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

Commissioners Absent: Bob Workman
Deb Schorr

Others present: Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer and
Interim Lancaster Manor Administrator
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 10:37 a.m.

- 1) **MINUTES: Approval of the Minutes of the Board of Equalization meeting held on Tuesday, September 29, 2009.**

MOTION: Hudkins moved and Stevens seconded approval of the minutes. Hudkins, Stevens and Heier voted aye. Motion carried 3-0.

- 2) **ADDITIONS AND DEDUCTIONS: Approval of six additions and deductions to the tax assessment rolls per Attachments "A" and "B".**

Stevens noted there were 11 additions and deductions.

MOTION: Stevens moved and Hudkins seconded approval of the additions and deductions. Stevens, Hudkins and Heier voted aye. Motion carried 3-0.

- 3) **MOTOR VEHICLE TAX EXEMPTION APPLICATIONS:**

Christian Record Services, Inc.
Faith Lutheran Church & School
People's City Mission

Priestly Fraternity of St. Peter
The Salvation Army
Sacred Heart School

MOTION: Stevens moved and Hudkins seconded approval of the motor vehicle tax exemptions. Stevens, Hudkins and Heier voted aye. Motion carried 3-0.

4) **APPEAL OF PENALTY ON PERSONAL PROPERTY TAX:**

Harris Law Offices

Scott Gaines, Deputy County Assessor/Register of Deeds, said Harris was late filing their property return, which was due on May 1. After his office contacted them for the third time, Harris requested an e-mail schedule, which was not received until September 3. Gaines said there is no authority to waive or reduce the penalty unless Harris can argue they filed in a timely manner.

MOTION: Stevens moved and Hudkins seconded to accept the recommendation of the County Assessor's office and deny the appeal.

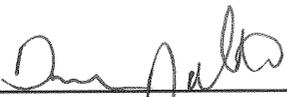
Hudkins reminded everyone to submit returns on time because the County Board does not have any authority to waive the penalties.

Stevens inquired whether notices initially are sent via e-mail or U.S. mail. Gaines said the initial notification is sent via postcard. His office follows up with a reminder phone call as the May 1 deadline approaches and then, as the penalty escalates on August 1, phone calls are again made to those who have not responded.

ROLL CALL: Stevens, Hudkins and Heier voted aye. Motion carried 3-0.

5) **ADJOURNMENT**

MOTION: Stevens moved and Hudkins seconded to adjourn the Board of Equalization Meeting at 10:41 a.m. Stevens, Hudkins and Heier voted aye. Motion carried 3-0.



Dan Nolte
Lancaster County Clerk



TESTIMONY

October 6, 2009

TO: Lancaster County Commissioners: Heier, Stevens, Hudkins, Schorr and Workman

FROM: Lela Knox Shanks
2761 Randolph Street
Lincoln, NE 68510

RE: Sale of Lancaster Manor

Good morning.

I would like to call to your attention a statement issued yesterday, October 5, 2009, by David Hebert, senior vice president of the American Health Care Association which represents 11,000 nursing homes. You can find the story in LJS 10/5/09 and online.

Hebert stated, "We can foresee the possibility of nursing homes having to close their doors."

He made this statement in responding to the current recession/depression that our country is going through; also, in view of an estimated \$16 billion dollar cut in nursing home funding over the next 10 years which was recently enacted by the federal Centers for Medicare and Medicaid Services. And, of course, we have read about the debate in Congress to slash billions more in Medicare funding.

The story goes on to say that some facilities are already closing because of money problems including in Conn., CA., and NY. Also, 24 states have cut funding for nursing home care.

In view of this crisis, from the standpoint of the needs of the citizens of this county, now would hardly be the time to turn over ownership of Lancaster Manor to a for-profit organization. These for-profit nursing homes will not want to take Medicaid patients. And I would like to point out that according to Dr. Mark J. Perry, professor of economics and finance at University of Michigan, healthcare facilities have a profit margin of 24.6%.

Some commissioners have referred to the emotion involved in this issue. Lest we forget, it is emotion, the ability to feel that makes us human.

Thank you.

SUMMARY OF KEY POINTS OF THE PUMPKIN PIE BRIGADE
Before the Lancaster County Board
October 6, 2009

We are asking the Lancaster County Board to delay its decision on the future of Lancaster Manor **at least** until after Thanksgiving. We are a group of friends and acquaintances who live and pay taxes in Lancaster County. We share a common concern for the residents and employees of the Manor but, more than that, the larger interests of the community. We want a decision that includes full disclosure, thoughtful discussion and consideration of a full range of practical options.

We are delivering pumpkin pies to the County Board to help them remember our request—to delay their decision **at least** until after Thanksgiving.

1. We understand that the State Auditor will be returning, not a final, but a preliminary report on November 4th. We hope the County Board would not want to seem to act carelessly in front of the community. As the *Lincoln Journal Star* has asked, “What’s the rush?”

We hope the Board would use the time, not only to read and discuss the partial results from the Auditor but to revisit their list of priorities for public purpose on a list such as this:

A new horse racing park
A deluxe jail for our worst offenders
Essential care for the elderly and disabled

2. Our group had planned to appear with our request even before five State Senators wrote their open letter to the *Lincoln Journal Star* last Thursday asking for delay. We were delighted to read that Senators Ken Haar, Amanda McGill, Bill Avery, Colby Coash and Norm Wallman were on the same page with us and with the paper. But we weren’t all that surprised. The senators said what they heard from their constituents had given them “cause for concern.”

State Senators hear a lot from their constituents. They have hearings. They appoint committees. And they communicate with mail and email. That’s how they know the people they are elected to serve are upset and concerned. It’s a good system and a good model for this matter of Lancaster Manor.

3. Our study group has been researching what’s been written about privatization of nursing homes. Dr. Anna Amirkhanyan of the School of Public Affairs at American University has studied this area extensively. Her work documents the process of a county considering what the County Board is considering.

They “authorized creation of a review committee to examine the available options. The work of the committee is documented in meeting minutes from 18 meetings held for over a year, as well as in a report outlining the committee’s findings, analysis, and recommendations. . .

The committee studied the facility performance, invited specialists to provide estimates for various scenarios, forecasted the community long-term care needs' and analyzed the corresponding availability of community resources.”

The final report used a rational policy analysis scheme: it defined the problem, proposed the evaluation criteria, outlined the options and presented a grid with each option evaluated with respect to each criterion.

The Board might find the outcome amusing. “While Democrats supported privatization to a non-profit provider, Republicans, who eventually prevailed, were proud of the county’s nursing care capacity and resented gaining a bad reputation for not sustaining the obligation to the communities’ seniors.”

4. In another case documented by Dr. Amirkhanyan a county took a different approach in their consideration of privatization of their publicly owned nursing home.

“ . . . many *institutional players* were involved in the decision-making. Local hospitals, physicians, clergy, and citizen groups were interviewed, and their opinions were actively sought. The county held three community meetings and mailed out the “Letter for the Community from the County Board of Supervisors,” also posted on the facility web site. Accompanied by a detailed history of the county home, service overviews, and a question-and-answer section, the letter explained the county’s decision options and directed residents to the website. . . While facility residents and their families were not surveyed separately, they were made aware of the process. After the decision was made, the county received and documented positive feedback from the community members and nursing home residents.”

Interestingly, this County Board’s mission included “employment for community residents” along with service quality and financial viability of the nursing home. In the end, they rejected private ownership and continued county ownership. We would like the County Board to do what this county did. We would like them to post the positive feedback they have received from community members and nursing home residents.

5. Our study group found that nursing home care in the United States is a three-legged stool. And it’s like that in Lancaster County too.

Here, as elsewhere, the greatest portion of people is served by private, for profit homes. This first leg of the stool is often seen as most efficient but that efficiency comes in many instances—not always—at the expense of quality care. (In Lincoln, for instance, the single highest rated nursing home, with 5 stars on the Medicare rating system, is private.)

Here, as in the nation, the next greatest number of people is served by the second leg of the stool—non-profit nursing homes. These may be corporate but are also built around church and other affiliations. Known for quality care, many non-profits prefer Medicare and private pay clients to support this care as they turn down lower paying Medicaid residents.

Finally, here and nationally, the third leg is the publicly-owned nursing homes with a care level as good as the community and its leaders support and demand, with a mix of residents but with the highest number of Medicaid residents.

Now Lincoln is a balanced community. But we ask the County Board to consider what will happen if they pull out one leg of the three-legged stool.

6. Our study group has found a couple of notes in studies on nursing home privatization that should be of interest to the County Board. :

--Studies in 2000, 2005 and 2007 showed that “rushed decisions, poor incentive and monitoring structures, accountability concerns, providers’ inability to deal with hard-to-serve clients, and failure to deliver the expected financial benefits have forced some governments to recapture” privatized nursing homes.

--This is from a rather old study but it raises an interesting question. In some communities, “private nursing homes value their public counterparts who relieve private industry” of less profitable Medicaid patients. We wonder what consultations the Board has had with the excellent nursing homes of Lancaster County. Do they welcome a possible divestment?

7. There are many reasons we ask for an open exchange on the future of Lancaster Manor. None of them involve finger pointing or gotcha games.

Once the Board has heard from the State Auditor and pinpointed the problem, we are interested in discussing the full range of solutions. Those should be based on solid research, solid facts and solid analysis

There are many ideas to consider: franchises, grants, vouchers, contracting, intergovernmental agreements, even a public authority. An authority would require legislative action but the Board certainly has its legislators’ attention. There’s a wide range of governmental and quasi-governmental tools available and we know from the County Board’s interest in other projects that they are willing to use them.

8. Our group has been interested in the financial analysis presented to the County Board by Mark Vasina. While news coverage didn’t provide much detail, our group has reviewed the report and the written recommendations and conclusion are pretty straightforward and easy to read.

We are waiting for some response from the County. It would be reasonable to put those recommendations together with the State Auditor’s report, preferably when it’s final, and we hope that’s exactly what you will do.

9. Many other Nebraska counties own and operate nursing homes. A shining example is Douglas County Health Center which is a 5-star facility under Medicare’s rating system. The center has 254 long term beds and 21 assisted living units.

We believe it’s an example of successful community commitment to excellence and that Lancaster County could do the same.

Sources

“Rejecting privatization: Case Study Analysis of local Government Decision-Making,” Anna A. Amirkhanyan, *Journal of Public Management & Social Policy*, Fall, 2009, pps 163-191.

“Slow Down on Manor Sale,” State Sens. Ken Haar, Amanda McGill, Bill Avery, Colby Coash, Norm Wallman, *Lincoln Journal Star*, October 1, 2009, www.journalstar.com.

“Manor Sale Is Now a Mess,” *Lincoln Journal Star*, editorial, September 5, 2009, www.journalstar.com.

“Report on Lancaster Manor FY2010 Budget, Submitted to the Lancaster County Board on August 25, 2009,” Mark Vasina, unpublished.

“Privatizing Public Nursing Homes: Examining the Effects on quality and Access,” Anna Amirkhanyan, *Public Administration Review*, July-August, 2008, pps 665-680.

“Douglas County Health Center,” www.dchc.douglascounty-ne.gov.

“Douglas County Proposed Budget 2008/09,” www.douglascounty-ne.gov.

“Compare Nursing Homes in Your Area,” www.medicare.gov.