

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 113
THURSDAY, APRIL 16, 2009
8:30 A.M.**

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

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
Ann Taylor, County Clerk's Office

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

AGENDA ITEM

1 APPROVAL OF THE STAFF MEETING MINUTES, THURSDAY, APRIL 9, 2009

MOTION: Stevens moved and Hudkins seconded approval of the April 9, 2009 Staff Meeting minutes. Hudkins, Stevens, Heier, Schorr and Workman voted aye. Motion carried.

2 ADDITIONS TO THE AGENDA

A. Discussion of Legislative Bill (LB) 403

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

3 LEGISLATIVE UPDATE - Gordon Kissel and Joe Kohout, Kissel/E&S Associates (Legislative Consultants)

Gordon Kissel, Legislative Consultant, presented a legislative update (Exhibit A).

Renea Panska, a representative of the Coalition for Responsible Trails, appeared and discussed Legislative Bill (LB) 134 (Change natural resources districts eminent domain powers). The bill would require a natural resources district to obtain the consent of the Legislature before using eminent domain for the development or management of recreational trails or corridors unless associated with a flood control structure.

MOTION: Hudkins moved and Heier seconded to support Legislative Bill (LB) 134.

Joe Kohout, Legislative Consultant, questioned whether it is in the County's best interest to give the Legislature that control.

Hudkins asked whether the Natural Resources District (NRD) has the authority to take a county road.

Kissel said they do not.

Schorr exited the meeting at 8:48 a.m.

Hudkins asked whether the NRD can utilize County right-of-way.

Kerry Eagan, Chief Administrative Officer, stated there is no governing state law. He said the issue would go to court and a judge would have to decide which is the greater public purpose.

Schorr returned to the meeting at 8:52 a.m.

ROLL CALL: Hudkins and Heier voted aye. Stevens and Workman voted no. Schorr abstained from voting. Motion failed.

MOTION: Workman moved and Stevens seconded to maintain a neutral position on Legislative Bill (LB) 134.

Stevens withdrew his second.

Schorr seconded the motion.

ROLL CALL: Workman voted aye. Heier, Stevens and Hudkins voted no. Schorr abstained from voting. Motion failed.

ADDITIONS TO THE AGENDA

A. Discussion of Legislative Bill (LB) 403

Schorr said LB 403 (Require verification of lawful presence in the United States to receive public benefits as prescribed) will have far reaching implications for the County and suggested it would be beneficial to have a briefing on the bill.

Kissel said he will talk to Senator Karpisek, introducer of the bill.

Stevens suggested that the briefing be at a Management Team Meeting.

4 CORRESPONDENCE REGARDING GREENBELT (5201 BLUFF ROAD) - Norm Agena, County Assessor/Register of Deeds

Discussion took place with Norm Agena, County Assessor/Register of Deeds, regarding a letter from Robert D. Frye, the owner of Frye Hybrids, Inc., d/b/a The Plantation (see agenda packet). In his letter Frye indicated that he has terminated his business (growing geraniums) at 5201 Bluff Road and is moving to another state because he was denied greenbelt status. **NOTE:** Greenbelting is valuing property as to its use, not on the price it would bring on the open market. To qualify for greenbelt status the property has to be zoned either Agricultural (AG) or Agricultural Residential (AGR).

In response to a question from Hudkins, Agena said the definition of agricultural or horticultural land use does not include any land directly associated with any building or enclosed structure. He said Frye's business was considered a commercial use because the geraniums were grown inside a building.

Workman expressed concern regarding the loss of a business and suggested the need to change the law.

Agena noted the difference in value would have been \$22,000, or \$391 in taxes. He added there are similar businesses in the County that haven't applied for greenbelting and said Frye shouldn't have that advantage over his competitors.

Stevens remarked that Frye could have utilized the legal process that is in place.

ADMINISTRATIVE OFFICER REPORT

A. Lincoln-Lancaster County Goes Green Contest

MOTION: Schorr moved and Hudkins seconded to authorize the County's participation in the contest. Workman, Schorr, Heier, Stevens and Hudkins voted aye. Motion carried.

B. Clean Your Files Week (April 19-25)

Informational only.

D. Guidelines for Public Participation at County Board Meetings

Eagan noted the County Clerk's Office has posted the Guidelines for Public Participation in County Board Meetings on its website and suggested revision to include the following language which was part of an attachment to County Resolution 5465, passed in 1997:

The public comment period is limited to thirty minutes (30) in duration and each speaker is limited to five (5) minutes. These time limits may be extended at the discretion of the County Board Chair.

Dan Nolte, County Clerk, indicated his staff will make the revision.

E. Claim for Review, Invoice on Account #3480499 for the Lancaster County Sheriff, \$634.00 from Thayer County Health Services

Tom Fox, Deputy County Attorney, said Thayer County Health Services is requesting reimbursement for services provided to an individual who was picked up by the Thayer County Sheriff's Office on a Lancaster County warrant. He recommended denial of the claim.

Board consensus was to schedule the item as a claim for review on the Tuesday, April 28, 2009 Board of Commissioners Meeting agenda.

5 LANCASTER MANOR UPDATE - Gwen Thorpe, Deputy Chief Administrative Officer and Interim Lancaster Manor Administrator; Dennis Meyer, Budget and Fiscal Officer

Gwen Thorpe, Deputy Chief Administrative Officer and Interim Lancaster Manor Administrator, gave a brief update on the Manor, noting the following:

- Training sessions will be conducted on Purchasing practices.
- Sick leave usage year-to-date, through March 6th, is 6,347.96 hours, which equates to 9.96 days per year, per employee.
- Turnover rate for the first quarter of 2009 is 6.3% compared to 10.10% for the first quarter of 2008.

- Thorpe is working with Windstream Communications to provide phone service for residents who do not have their own phones.
- Final payment on the water damage at the Manor was received.

Thorpe noted her provisional nursing home administrator license expires on May 13th and said, under state law, she may apply for a 180 day extension.

MOTION: Workman moved and Schorr seconded to authorize Gwen Thorpe, Deputy Chief Administrative Officer and Interim Lancaster Manor Administrator, to apply for extension of her provisional nursing home administrator license. Workman, Schorr, Heier, Stevens and Hudkins voted aye. Motion carried.

Schorr reported that four firms and one individual responded to the County's Request for Qualifications (RFQ). The RFQ sought proposals from entities that want to lease, manage or buy Lancaster Manor.

Dennis Meyer, Budget and Fiscal Officer, said there is a common misconception that the financial problems at the Manor "happened overnight". He said that is not the case, noting the following:

- Fiscal Year (FY) 2006 - Cash flow decreased by \$293,000
- Fiscal Year (FY) 2007 - Expenditures were greater than revenues by \$145,000 (Three months had a negative fund balance)
- Fiscal Year (FY) 2008 - Cash flow decreased \$1,280,000 (Six months had a negative fund balance)
- Fiscal Year (FY) 2009 - Cash flow decreased \$900,000 (Every month had a negative fund balance)

In response to a question from Stevens, Meyer said the Renewal and Replacement Fund balance at the beginning of FY 2006 was approximately \$2,500,000. He said at that point the Renewal and Replacement Fund was outside the Lancaster Manor Fund and was being used to pay for debt service and capitol items that became depreciable.

Meyer noted that statements have also been made that no property taxes have been used to cover expenses at Lancaster Manor. He said the Renewal and Replacement Fund was transferred to the Lancaster Manor Fund when the bonds were paid off in July, 2008 and said that \$1,000,000 balance was used to cover the Manor's cash flow problems. Prior to that time, General Fund monies (property tax dollars) were used to cover the negative fund balances. As cash flow problems were resolved, the monies were paid back.

Schorr said it would also be interesting to calculate the amount of property tax dollars that have been used for indirect costs.

Hudkins stated the Board made a conscious decision to pay off the bonds and spend-down the Renewal and Replacement Fund.

Meyer presented the March, 2009 revenue, expenditure and cash flow figures (Exhibit B). He said expenditures exceeded revenues by \$253,325 and reported an ending fund balance of \$131,272. Meyer noted two deposits totaling \$900,351 were received since the end of March for Medicaid add-ons.

A comparison to July through March of FY 2008 was also presented (see Exhibit B).

Workman said he would like to see the information graphed. He also asked what can be done to make things better.

Schorr said it would help to have more private pays but said, as a governmental entity, the County cannot advertise.

Thorpe said she has requested a legal opinion on the advertising issue.

Hudkins asked whether it would help to hire a controller for the business office.

Meyer said that will be his recommendation if the Board decides to hire a new administrator.

Meyer also reported he met with Gary Young, legal counsel for the American Federation of State, County & Municipal Employees (AFSCME), and said he informed Young he disagrees with his statement that Lancaster Manor's financial crisis is over.

6 MEDICARE REPORTING REQUIREMENTS - Sue Eckley, County Risk Manager

Sue Eckley, County Risk Manager, said the County, which is a Responsible Reporting Entity (RRE) for Medicare (workers' compensation and general liability claims), must designate an Authorized Representative (AR) for reporting purposes (Exhibit C). An Account Manager (AM) and Account Designee (AD) must also be designated. Eckley said she is willing to serve as the AR and AM and said Information Services (IS) can serve as the AD. She said she contacted several private contractors and received quotes from two of them for \$10,000 to set up the reporting and \$24,000 a year to maintain it. Eckley said IS will only charge \$6,500 to set up the reporting with minimal costs for maintenance.

MOTION: Schorr moved and Hudkins seconded to authorize Sue Eckley, County Risk Manager, to act as the County's Authorized Representative (AR).
Hudkins, Stevens, Heier, Schorr and Workman voted aye. Motion carried.

NOTE: The AR will designate the AM and the AM designates the AD.

ADMINISTRATIVE OFFICER REPORT

C. Correspondence from Dan Nolte, County Clerk, Regarding Lancaster Manor Request for Qualification (RFQ) Committee

Dan Nolte, County Clerk, discussed his recent letter to the Board (see agenda packet). Nolte indicated in his letter his belief that he, or a member of his staff, should attend and prepare minutes of the Request for Qualification (RFQ) Committee meetings, as the Committee will be making recommendations that will be used to set public policy.

In response to a question from Stevens, Vince Mejer, Purchasing Agent, appeared and said this is a very sensitive issue and confidentiality is a concern.

Nolte said he understands there may be proprietary information that should not be made public but said this is an important issue to the community and there should be a record of attendance and the discussion.

Stevens said the Purchasing Department will supply the Board with a report. He added that committee members need to feel they can speak frankly and those that responded to the RFQ need to be assured that proprietary information will not be open to the public.

MOTION: Hudkins moved to accept the County Clerk's proposal to staff the Request for Qualification (RFQ) Committee meetings.

The motion died for the lack of a second.

MOTION: Stevens moved and Workman seconded to thank the County Clerk for his recommendation, but decline to accept it.

Schorr pledged, as an ex-officio member of the RFQ Committee, to make sure that every bit of information that can be shared with the Board will be shared.

ROLL CALL: Workman, Schorr, Heier and Stevens voted aye. Hudkins voted no. Motion carried.

7 CONSTRUCTION MANAGER AT RISK CONTRACT FOR NEW JAIL -
Vince Mejer, Purchasing Agent

Vince Mejer, Purchasing Agent, said the Construction Manager at Risk has not provided the Guarantee Maximum Price (GMP) for the new jail. He said the GMP was to be provided when the plans were 60% completed, under the terms of the contract. The plans are now 90% completed.

Heier explained it was the consensus of the Board to hold off because of the current construction business environment. He said it was their understanding that the more complete the plans were, the better the bids would be.

Mejer said that is correct but said the County will still have the pricing advantage if the bids come in lower than the GMP. He added that the GMP will not be the final number because there are a number of excluded items (see Exhibit D for list).

MOTION: Workman moved and Stevens seconded to authorize Vince Mejer, Purchasing Agent, to ask Sampson Construction, the Construction Manager at Risk, to provide the Guarantee Maximum Price (GMP) in a timely manner.

Eagan said Greg Newport, The Clark Enersen Partners (architects for the project), has advised him that it may take a couple of weeks to come up with the number.

FRIENDLY AMENDMENT: Stevens offered a friendly amendment to impose a deadline of May 1, 2009.

The maker of the motion accepted the friendly amendment.

ROLL CALL ON THE MOTION AS AMENDED: Hudkins, Stevens, Heier, Schorr and Heier voted aye. Motion carried.

8 ACTION ITEMS

There were no action items.

9 CONSENT ITEMS

There were no consent items.

10 ADMINISTRATIVE OFFICER REPORT

- A. Lincoln-Lancaster Goes Green Contest
- B. Clean Your Files Week (April 19-25)
- C. Correspondence from Dan Nolte, County Clerk, Regarding Lancaster Manor Request for Qualification (RFQ) Committee

- D. Guidelines for Public Participation at County Board Meetings
- E. Claim for Review, Invoice on Account #3480499 for the Lancaster County Sheriff, \$634.00 from Thayer County Health Services

Items A, B, C, D & E were moved forward on the agenda.

11 PENDING

There were no pending items.

12 DISCUSSION OF BOARD MEMBER MEETINGS

A. Information Services Policy Committee (ISPC) - Stevens

Stevens reported that Doug Thomas has resigned his position as Information Services (IS) Director.

Board consensus was to seek representation on the Selection Committee for his successor.

Hudkins suggested formation of a committee, comprised of Kerry Eagan, Chief Administrative Officer; Gwen Thorpe, Deputy Chief Administrative Officer; Dennis Meyer, Budget and Fiscal Officer; and Sue Eckley, County Risk Manager, to look at the County's involvement with IS.

Thorpe noted a draft report from the consultant (Gable Consulting) regarding an assessment of the current provision of information services to Lancaster County and a recommendation regarding a County I/S Coordinator position is expected next week.

B. Parks and Recreation Advisory Board - Stevens

Stevens reported on plans to rehabilitate Hazel Abel Park (18th & E Street) and to provide an endowment for the park.

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

Workman said the PBC will lease space for Property Management's equipment until a new building is constructed at Southwest 40th and "O" Street, site of the new jail. He said the PBC also discussed the proposal for an ethnic café in the County-City Building, a request from Steve's Hot Dogs to have a hot dog cart on the sidewalk outside the building and repairs to the north parking garage.

Hudkins said a proposal for a tobacco-free campus was also discussed.

Workman said the City has asked that the issue be brought back to a City-County Common Meeting for further discussion.

D. Air Pollution Control Advisory Board - Stevens

Stevens said a proposal to increase emission fees and ways to reduce emissions from diesel engines were discussed.

E. Board of Health - Schorr

Schorr said legislation was discussed. There was also a presentation by the Information and Fiscal Management Division.

13 EMERGENCY ITEMS AND OTHER BUSINESS

A. Report on Region V Governing Board Meeting

Schorr said C. J. Johnson, Program Administrator for the Region V Mental Health, Alcoholism & Drug Abuse Program, has located \$100,000 that can be used for medication assistance. She said they were also briefed on legislation related to the safe haven issue.

14 ADJOURNMENT

MOTION: Schorr moved and Stevens seconded to adjourn the meeting at 10:48 a.m. Workman, Schorr, Heier, Stevens and Hudkins voted aye. Motion carried.

Dan Nolte
Lancaster County Clerk