

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
COUNTY-CITY BUILDING, ROOM 113  
THURSDAY, JUNE 11, 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  
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, JUNE 4, 2009; AND DEPARTMENTAL BUDGET HEARING MINUTES, TUESDAY, MAY 21, 2009**

**MOTION:** Workman moved and Schorr seconded approval of the June 4, 2009 Staff Meeting minutes and minutes of the May 21, 2009 Departmental Budget Hearings. Workman, Schorr and Heier voted aye. Stevens abstained from voting. Hudkins was absent from voting. Motion carried.

**2 ADDITIONS TO THE AGENDA**

None were stated.

Hudkins arrived at 8:32 a.m.

**3 POST EMPLOYMENT HEALTH PLAN (PEHP) REVIEW - Janis Winterhoff, Kutak Rock Law Firm; Doug Cyr, Chief Administrative Deputy County Attorney**

Janis Winterhoff, Kutak Rock Law Firm, said the County's Post Employment Health Plan (PEHP) is essentially a Health Reimbursement Arrangement (HRA). She said it is being funded through a Voluntary Employee Beneficiary Association (VEBA) with Nationwide Retirement Solutions (NRS). **NOTE:** A VEBA is a special trust that is qualified under Internal Revenue Service (IRS) Code, Section 501(c)(9). Winterhoff said the NRS arrangement is a multiple employer arrangement and said the County has limited control over the investments. She said NRS recently agreed to allow the assets to be moved and said there are several options the County could explore:

1. Establish the County's own VEBA Trust
2. Establish the County's own VEBA Trust and ask other employers to join
3. Leave the funds with NRS and establish an IRS Code, Section 115 Trust
4. Go with the same arrangement the County has now, but with a different provider

It was noted the NRS documents stipulate that the County can only move the funds to another VEBA.

In response to a question from Workman, Winterhoff said the County could have higher costs if it established its own VEBA, but would have greater control over investments.

Kerry Eagan, Chief Administrative Officer, said Prudential, the County's pension plan provider, is not interested in providing the service but said Frank Picarelli, Pension Plan Consultant, has indicated there is a potential provider in Kansas.

Eagan asked Winterhoff whether the County could establish a VEBA for a short period of time so the funds could be transferred from NRS, then transfer the funds into a Section 115 Trust.

Winterhoff said she does not believe that would be an option as the IRS Code is very restrictive in terms of moving money from a VEBA.

Schorr said most of the counties in Nebraska have funds invested with NRS and suggested the Nebraska Association of County Officials (NACO) may be an entity that could facilitate the sponsoring of a VEBA.

Heier said the NACO Executive Committee meets next week and asked Winterhoff whether she would be available to meet with them.

Winterhoff said she would be.

Doug Cyr, Chief Administrative Deputy County Attorney, noted the County paid Winterhoff for her past services involving the County's pension plan with revenue sharing funds and said this is a separate legal issue.

Winterhoff said it may be possible to pay for some of the legal services through the PEHP plan.

**4 COUNTY ATTORNEY CASE MANAGEMENT SYSTEM HARDWARE -**  
Gary Lacey, County Attorney; Ken Kuszak, Microcomputer/Network Support Coordinator, Information Services (IS); Mark Wieting, Systems Project Supervisor

Additional discussion took place regarding the County Attorney's request for a server, laptop computers, monitors and scanners for his office's new case management system (see June 4, 2009 Staff Meeting minutes).

Gary Lacey, County Attorney, said he included those items in his Fiscal Year 2009-10 budget request but said the expense needs to be in the current fiscal year's budget because the case management system will be implemented on July 1<sup>st</sup>. He pointed out that the County purchased similar hardware for the Public Defender's Office when their case management system was activated a year ago.

Dennis Keefe, Public Defender, appeared and said he believes the County Attorney's request is reasonable.

In response to a question from Schorr, Keefe said the County purchased 27-30 monitors for his department. He said three of his employees opted for laptops, rather than desktop monitors.

Schorr asked how many of his staff use double screens.

Keefe said none.

Lacey explained the benefits of double screens and said he would like two dual monitors.

Schorr questioned whether a dedicated server is needed.

Mark Wieting, Systems Project Supervisor, said the two offices could share a server.

Eagan asked whether that would impact performance.

Wieting said the vendor did not indicate any performance issues.

Schorr questioned the request for Bluetooth electronic devices.

Lacey said they will be used with laptops in the courtrooms. He explained that his office is going "paperless" and will no longer have case files.

Lacey and Keefe stressed that there will be significant savings in IS costs by moving to the case management system.

In response to a question from Workman, Ken Kuszak, Microcomputer/Network Support Coordinator, said the cost to maintain the server is \$3,500 per year.

Schorr asked whether the purchase of the server could be delayed and the County Attorney's case management system placed on the Public Defender's server for now.

Kuszak said yes, adding the vendor would have to come in and reinstall it if the server were purchased at a later date. He said that could cause some down time.

Stevens asked whether there are confidentiality concerns if they run on the same server.

Kuszak said he doesn't believe so as they will be two separate applications.

Stevens asked whether Lacey has any funds left in the current fiscal year's budget to fund the request.

Lacey said he has some funds from salary savings but wasn't sure of the amount.

Stevens suggested that if there were two servers, one be used as a backup.

**MOTION:** Hudkins moved and Workman seconded to: 1) Allow the County Attorney to proceed with the purchase, with the exception of the server, using salary savings in the County Attorney's current fiscal year budget and the Microcomputer Fund, if necessary, to fund the purchase; and 2) Direct that the County Attorney's case management system be loaded on the Public Defender's server for now.

It was noted that some of the monitors that the County Attorney is asking to be replaced are 17" LCD flat panel monitors. Kuszak said those can be reused by other departments.

Schorr expressed concern regarding authorizing the request before the budget is finalized.

Eagan noted that eight (8) computers that were included in the request are not part of the project.

**FRIENDLY AMENDMENT:** Workman offered a friendly amendment to eliminate eight (8) computers and eight (8) outlet surge suppressors from the approval.

The maker of the motion accepted the friendly amendment.

**AMENDMENT:** Stevens moved and Schorr seconded to modify the motion to approve only twenty (20) 19" LCD flat panel monitors at this time.

**ROLL CALL ON THE AMENDMENT:** Hudkins, Workman, Schorr, Heier and Stevens voted aye. Motion carried.

**ROLL CALL ON THE MOTION AS AMENDED:** Hudkins, Workman, Heier and Stevens voted aye. Schorr voted no. Motion carried.

**5 JAIL CONSTRUCTION BID OPENING** - Vince Mejer, Purchasing Agent; Greg Newport and T.J. Schirmer, The Clark Enersen Partners; John Sampson and Chuck Richter, Sampson Construction Company, Inc.

Heier questioned why the jail construction bid opening date was changed.

Greg Newport, The Clark Enersen Partners, explained that a lot of calls and emails were received from potential bidders and said a decision was made to extend the bid opening date from June 9<sup>th</sup> to June 12<sup>th</sup> to give bidders more time to review the plans and to clarify issues, such as the change in scope of the work. He acknowledged that the Board should have been informed of the change.

Vince Mejer, Purchasing Agent, recommended that the bid opening be further extended to June 18<sup>th</sup> because addendums were issued on June 9<sup>th</sup> and 10<sup>th</sup>.

Tom Fox, Deputy County Attorney, said the Nebraska Revised Statutes lay out the procedure for competitive bidding and said the County may not be in compliance if the bid opening date is different from the date advertised.

Mejer disagreed, stating his department has never republished the opening date when there is an extension.

**MOTION:** Stevens moved and Hudkins seconded to extend the bid opening date to June 18, 2009. Hudkins, Workman, Schorr, Stevens and Heier voted aye. Motion carried.

In response to a question from Stevens, Heier said Sampson Construction, the Construction Manager At-Risk, has submitted the Guaranteed Maximum Price (GMP) but said it has not been made public yet.

**6 A) LANCASTER MANOR UPDATE; AND B) LANCASTER MANOR REQUEST FOR QUALIFICATIONS (RFQ) COMMITTEE REPORT -**  
Gwen Thorpe, Interim Lancaster Manor Administrator; Vince Mejer, Purchasing Agent; Tom Fox, Deputy County Attorney

**A) Lancaster Manor Update**

Gwen Thorpe, Interim Lancaster Manor Administrator, said the Manor has received the Medicaid rate adjustments for the period beginning July 1, 2009 through June 30, 2010. She said more adjustments may be coming.

Thorpe also reported receipt of a legal opinion regarding marketing efforts and said it states the Manor cannot advertise.

Hudkins said the Saunders County Attorney does not object to the Saunders County nursing home's advertisements.

Eagan said Mike Thew, Chief Deputy County Attorney, contacted the Saunders County Attorney to clarify that situation and was informed their office was only asked for an opinion on whether the county-owned hospital could advertise.

Hudkins noted that the Saunders County nursing home and hospital are co-located.

Thorpe reported she met with staff and suggested they read the Lancaster Manor Request for Qualifications (RFQ) Committee Report.

Schorr said she attended a union meeting last night and answered questions. She said there was strong support for a public hearing on the matter and said the union stressed that they want to be part of the solution. Schorr said the union also asked that County Board members spend time in the facility, particularly during busy times.

## **B) Lancaster Manor Request for Qualifications (RFQ) Committee Report**

Vince Mejer, Purchasing Agent, noted the Board has not taken action on the Lancaster Manor Request for Qualifications (RFQ) Committee's recommendation of a "structured sale" of the Manor. He said if the Board affirms the recommendation it is his recommendation that an attorney with expertise in buying and selling health facilities and nursing homes be hired to help the County through the process.

Heier indicated the Board would want to hold a public hearing first.

Hudkins said it seems like the recommendation is centered around a proposal for Tax Incremental Financing (TIF) and asked whether the property is eligible.

Eagan said the Manor was included several years ago in a TIF for improvements to the South Street area.

Workman asked whether a TIF can be applied within the facility.

Schorr said a TIF was just one suggestion of a way to address the County's priorities in a "structured sale". She said the intricacies of a TIF have not been explored and said other tax incentives may be available.

Hudkins asked whether anyone has expressed interest in buying the Manor.

Mejer said one of the proposals was for purchase of the facility.

Schorr noted the RFQ Committee recommended the Board reject the proposals that came through as part of the original RFQ process, because none addressed the constraints that would be placed on a sale. She said a Request for Proposals (RFP) could address those issues and outline possible tax advantages to a potential buyer.

Tom Fox, Deputy County Attorney, said there are two statutes that address the sale of property: Nebraska Revised Statute §23-104.03 (Reissue 2007) and §23-107.01 (Reissue 2007) (see legal opinion in agenda packet).

State Auditor Mike Foley appeared and said his presence at the June 9<sup>th</sup> County Board of Commissioners Meeting prompted speculation on whether there would be an audit of Lancaster Manor. He said that decision has not been made. Foley said if his office were to perform an audit it would not be the conventional financial audit that is done every year by an outside audit firm, rather an attestation review, which is a more focused type of an audit. One area of focus might be billings and collections at the Manor.

Foley noted there had been no Medicare collections at the Manor for approximately a year and asked how that could have occurred.

Thorpe explained that training was minimal when the facility became Medicare certified in 2007, which caused delays.

Schorr said the Manor's computer system is outdated, which also contributed to the problem.

Foley asked whether the Board was aware of the rapid decline in cash balances.

Board members indicated they were.

Eagan said Ron Fetters, the former Lancaster Manor Administrator, had advised the Board that making the facility Medicare eligible would take care of some of the Manor's cash problems.

Hudkins said Larry Van Hunnik, who served as Lancaster Manor Administrator prior to Fetters, advised against doing so. He said the Board elected to follow Fetters' recommendation and also made a decision to eliminate the Renewal and Replacement Fund and use the funds to pay off the bonds.

Foley raised questions regarding capacity.

Hudkins said the Manor has a capacity of 293 beds. He said the current population is 241 and said the facility can operate at a profit with a capacity of 260 to 270.

Foley asked whether the vacancy rate is typical.

Thorpe said other nursing home facilities are also experiencing lower census numbers, due in part to the economy. She said the RFQ process may also have had an impact on the Manor's census.

Schorr added that the Manor is not able to accept everyone seeking admittance, due to care requirements.

Foley presented materials related to the Manor's revenues and expenses (Exhibit A) and said he would have expected to see a more gradual pattern.

Thorpe said back payments from the State for Medicaid services is one reason for the fluctuations.

Foley noted the projection of a \$3,500,000 deficit in the RFQ Committee report and asked what assumption was made regarding the vacancy rate.

Thorpe said the March, 2009 resident census numbers were used for the projections. She added that no capital improvements were included in the report.

Schorr extended an invitation for Foley to tour the facility.

Board consensus was to schedule a public hearing on the RFQ Committee report on the June 23, 2009 County Board of Commissioners Meeting agenda and to send a letter to Manor residents outlining the report and informing them of the public hearing.

**7 A) SOUTHWEST 14<sup>TH</sup> STREET PAVING; AND B) COUNTY SPECIAL PERMIT NO. 09011, GARDEN CENTER AT SOUTH 148<sup>TH</sup> STREET AND PINE LAKE ROAD (GEPEON PROPERTIES, L.L.C.) - Doug Pillard, Design Division Head, County Engineering**

**A) Southwest 14<sup>th</sup> Street Paving**

Heier said the Board has been asked why Southwest 14<sup>th</sup> Street is not being paved the rest of the way.

Doug Pillard, Design Division Head, County Engineering, said the road is scheduled to be paved as far as West Bennet Road. He said the two miles remaining to get to Highway 33 are graded and ready to be paved. Pillard said the traffic counts change significantly at Bennet Road and said his department is paving the busiest section since it lacks the funds to pave the entire project.

Workman asked that the Engineering Department continue to take traffic counts on the road.

**B) County Special Permit No. 09011, Garden Center at South 148<sup>th</sup> Street and Pine Lake Road**

Heier noted concerns were expressed at the June 9<sup>th</sup> County Board of Commissioners Meeting regarding location of the driveway.

Mike DeKalb, Planner, said the original application showed the driveway 250' south of intersection of Pine Lake Road and South 148<sup>th</sup> Street. The County Engineer requested that the road be shifted 650' further south. The applicant indicated that would cause additional costs and inconveniences and worked with County Engineering to try to find an alternative. He said they reached an agreement that the driveway could come straight off the "T" intersection, with a slight "jog" to the south, and go east along the north property line about 650'. DeKalb said he informed the Board at the public hearing on June 9<sup>th</sup> that they had worked out a different solution and that the provision in the County Engineer's letter of May 22<sup>nd</sup> would need to be removed or modified. He noted that the applicant indicated at the meeting that he would prefer the original location.

Hudkins said the Board has been informed that Pine Lake Road is not scheduled to be opened in the near future and that there is an existing farm driveway off South 148<sup>th</sup> Street.

Pillard said that is correct. He said this will be a commercial entrance and said his department is concerned that turn lanes may be required at South 148<sup>th</sup> Street and Pine Lake Road at some point in the future and a change in driveway location at that time would be difficult.

Workman expressed concern regarding having a private driveway coming straight off the "T" intersection.

Schorr concurred.

Brief discussion followed with suggestions to include language in the special permit or road access permit to indicate that the driveway may need to be moved in the future or to require that a letter of agreement be filed with the deed.

**MOTION:** Workman moved and Hudkins seconded to direct the County Attorney's Office to bring forth a resolution allowing construction of the driveway 250' from the intersection, with stipulations in the special permit and road access permit that the driveway shall be moved 650' from the intersection in the event that Pine Lake Road is extended to the east or turn lanes are installed on South 148<sup>th</sup> Street at Pine Lake Road for northbound traffic.

**FRIENDLY AMENDMENT:** Stevens offered a friendly amendment to indicate that the applicant has the option of moving the driveway 650' east on Pine Lake Road or south on 148<sup>th</sup> Street.

The maker of the motion and the seconder accepted the friendly amendment.

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

Stevens asked that the Planning Department provide a revised drawing at the June 16<sup>th</sup> County Board of Commissioners Meeting.

**NOTE:** Blake Gipson, applicant, was also present.

## **8 ACTION ITEMS**

A. Microcomputer Requests:

1. #C55078, Two (2) Elo Touch Screen Monitors, \$1,507.53 from Corrections Budget

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

2. \$710.36 from County Extension Fiscal Year (FY) 2008-09 Budget for a PC

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

3. #C55196, Memory Upgrade for County Board/City Council Joint Receptionist, \$139.25 from Microcomputer Fund

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

B. Nebraska Crime Commission Grant Continuation Report and Application

**MOTION:** Stevens moved and Hudkins seconded approval of the grant application submittal. Hudkins, Workman, Schorr, Heier and Stevens voted aye. Motion carried.

## **9 CONSENT ITEMS**

There were no consent items.

## **10 ADMINISTRATIVE OFFICER REPORT**

There were no items to report.

## **11 PENDING**

There were no pending items.

## **12 DISCUSSION OF BOARD MEMBER MEETINGS**

### A. 2009 Environmental Leadership Awards - Workman, Schorr

Schorr said she and Workman greeted attendees.

### B. Girls' State - Schorr

Schorr said she gave the participants an overview of County government and answered their questions.

### C. Nebraska Innovation Zone Commission (NIZC) - Heier

No report.

### D. Region V Governing Board - Schorr

Schorr said they approved budgets, plans and reports. She also reported that the Executive Committee met and reviewed the strategic plan.

### E. Lancaster County Correctional Facility Joint Public Agency (JPA) - Heier, Stevens

Stevens said expenditures were approved.

### F. Meeting with the Mayor - Heier, Stevens

Steven said the Public Defender attended the meeting and proposed that the City pay the County more money under the interlocal agreement because of representation related to City misdemeanors. He said they also discussed the assessment from Gable Consulting of the current provision of information services to Lancaster County. **NOTE:** The report has been provided to the Mayor but has not been made public.

Board consensus was to schedule discussion of the report on the June 18, 2009 Staff Meeting agenda.

Stevens said the Mayor asked whether the County would be willing to increase their share of funding of the position of Administrative Assistant to the Mayor, Economic Development if Lincoln Electric System (LES) withdraws their share of funding.

G. Railroad Transportation Safety District (RTSD) - Stevens, Schorr

Meeting was cancelled.

H. Public Building Commission (PBC) Meeting with the Mayor - Hudkins

Hudkins said Don Killeen, County Property Manager, and Linda Wilson, Public Building Commission (PBC) Vice Chair, attended the meeting in his place. He said they reported that discussion focused on the Mayor's proposal for a one-stop development services center on the 2<sup>nd</sup> floor of the County-City Building and Killeen and Wilson told the Mayor the PBC wants assurances that the majority of the City Council want to move forward with the project.

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

Hudkins said they approved moving ahead with design of the one-stop development services center space. Workman said he voted against doing so because he believes it was inappropriate for the PBC to act on the matter before the City Council.

**13 ADJOURNMENT**

**MOTION:** Schorr moved and Stevens seconded to adjourn the meeting at 11:32 a.m. Hudkins, Workman, Schorr, Heier and Workman voted aye. Motion carried.

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Dan Nolte  
Lancaster County Clerk