

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 113
THURSDAY, SEPTEMBER 3, 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
Dan Nolte, 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,
AUGUST 27, 2009**

MOTION: Stevens moved and Schorr seconded approval of the August 27, 2009 Staff Meeting minutes. Stevens, Workman, Schorr and Heier voted aye. Hudkins was absent from voting. Motion carried.

2 ADDITIONS TO THE AGENDA

- A. Meeting with Village Representatives
- B. Tri-County Meeting with Douglas and Sarpy Counties
- C. Holiday Schedule

MOTION: Stevens moved and Workman seconded approval of the additions to the agenda. Schorr, Stevens, Workman and Heier voted aye. Hudkins was absent from voting. Motion carried.

Hudkins arrived at the meeting at 8:34 a.m.

3 COUNTY SPECIAL PERMIT NO. 09019, SOIL EXCAVATION AT NORTH 56TH STREET AND RAYMOND ROAD (MUHLBACH); AND B) COUNTY CHANGE OF ZONE NO. 09018, HOME OCCUPATIONS -
Mike DeKalb, Planner

A) County Special Permit No. 09019

Mike DeKalb, Planner, gave an overview of County Special Permit No. 09019, a request from Harry Muhlbach to allow the excavation of soil, sand and gravel on property at North 56th Street/Highway 77 and Raymond Road, noting the applicant's intent is to continue a soil excavation operation initiated under a special permit that has expired (Exhibit A). He said the applicant requested waiver of the screening and bond requirements. Planning staff has recommended conditional approval of the special permit, including approval of the screening waiver, but denial of the bonding waiver. There was testimony before the Planning Commission in opposition, and in the written record. Lack of maintenance to the access and the highway where the trucks pull out; dust control; noncompliance with the conditions of the previous special permit for soil excavation; and the lack of enforcement of the conditions by City staff were cited. DeKalb said the Planning Commission concurred with staff and recommended conditional approval, with a 7-1 vote.

Schorr asked how much longer the project will take.

DeKalb said excavation has not been for one large project, rather an occasional borrow permit for various contractors. He estimated only a third to a half of what has been approved has been disturbed.

Heier said there appears to be a problem with construction vehicles on Muhlbach's property and asked whether a clean-up of the property could be tied to the special permit.

DeKalb said he thought Muhlbach's construction company was a legal, non-conforming use but said Mel Goddard, Chief Building Inspector, Building and Safety Department, has informed him it is illegal use that started after zoning regulations were in place. DeKalb said it is outside the boundaries of the special permit but could be a factor to consider.

Hudkins disagreed with Goddard's assessment. He said the Muhlbach Construction has been in business at that location since the '50's and said their agricultural related construction is allowed in the County's Agricultural District.

Eagan said the Court, in Ayers v. Lancaster County, rejected that argument.

Hudkins suggested the County Attorney's Office research the matter further.

Stevens said the Board could limit the special permit to one year, renewable for two additional years upon satisfactory review.

B) County Change of Zone No. 09018

DeKalb presented a proposed text amendment that would add special permit language for expanded home occupations (Exhibit B). He said the proposed changes have been non-controversial and said Planning Staff and the Planning Commission have recommended approval.

Hudkins suggested inclusion of seed corn distribution in the list of approved uses.

DeKalb said if a farmer sells seed corn it is considered a normal accessory to a farm operation, which is permitted in the Agriculture (AG) District. He said a business that exceeds those limits, such as a seed distribution center, could apply for a special permit.

Stevens asked whether Michael and Judith Rosecrans, whose application for a Change of Zone from Agriculture (AG) to Business (B) District on property one-half mile south of the corner of Hickman Road and Homestead Expressway/Highway 77 was placed on pending, are aware of the proposed text amendment.

DeKalb said they are and said they testified in support at the Planning Commission hearing. He noted they have 8.5 acres, rather than the 10 acres specified in the text amendment, but said they could apply for a waiver.

In response to a question from Heier, DeKalb said 10 acres was selected because it would have less impact on neighboring lots. He said the special permit could apply to previously platted 10 acre lots, lots 10 acres or more in size, or a 10 acre portion of a 20 acre, or larger, lot. DeKalb added that applicants can ask for a waiver or adjustment.

ADDITIONS TO THE AGENDA

A. Meeting with Village Representatives

Board consensus was to not schedule a meeting at this time.

B. Tri-County Meeting with Douglas and Sarpy Counties

Kerry Eagan, Chief Administrative Officer, said the Douglas, Lancaster and Sarpy County administrators plan to meet in the near future and said it may be more appropriate to schedule a meeting between the three County Boards after they have met.

C. Holiday Schedule

The Chair asked Board members to review their schedules and be prepared to discuss the holiday schedule at the next Staff Meeting.

4 HEALTH INSURANCE PLAN OPTIONS - Stephanie Noonan, Milliman, USA; Bill Kostner, City Risk Manager

Stephanie Noonan, Milliman USA, presented the following documents (Exhibit C):

- Calendar Year 2010 - Lancaster County Possible Plan Design Changes
- Calendar Year 2010 Pricing Calculation - Medical Plans (No Subsidy)
- Calendar Year 2010 Pricing Calculation - Medical Plans (Includes a 5-Year Spend-Down of the Trust Fund)
- Calendar Year 2010 Pricing Calculation - Medical Plans (Includes a 4-Year Spend-Down of the Trust Fund)

Noonan said she is comfortable with a 4-year spend-down of the trust fund but would not recommend any less.

Bill Kostner, City Risk Manager, said the City's plan is similar to Option 5 in the list of possible design changes. **NOTE:** Option 5 features a \$300/\$600 Deductible, \$600/\$1,500 Out-of-Pocket (OOP) Maximum, \$20 Primary Care Physician (PCP) Co-Pay; and \$15/\$30/\$50 Prescription Co-Pay. He said the City also moved to a \$150 Emergency Room (ER) co-pay a couple of years ago in an effort to reduce costs.

Noonan said Douglas County is also looking at increasing their deductible.

Workman inquired about their PCP co-pay amount.

Noonan said it is currently \$20.

Schorr said she favors increasing the ER co-pay, noting employees are encouraged to use urgent care facilities rather than the ER, if possible.

MOTION: Hudkins moved and Schorr seconded to adopt Option 5, with a 5-year spend-down of the trust fund, which is an 8.2% increase.

FRIENDLY AMENDMENT: Schorr offered a friendly amendment to increase the Emergency Room (ER) co-pay from \$100 to \$150.

The maker of the motion rejected the friendly amendment.

The seconder withdrew her second and the motion died for the lack of a second.

MOTION: Stevens moved and Workman seconded to adopt Option 5, with a 4-year spend-down of the trust fund and increasing the Emergency Room (ER) co-pay to \$150. Schorr, Stevens, Hudkins, Workman and Heier voted aye. Motion carried.

5 A) CONTRACT WITH BEHAVIORAL INTERVENTIONS (BI), INC. FOR ALCOHOL DETECTION; AND B) CONVERSION OF TEMPORARY EMPLOYEE TO PERMANENT PART-TIME STATUS - Kim Etherton, Community Corrections Director

A) Contract with Behavioral Interventions (BI), Inc. for Alcohol Detection

Kim Etherton, Community Corrections Director, said there will be a demonstration monitoring service agreement with Behavioral Interventions (BI), Inc. for a for a electronic home detention monitoring program on the September 8, 2009 County Board of Commissioners Meeting agenda. She said the trial period is 30 days and there will be no cost to the County.

B) Conversion of Temporary Employee to Permanent Part-Time Status

Etherton said she would like to convert a temporary employee to permanent part-time status (18 hours per week), noting the position was included in her budget and has no benefits attached.

There was no objection to the request.

In response to a question from Schorr, Etherton said she is leaning towards having Information Services (IS) build the software for a tracking system for the electronic field monitoring devices (see August 27, 2009 Staff Meeting minutes). She said although it will be more expensive than having an independent contractor build a system, IS has the ability to integrate the tracking system with Community Corrections' database.

Etherton also indicated she is running out of space and is re-looking at space in the 233 Building (former Lincoln Police Department Building).

6 POTENTIAL SALE OF REAL PROPERTY - Mike Thew, Chief Deputy County Attorney

MOTION: Schorr moved and Stevens seconded to enter Executive Session at 9:44 a.m. to discuss the potential sale of real property. Schorr, Stevens, Workman, Hudkins and Heier voted aye. Motion carried.

Schorr exited the meeting.

MOTION: Stevens moved and Heier seconded to exit Executive Session at 10:44 a.m. Stevens, Workman, Hudkins and Heier voted aye. Schorr was absent from voting. Motion carried.

ADMINISTRATIVE OFFICER REPORT

A. Claim for Review, PV234231 (\$2,038.88) from Community Mental Health Center (CMHC) (Requires a Purchase Order)

MOTION: Workman moved and Hudkins seconded to handle the claim through the regular claims process. Hudkins, Workman and Heier voted aye. Stevens voted nay. Schorr was absent from voting. Motion carried.

Stevens indicated he would like more information regarding the claim.

Bob Walla, Assistant Purchasing Agent, appeared and said CMHC ordered new mattresses at a cost of approximately \$1,400. They were charged \$576 for shipping, which pushed the total amount up to the amount that requires a purchase order. He said CMHC will work through the Purchasing Department in the future.

Schorr returned to the meeting at 10:45 a.m.

7 LANCASTER MANOR UPDATE - Gwen Thorpe, Interim Lancaster Manor Administrator

- A) EXTENSION OF CONTRACTS**
- B) REQUEST FOR PUBLIC RECORDS FROM GARY YOUNG REPRESENTING THE AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES (AFSCME) LOCAL 2468**
- C) LANCASTER MANOR FACT SHEET**
- D) LANCASTER MANOR STAFFING**

Lancaster Manor Update

Gwen Thorpe, Interim Lancaster Manor Administrator, reported the following:

- The census is 238.
- State auditors are still working at the Manor.
- Business Office should have cost report information completed this week.
- All department directors are coding their payment vouchers.
- A representative of Hunter Management will meet with residents on each station and will meet with staff and family members at some point in the future.

Hudkins asked where the Manor is on billing and tracking medications.

Thorpe said staff is working on it but must perform the work manually.

Hudkins asked Thorpe whether she plans to close the employees' café.

Thorpe said she has not made a final decision but said she is looking at it seriously because the County is not recovering its expenses. She added there are a number of eating establishments within walking distance.

Schorr noted the Board has asked Thorpe to hold the line on expenses and to not make cuts in areas that affect the quality of care.

Hudkins asked whether the employees' café is also available to family members.

Thorpe said it is, but said they can also order meals from the kitchen.

Hudkins asked the general feeling of the residents. He said he was told there is a lot of concern regarding plans to sell the facility.

Thorpe said she believes they have been fairly accepting and said she has encouraged staff to be positive.

Workman asked Hudkins the source of his information.

Hudkins said he has received phone calls at home and has had individuals approach him at public functions. He said KLIN (radio station) had an opinion poll on the issue and said of 78% of the respondents said the County Board should retain control of the facility.

A) Extension of Contracts

Thorpe said some contracts will be expiring soon and said the County Attorney's Office and the Purchasing Department have recommended six month extensions.

B) Request for Public Records from Gary Young Representing the American Federation of State, County & Municipal Employees (AFSCME) Local 2468

Item was covered in Executive Session.

C) Lancaster Manor Fact Sheet

Discussion took place regarding a document the Board received titled Lancaster Manor Myths and Facts (see agenda packet).

Workman said information in the document is not factual. He noted the Commissioners' names appear at the bottom, which he said gives the appearance it was authorized by the Board. Workman said he wants to know the source of the document and said he is tempted to seek a court order to stop its distribution.

Schorr agreed the Board should investigate the source.

Heier said he was told the union is distributing the document at a booth at the State Fair.

Hudkins stated he has not seen the document.

Schorr said she attended the Chamber Coffee yesterday and was asked by one of the attendees whether the Board had a fact sheet they could study. She said Eagan helped her draft one (Exhibit D).

Workman offered two variations that he drafted (Exhibit E).

MOTION: Hudkins moved to defer further discussion and a decision until the September 8, 2009 County Board of Commissioners Meeting.

The motion died for the lack of a second.

MOTION: Workman moved and Schorr seconded to proceed with Commissioner Workman's second fact sheet version, with signature by all Board members willing to sign.

Hudkins said he will not sign the document because he does not believe it is factual.

Hudkins asked that the following statement be included in the record: "You may have met the letter of the law with your carefully crafted scheme to sell Lancaster Manor, but in doing so you have eroded the trust and confidence in the County Board."

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

D) Lancaster Manor Staffing

Item was dropped from the agenda.

8 LANCASTER COUNTY ATTORNEY BUDGET UPDATE - Doug Cyr, Chief Administrative Deputy County Attorney

Doug Cyr, Chief Administrative Deputy County Attorney, presented proposed reductions to the County Attorney's budget totaling \$34,256 (Exhibit F). He said the reductions are due, in part, to an attorney leaving and being replaced by an entry level attorney and won't impair the office's ability to perform operations.

9 ACTION ITEMS

There were no action items.

10 CONSENT ITEMS

There were no consent items.

11 ADMINISTRATIVE OFFICER REPORT

- A. Claim for Review, PV234231 (\$2,038.88) from Community Mental Health Center (CMHC) (Requires a Purchase Order)

Item was moved forward on the agenda.

- B. E-Mail from Jeff Maul, Lincoln Convention and Visitors Bureau (CVB) Executive Director, Regarding Special Olympics

Board consensus was to volunteer, as a team, in the 2010 Special Olympics CESSNA Airlift on July 17, 2010.

C. Management Team Meeting (Thursday, September 10, 2009)

The following agenda items were indicated: 1) Smoking cessation assistance; 2) Electronic waste disposal; and 3) Roundtable discussion.

D. Nebraska Association of County Officials (NACO) Southeast District Meeting (September 28, 2009 at Mahoney State Park)

Heier, Hudkins and Workman indicated plans to attend the meeting.

E. Nebraska Association of County Officials (NACO) Annual Conference (December 9-11, 2009 at the Cornhusker Hotel)

All of the Board members plan to attend the conference.

12 PENDING ITEMS

There were no pending items.

13 DISCUSSION OF BOARD MEMBER MEETINGS

A. Lincoln-Lancaster County Ecological Advisory Committee (EAC) Committee - Heier

The meeting was cancelled.

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

Stevens said the budget was approved, noting there is no commitment for the Antelope Valley Project beyond this fiscal year. He also indicated the Southwest 40th Street Project has been placed on hold. Stevens said the Matt Talbot Kitchen is acquiring land from the City on North 27th Street and must pay back federal funds that were used for the land. He said the RTSD contributed 5% of the total cost because the land was part of the right-of-way acquired when a bridge was built. The federal government has determined the City is selling the land to an appropriate public purpose so it will waive the requirement, but indicated the need for a clause stating a future buyer would have to pay the funds back if it is used for another purpose.

Workman said a "quiet zone" (a railroad grade crossing at which trains are prohibited from sounding their horns in order to decrease the noise level for nearby residential communities) on Cornhusker Highway will take effect on September 18th.

C. Chamber Coffee - Stevens, Schorr

Schorr reported on budget discussion. Lancaster Manor and road delays caused by stimulus funding were also discussed.

15 ADJOURNMENT

MOTION: Schorr moved and Stevens seconded to adjourn the meeting at 11:34 a.m. Hudkins, Workman, Heier, Stevens and Schorr voted aye. Motion carried.

Dan Nolte
Lancaster County Clerk