

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, NOVEMBER 23, 2010
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.

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

Commissioners absent: Bob Workman

Others present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Brittany Behrens, 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, November 16, 2010.**

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

2) **CLAIMS: Approval of all claims processed through Tuesday, November 23, 2010.**

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

3) **PUBLIC HEARING:**

A. **Amendment of Article 2, Sections 1, 2, 5, 6, 17, 18, 19, 22 and 28 of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards.**

The Chair opened the public hearing. Scott Holmes, Lincoln-Lancaster County Health Department Environmental Public Health Manager, was administered the oath. He explained the main change allows a higher level of emissions for greenhouse gas regulation. If the change is not adopted, the ability to write permits for local industries will default to the federal government. He also noted changes to various definitions and incinerator regulations. Stevens commented on the large quantity of local industries affected if the federal standard for greenhouse emissions was not adopted at a local level. Holmes said the current threshold for regulation is 100 times the emissions per year. The change would increase it to 100,000, allowing many industries to fall below the regulation level. Schorr said maintaining control at the local level would keep service more prompt. Hudkins said local industries would rather deal with regulation at the local level. The Chair closed the public hearing.

4) **OLD BUSINESS:**

- A. **A resolution amending Article 2, Sections 1, 2, 5, 6, 17, 18, 19, 22 and 28 of the Lincoln-Lancaster County Air Pollution Control Program Regulations and Standards. The Lincoln-Lancaster County Health Department has recommended the amendments, as provided in Attachments A through I, in order to be consistent with Federal and State regulations. (R-10-0095)**

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

- B. **A grant application for the Federal American Recovery and Reinvestment Act of 2009 (ARRA) Byrne/Justice Assistance Grant (JAG) through the Nebraska Crime Commission to fund training events for the Lancaster County Public Defender's Office and criminal defense attorneys across the state on the immigration consequences of criminal convictions.**

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

5) **NEW BUSINESS:**

- A. **A resolution authorizing the issuance of not to exceed \$1,975,000 principal amount of its Industrial Development Revenue Promissory Note, Series 2010 (Community Action Partnership of Lancaster and Saunders Counties Project) and the execution and delivery of (1) a Lease Agreement, (2) a Deed of Trust, Construction Security Agreement and Assignment of Rents and Leases, (3) a Tax Compliance Agreement, and related documents. (R-10-0096)**

Lauren Wismer, Gilmore Bell, said the County Board approved the original bonds in 1999 for construction of the Lincoln Action Program building, which is now referred to as the Community Action Partnership of Lancaster and Saunders Counties. Tom Houston, Community Action Partnership of Lancaster and Saunders Counties, said the refinancing will result in a significant savings. Stevens asked if the bond maturity date changed and if the lease payments cover the principal and interest. Wismer said the maturity date is still 2024 and the lease payments would cover the principal and interest. Stevens questioned the County's financial obligation. Wismer said industrial revenue bonds are issued through the County to make interest excludable from gross income for federal income tax purposes. In these circumstances, the County has no financial obligation.

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

- B. **Reappointment of Wesley D. Daberkow, Debora A. Day and Linda Butcher to the Lancaster County Agricultural Extension Board, with the term of January 1, 2011, to December 31, 2013.**

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

5) **NEW BUSINESS CONTINUED:**

- C. **2008 sub-recipient agreement for the Southeast Region in the amount of \$556,840 from the Nebraska Emergency Management Agency.**

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

Doug Ahlberg, Emergency Management Director, stated the current grant expires in December. He said this would extend the 2008 grant for the southeast portion of the state.

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

- D. **Authorization for Doug Cyr, Deputy County Attorney, to sign the consent decree at Case No. C109-4985, Bool Family Limited Partnership v. Marlin Davis and County of Lancaster, Nebraska.**

Doug Cyr, Deputy County Attorney, said the proposed consent decree would finalize the litigation for George Bool, Marlin Davis and Lancaster County. Bool, who owns farm ground downstream from Davis, has had problems with erosion due to flooding. Davis has agreed to do substantial excavating work to stop floodwaters from going around his dam. The decree requires Lancaster County to maintain the box culvert so its flow capacity is not diminished by accumulation of debris to the extent that it floods the road. Cyr said he spoke to Don Thomas, County Engineer, who agreed with the language in the decree. He noted there is no monetary impact on the County other than cleaning the culvert when it becomes clogged. Stevens questioned if everyone agreed with the revision under 4b. Cyr said Bool was agreeable; he would show it to Davis, who should be agreeable since the revision does not impact him. Hudkins noted the Bools have been fighting the flooding issue for several years.

MOTION: Hudkins moved and Stevens seconded to authorize Doug Cyr to sign the consent decree with the correction on 4b. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

- E. **A resolution in the matter of the vacation of a portion of West Waggoner Drive as platted in Waggoner Subdivision in the Northwest Quarter of Section 27, Township 10 North, Range 5 East of the Principal Meridian, Lancaster County, Nebraska. (R-10-0097)**

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

- F. **A resolution in the matter of adopting a bid protest procedure for Lancaster County, Nebraska. (R-10-0098)**

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

- G. **A recommendation from the Purchasing Agent and the County Engineer to award a contract in the total amount of \$166,328.40 to Westover Trucking and Buel Trucking for Fiscal Year 2011 rock hauling to stockpiles. (B-10-0046)**

Schorr noted the total dollar amount for hauling is \$603,128.40. She questioned the period that it covered. Bob Walla, Assistant Purchasing Agent, said rock hauling was bid twice per year.

5) **NEW BUSINESS CONTINUED:**

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

- H. **A master group application for an administrative service agreement with Blue Cross and Blue Shield of Nebraska for the provision of claim administration services on behalf of Lancaster County's self-funded group health care program. (C-10-0595)**

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

- I. **An administrative services agreement between Lancaster County and Blue Cross and Blue Shield of Nebraska for the provision of claim administration services for Lancaster County's self-funded group health care program, effective January 1, 2010. (C-10-0597)**

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

- J. **An administrative services agreement between Lancaster County and Blue Cross and Blue Shield of Nebraska for the provision of claim administration services for Lancaster County's self-funded group health care program, effective January 1, 2011. (C-10-0596)**

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

- K. **A business associate agreement between Lancaster County and Aon Risk Service Central, Inc., to comply with Health Insurance Portability & Accountability Act (HIPAA) regulations. The agreement is effective June 1, 2010. (C-10-0598)**

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

- L. **Memorandum of support and commitment for cooperation among the counties and communities for the planning and design, promotion and marketing of the I-80 Corridor region by the I-80 Council. (C-10-0599)**

Heier noted Lancaster County only had jurisdiction over two miles of this agreement. Hudkins said the County would only need to send a representative to meetings four times per year instead of monthly as in the past. He stated the administration would be done by the Omaha and Lincoln Chambers of Commerce.

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

- M. **Change Order Agreement No. 1 to County Contract No. C-08-0217 with Sampson Construction Co., Inc., for an increase of \$642,910 for the Lancaster County Detention Facility Building Project. (C-10-0600)**

5) **NEW BUSINESS CONTINUED:**

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

- N. **An agreement between Lancaster County and the District Energy Corporation (DEC) to provide funding for the purchase and installation of a Domestic Hot Water System and Fluorescent Dimming Control of Lighting System as part of the Lancaster County Detention Facility Building Project. DEC will reimburse the County for the costs and installation in the amount of \$642,910. The agreement is effective upon execution by both parties. (C-10-0601)**

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

- O. **A Region V network provider contract for services under the Projects for Assistance in Transition from Homelessness (PATH) Grant Program. The County, through the Community Mental Health Center, will provide outreach services, community mental health services, screening and diagnostic services. The County shall be compensated up to \$32,500 for the services and is required to match \$10,834 in cash or in kind. The term of the agreement is October 1, 2010, to September 30, 2011. (C-10-0602)**

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

- P. **A grant contract with Cedars Youth Services, Inc., to provide funding in the amount of \$47,165 for Cedars' juvenile diversion programs. Term of the grant contract is July 1, 2010, to June 30, 2011. (C-10-0603)**

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

- Q. **An agreement with Surgical Specialists, LLC to provide specialized medical care and assistance to Lancaster County General Assistance clients who have pending claims with the Social Security Administration and may be eligible for retroactive Medicaid benefits. The agreement sets forth a reimbursement arrangement in which the County will provide payment for the medical care and Surgical Specialists, LLC will reimburse the County if/when the General Assistance client is later determined eligible for Medicaid reimbursement. The agreement is effective upon execution of both parties and contains a 30-day termination provision. (C-10-0604)**

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

- R. **A political subdivision tort claim filed against Lancaster County Corrections by William Deets for lost property in the amount of \$20.**

MOTION: Hudkins moved and Stevens seconded denial of the tort claim based on the department director's recommendation. Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 4-0.

6) **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:*

A. Right-of-way contracts with the County Engineer and the following:

1. **Daryl Lee Bohac, in the amount of \$60,680, located on S. 98th Street from Old Cheney to A Street; Project No. C55-KP-412(1). (C-10-0605) (C-10-0606) (C-10-0607)**
2. **Catholic Bishop of Lincoln, in the amount of \$34,553, located on S. 1st Street from Old Cheney to Pioneers Boulevard; Project No. C55-O-408(4). (C-10-0608) (C-10-0609)**

B. Receive and place on file the County Engineer and GIS quarterly reports for July, August and September, 2010.

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

7) **PUBLIC COMMENT:**

Jane Svoboda discussed surveillance used by China. Heier asked that all public comment be restricted to items regarding County business.

Coby Mach and Mike Koberlein, Lincoln Independent Business Association (LIBA), appeared. Mach said LIBA recommended saving the \$2,600,000 from the Lancaster Manor sale and possibly using a small portion for County Budget needs if necessary. He distributed a statement from the LIBA Board of Directors (Exhibit A).

John Austin discussed a variety of topics, including City-County retirement, the bid process and the County correctional facilities.

8) **ANNOUNCEMENTS:**

- A. **The Lancaster County Board of Commissioners will not hold a staff meeting on Thursday, November 25, 2010, due to the Thanksgiving holiday. The next staff meeting will be held on Thursday, December 2, 2010, beginning at 8:30 a.m., in Room 113 on the first floor of the County-City Building.**
- B. **A public hearing will be held on Monday, December 6, 2010, at 7:00 p.m., in the County Commissioners Hearing Room, Room 112, on the first floor of the County-City Building, regarding Lancaster County's proposed One and Six-Year Road and Bridge Improvement Program for July 1, 2011, to June 30, 2016.**
- 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.**

9) **ADJOURNMENT**

MOTION: Stevens moved and Schorr seconded to adjourn the Board of Commissioners meeting at 10:12 a.m. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

/s/Dan Nolte

**Dan Nolte
Lancaster County Clerk**

MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, NOVEMBER 23, 2010
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY
BOARD OF COMMISSIONERS MEETING

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

Commissioners absent: Bob Workman

Others present: Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Brittany Behrens, 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 10:12 a.m.

1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, November 16, 2010.**

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

2) **ADDITIONS AND DEDUCTIONS: Approval of four additions and deductions to the tax assessment rolls per Attachment "A".**

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

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

Christian Heritage
Goodwill Industries Serving Southeast Nebraska
Nebraska United Methodist Foundation
People's City Mission
School Sisters of Christ the King
Sisters of St. Francis
University of Nebraska Foundation

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

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

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

Gentiva Health Services

Scott Gaines, Deputy County Assessor/Register of Deeds, recommended denial of the appeal. He said State statute does not allow for dismissal of late filing penalties unless the penalty was wrongly opposed or incorrectly calculated, which does not apply in this situation.

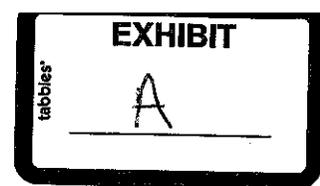
MOTION: Schorr moved and Hudkins seconded denial of the appeal based on the County Assessor's recommendation. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

5) **ADJOURNMENT**

MOTION: Schorr moved and Stevens seconded to adjourn the Board of Equalization meeting at 10:15 a.m. Stevens, Schorr, Hudkins and Heier voted aye. Motion carried 4-0.

/s/Dan Nolte

Dan Nolte
Lancaster County Clerk



To: Lancaster County Board of Commissioners
From: LIBA Board of Directors
Date: November 23, 2010
Re: \$2.6 million



The LIBA Board of Directors would like to recommend saving the \$2.6 million profit realized from the sale of Lancaster Manor. In recent years, Lancaster County has faced budget shortfalls. Normally, you have two options when dealing with a shortage of funds: 1) increase property taxes or 2) cut services. Saving the \$2.6 million gives you a rare third option.

A June 9, 2010, article by the *Lincoln Journal Star* indicated that the Lancaster County Department of Corrections submitted a proposed budget for \$800,000 higher than its current level because of the cost of 14 additional staff members for the new jail being built in west Lincoln. The Lancaster County Sheriff's Office submitted a budget of \$400,000 higher because of salary and cost-of-living adjustments. The Commissioners know that in order to keep our community safe, increased costs are coming!

LIBA is not suggesting you use one-time funds to balance a budget or hire additional staff. We are concerned that you may find yourselves in an emergency situation where it may be a prudent decision to use a small portion of the \$2.6 million.

The budget cycles for the last several years have included shortfalls, and the Board should anticipate another shortfall for this upcoming year. LIBA recommends that the Board exercise an abundance of caution and save the \$2.6 million.