

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
COUNTY-CITY BUILDING, ROOM 113  
THURSDAY, SEPTEMBER 2, 2010  
8:30 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  
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 MINUTES OF THE THURSDAY, AUGUST 26, 2010 STAFF MEETING**

**MOTION:** Stevens moved and Hudkins seconded approval of the August 26, 2010 Staff Meeting minutes. Hudkins, Stevens and Schorr voted aye. Heier abstained from voting. Motion carried 3-0, with one abstention.

**2 ADDITIONS TO THE AGENDA**

None were stated.

**3 SOUTHWEST 40<sup>TH</sup> STREET VIADUCT UPDATE** - Roger Figard, City Engineer; Thomas Shafer, Engineering Services Manager, Public Works/Utilities; Erika Nunes and Devin Biesecker, Engineers, Public Works/Utilities; Don Thomas, County Engineer

Heier requested an explanation of why work on the Southwest 40<sup>th</sup> Street Viaduct is not progressing.

Roger Figard, City Engineer, disseminated copies of General Federal-Aid Transportation Project Process (Exhibit A). He said the delays cannot be attributed to one particular document, rather an accumulation of factors and communications between resource agencies.

Erika Nunes, Engineer, gave a history of the Southwest 40<sup>th</sup> Street Viaduct project (Exhibit B) noting the following:

- Costs escalated during the years it took to coordinate bridge design with the railroad so the project was scaled back from four-lanes, plus turn lanes, to a two-lane bridge offset to one side. The Nebraska Department of Roads (NDOR) informed the City its environmental document had expired and would need to be re-evaluated, which took 18 months.
- Federal stimulus bill was passed and stimulus projects were given priority.
- NDOR came out with a new Local Projects Manual (LPN) in May, 2009 and compliance with the new documents, forms and formatting was required.
- NDOR informed the City in June, 2009 that right-of-way plans could not be done concurrently with the environmental re-evaluation and that it would not review the right-of-way plans the City had submitted until the environmental re-evaluation was completed. The Federal Highway Administration (FHWA) informed the City in January that NDOR was incorrect in its right-of-way interpretation and that NDOR could have proceeded on any tracks that were part of the original environmental document. NDOR has begun its review of the right-of-way submittal and has given the City permission to begin appraising the property.
- City received three comments from FHWA in August regarding the environmental re-evaluation. One involved securing a response from a resource agency which will need to be coordinated with NDOR. Once the document is approved, the City should receive permission to move forward with final design, appraisal of tracks and getting the project ready for review by NDOR.

Hudkins asked why the appraisal process is taking so long.

Figard said stimulus projects continue to take priority.

Stevens said, "this is bureaucracy at its finest" and felt the Governor should be informed if NDOR is a "stumbling block" in terms of getting the project completed. He also suggested that the County or Railroad Transportation Safety District (RTSD) purchase the right-of-way for the project.

Figard said they do not want to jeopardize losing federal aid for the project. He said one would be pre-determining the alternatives by buying the right-of-way.

Thomas Shafer, Engineering Services Manager, Public Works/Utilities, said all possible alternatives must be explored even if one believes they have the solution.

Figard said, "I'm not sure we can afford federal aid anymore."

Don Thomas, County Engineer, concurred.

Stevens suggested the viaduct be built without federal funds.

Figard said the City lacks the funds to do so. **NOTE:** The project is estimated to cost approximately \$17,000,000.

Stevens said the RTSD could fund the project, adding he deems this a higher priority than some of the RTSD's other projects.

Shafer said the RTSD would still run into federal bureaucracy, noting a permit is required from the U.S. Army Corps of Engineers because there is a stream nearby.

Figard said while it has been frustrating, it appears they are through most of the process. He stressed that they are still committed to getting the viaduct built.

Nunes added that acquisition of the right-of-way is dictating the schedule at this point.

Schorr asked whether additional funding for staff or the consultant would assist in moving the project along.

Figard said he doesn't believe so.

Schorr asked whether he can project a groundbreaking date.

Figard said no, but he will have a new schedule for the Board within 30 days.

Stevens noted the project was originally projected to be completed in 2008. He said if the project is still going to take a couple of years to complete, why can't Southwest 40<sup>th</sup> Street be opened to traffic?

Figard said the road was closed by agreement.

Hudkins asked whether a Section 404 Permit (Clean Waters Act) was ever secured.

Nunes said one was in process but was not signed because the project must be further along in the design process.

Hudkins asked how they track progress.

Figard said staff meets with NDOR on a regular basis to review projects in process, in addition to individual contacts.

Stevens asked whether there is anything the Board can do to expedite construction once it begins.

Figard said he will let them know.

**4 COUNTY WEBSITE POLICIES** - Troy Hawk, Dave Shively; Scott Gaines and Dan Nolte, Members of the Lancaster County Website Committee

Troy Hawk gave an overview of the proposed Lancaster County Website Front Page Policies (see agenda packet).

Schorr asked the Committee to apprise the Emergency Management Director and law enforcement agencies of the emergency notification provision.

Gwen Thorpe, Deputy Chief Administrative Officer, said the next step will be to develop a template for webpages and said Information Services (IS) is working on several options.

Dave Shively noted some departments may wish to personalize their webpages.

Hawk added that the Committee will review front pages for relevancy and to make sure information is kept current.

**5 COUNTY SPECIAL PERMIT NO. 10028, EXPANSION OF HOME OCCUPATION (CHIROPRACTIC OFFICE) ON SOUTHWEST 114<sup>TH</sup> STREET AND WEST ROCA ROAD (HIGHWAY 33)** - Mike DeKalb, Planner

Mike DeKalb, Planner, gave an overview of County Special Permit No. 10028, a request to construct an office building for expansion of a home occupation (a chiropractic office) on 31 acres on Southwest 114<sup>th</sup> Street and West Roca Road (Highway 33) (Exhibit C). He said Planning staff and the Planning Commission have recommended conditional approval.

In response to a question from Stevens, DeKalb said the building must meet building code requirements for a commercial office building. The building exterior will appear to be residential to be compatible with the neighborhood and can be adapted for residential use in the future.

**6 A) INTERLOCAL AGREEMENT WITH DISTRICT ENERGY CORPORATION (DEC) (JAIL CHANGE ORDER) AND B) ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC. (ESRI) CONSULTING CONTRACT - Tom Fox, Deputy County Attorney; Don Killeen, County Property Manager**

**A) Interlocal Agreement with District Energy Corporation (DEC) (Jail Change Order)**

Tom Fox, Deputy County Attorney, said the District Energy Corporation (DEC) would like a fluorescent light dimming control and domestic hot water systems installed in the new jail as part of the overall energy package. That will require a change order to the contract with Sampson Construction at a cost of \$642,000. He said the DEC has agreed to fund the cost (\$642,000) through an interlocal agreement but the change order with Sampson Construction will come before the Board before the interlocal agreement.

Don Killeen, County Property Manager, said the DEC has committed to funding the entire energy package.

**B) Environmental Systems Research Institute, Inc. (ESRI) Consulting Contract**

Fox said ESRI would like provisions for limitation of liabilities and warranties included in its contract to provide assistance in creating a geodatabase for County Engineering data. **NOTE:** ESRI is a Geographic Information System (GIS) mapping software company.

Jeff McReynolds, GIS Program Manager, appeared and said the contract is for time and materials rather than a physical product.

There was no objection to the request.

**7 ANNUAL NOXIOUS WEED CONTROL PROGRAM EVALUATION - Brent Meyer, Noxious Weed Inspector, Nebraska Department of Agriculture; Russ Shultz, Noxious Weed Control Authority Superintendent**

Brent Meyer, Noxious Weed Inspector, Nebraska Department of Agriculture, presented a report on the annual evaluation of the County's Noxious Weed Control Program (Exhibit D). He said Lancaster County has a higher than average score (3,370 out of a possible 3,400 points).

Heier said he received a call from a woman who would like to see wild mustard declared a noxious weed. He said he will refer her to Meyer.

Russ Shultz, Noxious Weed Control Authority Superintendent, discussed revisions to the supplemental questionnaire for the deputy weed control superintendent position (Exhibit E). He also stated he plans to ask the Personnel Department to see all of the applications that are submitted.

## **8 POTENTIAL LITIGATION - Tom Fox, Deputy County Attorney**

**MOTION:** Schorr moved and Stevens seconded to enter Executive Session at 9:49 a.m. for the purpose of protecting the public interest with regards to potential litigation. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

Schorr exited the meeting.

**MOTION:** Stevens moved and Hudkins seconded to exit Executive Session at 10:02 a.m. Stevens, Hudkins and Heier voted aye. Schorr was absent from voting. Motion carried 3-0.

## **9 SERVICE PROVIDER CONTRACT (MATRIX MODEL TREATMENT) - Kim Etherton, Community Corrections Director**

Kim Etherton, Community Corrections Director, said the County has been contracting with Dustin Bartley to provide substance abuse treatment intervention classes (matrix model treatment) to participants in the pretrial release program. She said Bartley has submitted notice that he is terminating his contract and a contract with a new provider will be scheduled on the September 7, 2010 County Board of Commissioners agenda.

Schorr returned to the meeting at 10:06 a.m.

Heier said the Board has not received a current report of activities.

Etherton said she discovered the report only reflected the number of new cases opened, not the number of individuals supervised. She said she will work with Information Services (IS) to correct the problem.

Heier asked whether there is any way to determine recidivism.

Etherton said she will have to work with someone who has access to the Criminal Justice Information Services (CJIS) and Judicial Users System to Improve Court Efficiency (JUSTICE) Systems.

Heier asked Etherton to look at whether individuals in the Community Corrections Program should be on probation.

Etherton said none of the individuals that are in the Pretrial Program should be on probation and explained that individuals in the House Arrest Program are serving a mandated sentence and their time in custody is part of a Probation order.

Heier said he is looking for ways to reduce the budget. He also expressed concern about jail population numbers (the current count is 553).

Stevens asked whether any progress has been made on the proposal to secure housing to assist individuals who are sitting in jail because they lack a place to live.

Etherton said she is waiting to see whether she is successful in securing a Nebraska Crime Commission grant before proceeding.

## **10 ACTION ITEMS**

A. Letter of Support for Centennial Mall Grant

**MOTION:** Schorr moved and Hudkins seconded to approve the letter with the following changes:

- Delete the third sentence which reads: *County staff are also available to assist with design development, permitting and any other relevant issues as they may arise.*
- Include a sentence regarding the impact to tourism.

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

## **DISCUSSION OF BOARD MEMBER MEETINGS**

A. Lincoln Independent Business Association (LIBA) Monthly Meeting - Heier, Schorr

Schorr said discussion focused on the Commission of Industrial Relations (CIR) and how funds from the valuation increase will be used.

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

Stevens said they approved claims totaling \$1,625,519.39. **NOTE:** The claims reflect payments to Wells Fargo for bank fees, Sampson Construction Company, the contractor, and The Clark Enersen Partners, the architect. He said a public hearing was held regarding the budget and a resolution approving the budget for the fiscal year July 1, 2010 to June 30, 2011 was approved. A contract with Bland & Associates for professional auditing services was also approved.

C. Chamber Coffee - Stevens, Hudkins

Stevens said there were updates on the 2011 Lincoln Air Show and the Haymarket Arena Project. City Councilman John Spatz discussed the City's move to a 2:00 a.m. bar closing hour. Lincoln Public Schools (LPS) representatives reported a projection that there will be a 20% increase in middle school enrollment in the next three to five years. Stevens said he reported on the County's budget, jail and the closing on the sale of Lancaster Manor and Hudkins discussed the Commission of Industrial Relations (CIR) and furloughs.

## 11 CONSENT ITEMS

There were no consent items.

## 12 ADMINISTRATIVE OFFICER REPORT

A. Paycheck Direct Deposit

There was consensus to hold the item until all five commissioners are present.

B. Attendance as Essential Job Duty

The Board reviewed correspondence from Mark Koller, Personnel Director, suggesting that a statement that regular, dependable attendance is an essential function be added to each employee position description (see agenda packet).

**MOTION:** Schorr moved and Hudkins seconded to direct that a statement indicating attendance is an essential job duty be added to each employee position description. Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 4-0.

C. Management Team Fall Retreat (October 21, 2010)

Minette Genuchi, Administrative Assistant to the County Board, appeared and said the retreat will be held at the Pioneers Park Nature Center Auditorium and said "Save the Date" postcards will be sent out.

D. City-County Common Meeting Agenda (September 13, 2010)

It was noted a presentation on private on-site health clinics for government and business entities has been scheduled on the agenda.

E. Claim for Review, Payment Voucher (PV) #280252 from Human Services to FedEx Office in the Amount of \$2,244.40 for Printing Services (Exceeds the Amount Necessary for a Purchase Order)

Bob Walla, Assistant Purchasing Agent, appeared and said Human Services failed to utilize any of the County's three contracts for printing services. He said he contacted one of the vendors and they indicated their price would have been \$1,082.00.

Eagan disseminated copies of an email from Kit Boesch, Human Services Administrator, which indicated only grant funds were used (Exhibit F). He said the expense will be paid through the County's budget and must comply with the County Purchasing Act. Eagan said this issue has been addressed numerous times and the grant document stipulates compliance with the Purchasing Act.

Schorr asked for clarification on who "Tyler" is, as referred to in Boesch's email and the invoice from FedEx Office.

Eagan said Boesch received notice this item was scheduled on the agenda. At the Board's request, he left to call Boesch and ask her to appear to answer questions.

F. Keno Funds for Lincoln City Libraries' Bookmobile

**MOTION:** Schorr moved and Hudkins seconded to allocate \$20,000 out of the Keno Fund to the Lincoln City Libraries' new Bookmobile. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

Returning to Item E

Eagan returned to the meeting and said Boesch is not available.

Vince Mejer, Purchasing Agent, appeared and said the Purchasing Act has a provision that addresses wrongful purchase. It states:

*All county officers, offices and departments must comply with the requirements of the Act. Any purchase made not in compliance with Act shall be void. The county officer or department head making such wrongful purchase shall be personally liable for the costs if already paid for out of county funds. (Nebraska Revised Statute §23-3113)*

Hudkins said he believes, at the very least, a letter regarding this matter should be placed in Boesch's personnel file.

Board consensus was to hold the item and schedule further discussion with Boesch.

#### G. Hartford Deferred Compensation Investment Change

Eagan said although it is a small change, Hartford did not explain why they are closing contributions and transfers to the Putnam Vista Fund or initiate any discussion with the Board, which has a fiduciary duty to employees who participate in the plan.

Stevens suggested the Board seek an opinion from Frank Picarelli, Segal Advisors (Pension Plan Consultant) as to whether it is a reasonable change.

### **13 PENDING**

There were no pending items.

### **14 DISCUSSION OF BOARD MEMBER MEETINGS**

- A. Lincoln Independent Business Association (LIBA) Monthly Meeting - Heier, Schorr
- B. Lancaster County Correctional Facility Joint Public Agency (JPA) - Heier, Stevens
- C. Chamber Coffee - Stevens, Hudkins

Items A, B and C were moved forward on the agenda.

### **15 EMERGENCY ITEMS AND OTHER BUSINESS**

There were no emergency items or other business.

**16 ADJOURNMENT**

**MOTION:** Schorr moved and Stevens seconded to adjourn the meeting at 10:35 a.m. Hudkins, Stevens, Schorr and Heier voted aye. Motion carried 4-0.

/s/Dan Nolte

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Dan Nolte  
Lancaster County Clerk