

**STAFF MEETING MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
COUNTY-CITY BUILDING, ROOM 113  
THURSDAY, JANUARY 13, 2011  
8:30 A.M.**

Commissioners Present: Deb Schorr, Chair  
Bernie Heier, Vice Chair  
Larry Hudkins  
Jane Raybould  
Brent Smoyer

Others Present: Kerry Eagan, Chief Administrative Officer  
Gwen Thorpe, Deputy Chief Administrative Officer  
Dan Nolte, County Clerk  
Cori Beattie, Deputy County Clerk  
Angela Zocholl, County Clerk's Office

Commissioner Schorr opened the meeting at 8:30 a.m.

**AGENDA ITEM**

**1 APPROVAL OF THE MINUTES OF THE THURSDAY, JANUARY 6, 2011 STAFF MEETING**

**MOTION:** Raybould moved and Schorr seconded approval of the January 6, 2011 Staff Meeting minutes. Hudkins, Raybould, Schorr and Smoyer voted aye. Heier abstained. Motion carried 4-0.

**2 ADDITIONS TO THE AGENDA**

- A. Record Retention Request from the Clerk of the District Court (Exhibit A)
- B. Mandatory Americans with Disabilities Act (ADA) Training
- C. Financial System Upgrade
- D. County Administrative Subdivision Permit No. 10002 (Exhibit B)
- E. Jail Update Regarding Food Write-Up

**MOTION:** Heier moved and Smoyer seconded approval of the additions to the agenda. Heier, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

**3 LEGISLATIVE UPDATE - Gordon Kissel & Joe Kohout, Kissel/E&S Associates**

Gordon Kissel and Joe Kohout, Kissel/E&S Associates, gave a legislative update (Exhibit C), noting changes in committee assignments, priority bills and modification of strict liability in a police chase.

Raybould asked if law enforcement has been consulted on LB 48. Kissel said the process would start once the public hearing is scheduled.

Mike Thurber, Corrections Director, discussed bills on which he wished to approach the legislature: 1) LB 274 regarding dispensing and return of medications; 2) LB 66 and LB 128 regarding DNA

collection; 3) LB 226 regarding bodily fluids being thrown on correctional officers; and 4) LB 270 regarding ombudsman definition.

Raybould questioned the cost for DNA samples. Thurber said the convicted felon is responsible for the cost but most do not have the money. Discussion followed regarding the process and associated costs of collecting samples.

With regard to testifying before the Legislature, Kerry Eagan, Chief Administrative Officer, said he would resend a previous memo from the County Board regarding the procedure.

Michelle Schindler, Youth Services Center Director, discussed LB 339 regarding pre-adjudicated evaluations and the cost to Health and Human Services (HHS). It also gives HHS some liberties, which affects the County Sheriff and County Attorney offices. She suggested a collaborative effort amongst the departments.

Eagan reviewed the County's priority bills. He noted LB 62 changes the burden of proof to departments with regard to budget revisions made by the County Board. He said the County should oppose LB 115 which would increase the statute of limitations on tort claims from one to two years as this would make budgeting and planning more difficult. LB 234 would reduce County costs associated with space rental for HHS. Eagan also felt a series of homestead bills (LB 318-321) could have an impact on the County.

Raybould questioned the County's process regarding bill monitoring. Kissel indicated that in the past directors would bring forth their concerns to the County Board. The lobbyists would then communicate these concerns to state senators. Smoyer said from his experience with the Legislature, the more people who testify the better. He encouraged participation whether that be at hearings or through phone calls. Heier added that the Nebraska Association of County Officials (NACO) also pays close attention to these bills.

Schorr said LB 222 would require drug testing prior to receiving State aid. She would like this to include County aid as it relates to general assistance. Eagan said the County's general assistance policies could simply be amended to include this provision. Schorr also asked that LB 214 (non-partisan election requirement for City and County officials) and a bill regarding sex offender registration fees be monitored.

**4 AMENDMENT OF COUNTY ZONING RESOLUTION (FINAL ACTION BY PLANNING COMMISSION AND BOARD OF ZONING APPEALS/APPEAL TO COUNTY BOARD) - Marvin Krout, Planning Director; Mike DeKalb, Planner**

Mike DeKalb, Planner, provided the following overview of the zoning process: (1) applicants apply for a special permit with the City or County; (2) the Planning Commission holds a public hearing and forwards a recommendation; and (3) the City Council or County Board takes final action.

DeKalb noted a few years ago, the City Council delegated final action authority to the Planning Commission with appeals going before the Council. He said this process saves about 30 days. At that time, the Planning Department approached the County Board about switching to the same procedure but State statutes did not allow it. Since then, a bill was passed by the Legislature which would allow the County to implement a similar procedure.

DeKalb said in working with the County Attorney's Office, the recommendation is to move forward with the text amendment, changing "County Board" to "Planning Commission." The language is amended for AG (agricultural), AGR (agricultural residential), R (residential), I (industrial); special permits in Section 13; the community unit plan in Section 14; and the Board of Zoning Appeals in Section 19. He pointed out that Section 13.018 states a written appeal must be filed with the County Clerk within 14 days of Planning Commission action.

Raybould asked how to handle constituents who direct an appeal to a Board member. Eagan stated while the Board can file its own appeal, a Board member cannot file one on behalf of a constituent.

Hudkins felt the change could diminish the role of the Board. He asked if the County Board of Zoning Appeals would still be utilized. DeKalb said it would still be used to grant waivers or adjustments and for certain code interpretations.

In response to Schorr's inquiry, DeKalb said there is no cost to file an appeal.

Heier questioned if the appeal could be filed the same day as the hearing and if it could be heard within two weeks. DeKalb said the appeal must be filed with the County Clerk within 14 days of the Planning Commission's action. He said the appeal would generally be scheduled three Tuesdays after the Planning Commission meeting. Heier said he would like to see a form letter for appeals.

Schorr confirmed with the County Attorney's Office that there were no issues with the changes.

**MOTION:** Raybould moved and Hudkins seconded to approve the recommendation to change the language and authorize the process to advance to the next stage.

**FRIENDLY AMENDMENT:** Hudkins offered a friendly amendment to include a form letter for the appeal process. The maker of the motion accepted the friendly amendment.

**ROLL CALL ON THE MOTION AS AMENDED:** Hudkins, Raybould, Schorr, Smoyer and Heier voted aye. Motion carried 5-0.

#### **ADDITIONS TO THE AGENDA**

##### D. County Administrative Subdivision Permit No. 10002 (Exhibit B)

DeKalb said the application submitted by Ronald and Sandra Stubbendick for an administrative subdivision permit on North 176<sup>th</sup> and Adams Street has expired. He said the applicants were notified that they will need to reapply if they wish to proceed.

##### A. Record Retention Request from the Clerk of the District Court (Exhibit A)

It was noted the original request came from the County Attorney. Board consensus was to hold the request and seek additional information.

##### C. Financial System Upgrade

Dennis Meyer, Budget and Fiscal Officer, appeared and said Commissioner Heier had asked him how long the upgrade will take (see January 6, 2011 Staff Meeting minutes). He said Craig Gifford at Information Services (IS) has estimated it will take 45 to 60 days to get the new servers in place once the order is placed. The tools upgrade could take an additional 30 days.

The keno and microcomputer funds were mentioned as possible funding sources.

Hudkins noted the County Treasurer's Office is very concerned that the existing system could fail.

**MOTION:** Hudkins moved and Heier seconded to proceed with the financial system upgrade. Hudkins, Raybould, Schorr, Smoyer and Heier voted aye. Motion carried 5-0.

**5 REPORT AND RECOMMENDATION FROM LANCASTER MANOR PROCEEDS COMMITTEE** - Members of the Committee (John Dittman, Jan Gauger, John McHenry and Dale Young)

John McHenry stated the recommendation from the Lancaster Manor Proceeds Committee is as follows:

*Lancaster County should issue a Request for Proposals (RFP) seeking bids from nonprofit organizations and governmental entities for management of the Lancaster Manor Proceeds Endowment Fund. The RFP shall specify the principal Fund shall be generally preserved and the earnings from the Fund shall be used to contract for services addressing the unmet needs of low income elderly residents of Lancaster County.*

John Dittman said although it is not part of the Committee's recommendation, the possibly of an endowment and investment of the funds, with the interest portion used to support the low income elderly, was also discussed.

Hudkins asked whether background information regarding the acquisition of Lancaster Manor was provided to the Committee. He also asked whether the Committee has any specific recommendations regarding whether the County should retain its equity and how the residual should be held.

Jan Gauger said Committee members may not have had as thorough knowledge of the original financing but did want to make sure the money did not just "disappear" into the General Fund. She noted the purpose of Lancaster Manor was to take care of the needs of the elderly that had no other place to go. The Committee did not want to limit the use to those who are Medicaid eligible because there are so many elderly who are in need of services. Gauger added the Committee was not concerned with who would administer the endowment, rather that the funds be protected and used for purpose outlined.

Schorr asked whether it was the Committee's intention that the Request for Proposals (RFP) be left "open-ended" so that entities who responded would specify in greater detail how interest on the funds would be used. Gauger believed that definition would be up to the responding entities. Dittman envisioned Aging Partners, the Seniors Foundation and the Lincoln Community Foundation may be interested in administering the funds.

McHenry felt the concept was to have the organization define how they would manage the funds and solicit the community as far as services. He added the Board could outline the parameters on what types of investments they could have.

Heier said he is not sure the County should let go of the funds, adding that he would not want to use the funds for the budget unless it were absolutely necessary. He preferred to place the proceeds in a fund and allow the County to draw off the interest.

Raybould thanked the Committee for their work citing the wealth of experience, wisdom and institutional knowledge of the members. She concurred with the Committee's recommendation and said she would like to see the Board keep to the original intent of the funds. Raybould also stated for the record that she serves as a member of the Community Health Endowment Board of Trustees.

Smoyer said he sees both sides of the issue but is leaning towards retaining the money. He referenced the economy and the potential for funding reductions and suggested it may be better to look at creating an endowment in a few years when the County is in a better financial position.

Hudkins said the County's fund balances are dangerously low which can affect the County's credit rating in future financings. He said he also favors holding onto the funds at this time.

Eagan confirmed that the Committee was given information about the County's financial condition.

Schorr asked Dennis Meyer, Budget and Fiscal Officer, whether the Board can hold the proceeds in a separate fund and use the interest for certain expenditures. Meyer indicated it could.

Schorr then questioned whether moving a portion of the funds to a community endowment would have a negative impact on the County's credit rating. Meyer said it could be a factor.

**MOTION:** Raybould moved and Smoyer seconded to schedule the item for a public hearing at a regular County Board of Commissioners Meeting. Hudkins, Raybould, Schorr, Smoyer and Heier voted aye. Motion carried 5-0.

**6 ACTUARIAL SERVICES CONTRACT** - Sue Eckley, Risk Manager; Bob Walla, Assistant Purchasing Agent; Brittany Behrens, Deputy County Attorney

Sue Eckley, Risk Manager, said the City uses Bickmore Risk Services at a cost of \$9,250, but she was unsure of their exact scope of service. It was noted the City does not go out to bid. Eckley indicated she would like to speak to Milliman and give them the opportunity to reduce their pricing.

The Board agreed that Eckley should talk to Milliman about a price reduction and possibly do further research with Bickmore.

Eckley stated there is still \$275,568 on the books for Lancaster Manor claims. She said she would also like to address funding for police pursuits.

**7 ALTERNATIVE USE FOR ENERGY EFFICIENCY GRANT** - Don Killeen, County Property Manager

Don Killeen, County Property Manager, noted the Board had discussed whether to decline a \$110,000 Energy Efficiency and Conservation Block Grant (EECBG) Program grant because of concerns that plans to use the funds to purchase energy efficiency equipment for the new jail would subject the entire \$60,000,000 jail project to compliance with the Davis-Bacon Act. **NOTE:** The Davis-Bacon Act requires paying the locally prevailing wages and benefits, usually the union rate, for any construction contract over \$2,000 funded in whole, or in part, by the federal government. He said the Department of Energy (DEC) has indicated the County can change the project and said conversion to light-emitting diode (LED) lighting is one option. Killeen said the Omaha Public Building Commission had a similar project and may be able to provide information that would speed up the process.

Eagan said it may be cost prohibitive.

Raybould suggested that commissioning an assessment of how to increase energy efficiency in the County-City Building be put out for bid. She said specific items could then be prioritized.

Killeen said the DEC may require the County to identify specific energy savings.

Board consensus was to ask Killeen to research and bring back information about possible conversion to LED lighting.

## **8 REVIEW OF COUNTY PURCHASING ACT AND LANCASTER COUNTY PURCHASING MANUAL** - Vince Mejer, Purchasing Agent; Brittany Behrens, Deputy County Attorney

Vince Mejer, Purchasing Agent, presented a guide to Purchasing Policies (Exhibit D).

Brittany Behrens gave an overview of the County Purchasing Act, the bid process and the bid thresholds (see Exhibit D). She noted that department heads can be held personally liable for wrongful purchases.

Proposed changes to the County Purchasing Manual were also disseminated (Exhibit E). Mejer noted that the last revision of the County Purchasing Manual occurred in 1974 and said he believes the proposed revisions will speed up contract execution.

Eagan said the obvious problem is the assumption that the bid will be awarded to one bidder.

Mejer said the Purchasing Department generally has the concurrence of the department when it recommends a bid award. He said exceptions or controversial bids could be brought before the Board at a Staff Meeting. Behrens noted there is a bid protest procedure in place.

Bill Jarrett, Chief Deputy Sheriff, appeared and said he believes the County's thresholds should mirror either that of the City's or what is allowed by State Statutes. He added that departments could be required to provide three informal bids.

Eagan explained that the issue has been brought before the Board several times and said the Board has maintained each time that the lower threshold saves the County money.

Schorr suggested that the Board schedule further discussion of the thresholds on a future agenda.

**MOTION:** Heier moved and Smoyer seconded to approve the proposed changes. Heier, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

**9 CONTRACT WITH RUSS SHULTZ FOR WEED CONTROL SERVICES** - Tom Fox, Deputy County Attorney; Brent Meyer, Weed Control Superintendent

Schorr suggested the County Board issue a press release supporting the designation of Japanese Knotweed, Giant Knotweed and Bohemian Knotweed as noxious weeds. The Board agreed. Schorr also asked that the press release policy be reviewed at a future meeting.

Tom Fox said a consultant contract is being done for Russ Shultz, but Shultz does not have the required \$1,000,000 liability insurance. The cost of the insurance could be an issue. Fox said the County Attorney's Office always recommends having insurance in place, but it is up to the Board if they wish to waive it.

Raybould said insurance should be mandatory for all contractors. She felt a reasonably priced policy could be found. Heier suggested increasing Shultz's wage to help balance the insurance cost.

Eagan suggested considering Shultz as a temporary employee.

The consensus was to allow Shultz to look into the cost of an insurance policy and to consider the alternative of hiring Shultz as a temporary employee.

**10 ACTION ITEMS**

There were no action items.

**ADDITIONS TO AGENDA**

E. Jail Update Regarding Food Write-Up

Heier said there will be a write-up in the newspaper regarding a food violation at the jail. Evidently the temperature of the rice was incorrect. Schorr noted the vendor received the violation.

Raybould asked about the wells at the new jail site. Heier said the DEC contracted with the well drillers. Hudkins added a subcontractor did the work. The DEC has asked for a full investigation.

B. Mandatory Americans with Disabilities Act (ADA) Training

Schorr said she would like to mandate this training for appointed department directors and their supervisory staff and recommend it for employees under the jurisdiction of other elected officials.

**MOTION:** Hudkins moved and Smoyer seconded to make available the training and encourage elected officials as well as directors to comply with the Americans with Disabilities Act (ADA).

Raybould clarified the training should be mandatory for supervisors and department directors and to strongly encourage elected officials to participate.

Eagan said he would prepare a memo for the Board's signature.

**ROLL CALL:** Hudkins, Raybould, Schorr, Smoyer and Heier voted aye. Motion carried 5-0.

## **11 CONSENT ITEMS**

There were no consent items.

## **12 ADMINISTRATIVE OFFICER REPORT**

### **a. Committee Assignments**

The Chair suggested that Board members select the committees on which they would like to serve beginning with Commissioner Hudkins, the senior member (see Exhibits F & G). The other Board members concurred with the suggestion. Committee assignments are as follows:

- Schorr – Board of Health; Emergency Medical Oversight Governing Board; Human Services Joint Budget Committee (JBC); Lancaster County Correctional Facility Joint Public Agency (JPA); Local Emergency Planning Committee; Monthly Meeting of County Board Chair, Vice Chair and Mayor; Officials Committee; Railroad Transportation Safety District (RTSD) (Chair)
- Raybould – Community Mental Health Center (CMHC) Advisory Committee; General Assistance (GA) Monitoring Committee; Joint Budget Committee (JBC); Parks & Recreation Advisory Board; Public Building Commission (PBC)
- Smoyer – Budget Monitoring Committee; Chamber Coffee; Information Services Policy Committee (ISPC); Lincoln Independent Business Association (LIBA) Budget Monitoring Committee; Region V Governing Board; Railroad Transportation Safety District (RTSD); Visitors Promotion Committee (VPC)
- Hudkins – District Energy Corporation (DEC) (Vice Chair); Budget Monitoring Committee, General Assistance (GA) Monitoring Committee; Lancaster County Fairgrounds Joint Public Agency (JPA); Nebraska Innovation Zone Commission (NIZC); Public Building Commission (PBC) (Chair); Railroad Transportation Safety District (RTSD)
- Heier – Board of Corrections (Chair); District Energy Corporation (DEC); Lancaster County Correctional Facility Joint Public Agency (JPA); Lancaster County Fairgrounds Joint Public Agency (JPA); Monthly Meeting of County Board Chair, Vice Chair and Mayor; Officials Committee; Nebraska Association of County Officials (NACO) Board of Directors; NACO Executive Committee; Youth Services Center (YSC) Advisory Committee

With regard to the LIBA monthly meeting, the Board directed Minette Genuchi, Administrative Assistant, to develop a schedule alternating commissioners on a monthly basis.

### **b. County Board Meeting Times**

The Board discussed the pros and cons of moving the Tuesday morning County Board meeting to the afternoon or evening.

**MOTION:** Raybould moved and Smoyer seconded to look at changing the Tuesday morning County Board meeting to Tuesday afternoon.

It was agreed that possible conflicts should be reviewed. The Board decided to further discuss this issue at a future staff meeting.

The maker withdrew the motion.

Hudkins suggested having the management team meeting on Tuesdays before the County Board meeting instead of on Thursdays. Several conflicts were noted and the Board agreed to cancel the February management team meeting. An e-mail would be sent out prior to the meeting regarding a date change.

The Board discussed a meeting time for the public hearing regarding the Lancaster Manor proceeds. General consensus was to begin at 5:00 p.m. It was agreed to continue the discussion next week.

- c. Nebraska Association of County Officials (NACO) Conference (February 9 -11, 2011) and Staff Meeting February 10, 2011

The Board agreed to cancel the staff meeting on Thursday, February 10<sup>th</sup> due to the NACO conference. If warranted, a staff meeting would be scheduled following the County Board meeting on Tuesday, February 8<sup>th</sup> or Tuesday, February 15<sup>th</sup>.

It was noted that Raybould signed up to attend the NACO Institute of Excellence.

- d. Correspondence to District Court Regarding Hard Labor

Hudkins noted no reply was received to the letter previously sent.

**MOTION:** Hudkins moved and Raybould seconded to resend the letter of request regarding prisoner labor and the terms required in the sentence to the courts. Hudkins, Raybould, Schorr, Smoyer and Heier voted aye. Motion carried 5-0.

- e. Lincoln Wastewater System Records Request

Eagan said the request was to retain two boxes for an additional five years due to the inclusion of some grant-related documents.

**MOTION:** Raybould moved and Smoyer seconded to retain the two boxes for an additional five years. Heier, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

- f. Keno Prevention Fund Grant Recommendations

Eagan said the recommendations would be forwarded to a Tuesday County Board meeting for action. Schorr noted there was \$80,000 in requests and only \$30,000 allocated.

- g. Correspondence from Greg Newport, Clark Enersen Partners, Regarding Reimbursement of Design Services Related to Energy Efficiency through District Energy Corporation

Eagan said the District Energy Corporation would cover the cost of design services for the jail, related to energy efficiency, which equals around \$380,000. Heier explained the County initially pays and DEC reimburses the County. The Board agreed to further review this at the next staff meeting.

h. Accountability and Disclosure Presentation

Eagan said he would arrange a presentation by Frank Daley, Executive Director for the Accountability and Disclosure Commission, at the next staff meeting.

**13 PENDING**

There were no pending items.

**14 DISCUSSION OF BOARD MEMBER MEETINGS**

a. PBC Chair/Vice Chair Meeting with Mayor - Hudkins

Hudkins said the furnishings for the new meeting room on the third floor of the County-City Building were discussed. The furnishings will not be available for six months.

b. Public Building Commission - Hudkins/Schorr

Hudkins said the new Human Services area will be ready the first part of March; the County Attorney's Office is getting an estimate for new carpet in the runways; and the dog would be brought back into County Court to recheck for bed bugs.

The Board discussed a request from Douglas County for support on legislative changes regarding how the City and County share financial responsibility on fixtures and furniture.

c. Board of Health – Schorr

Schorr said an update was given on public health in Nebraska.

**15 EMERGENCY ITEMS AND OTHER BUSINESS**

There were no emergency items or other business.

**16 ADJOURNMENT**

**MOTION:** Heier moved and Hudkins seconded to adjourn the meeting at 12:23 p.m. Heier, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.



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**Dan Nolte**  
Lancaster County Clerk

