

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 113
THURSDAY, SEPTEMBER 13, 2012
8:30 A.M.**

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

Commissioners Absent: Bernie Heier

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

Advance public notice of the Board of Commissioners Staff Meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and provided to the media on September 12, 2012.

The Chair noted the location of the Open Meetings Act and opened the meeting at 8:30 a.m.

AGENDA ITEM

1 APPROVAL OF THE STAFF MEETING MINUTES OF THURSDAY, SEPTEMBER 6, 2012

MOTION: Smoyer moved and Hudkins seconded approval of the minutes of the Staff Meeting on September 6, 2012. Smoyer, Hudkins and Schorr voted aye. Raybould abstained from voting. Heier was absent from voting. Motion carried 3-0, with one abstention.

2 ADDITIONS TO THE AGENDA

- A. Storage Building for the New Lancaster County Adult Detention Facility (LCADF)
- B. September 20th Staff Meeting

MOTION: Hudkins moved and Raybould seconded approval of the additions to the agenda. Raybould, Hudkins, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

3 2013 LEGISLATIVE PRIORITIES - Gordon Kissel & Joe Kohout, Kissel/E&S Associates

The following documents were disseminated: 2012 Lancaster County Legislative Priorities and Lancaster County Legislative Proposals, 2013 Session (Exhibits A and B).

Kerry Eagan, Chief Administrative Officer, said the County accomplished a number of legislative objectives in the 2012 Legislative Session:

- LB 865 allows jurors to waive the jury service fee
- LB 881 clarifies the arresting governmental agency is responsible for injuries or wounds suffered during the course of apprehension or arrest, and not the facility where the individual is lodged
- LB 722 authorizes a court or magistrate to deduct court costs and fines from a cash bond posted by the offender
- LB 867 gives Lancaster County the discretion to lower the County's pension match to at least 100% of the employee's contribution for new employees, instead of 150%

Eagan said the proposal for definition and oversight for staff secure juvenile detention facilities was placed on general file, but did not get addressed before the Legislature adjourned. Other priorities that did not get addressed in 2012 were:

- Expand 2011 Nebraska Laws LB 465, which provides legal residents are not eligible for Medicaid for five (5) years to include General Assistance (GA)
- Amend Nebraska Revised Statute §29-2022 to give judges discretion on jury sequestration
- Increased funding for sex offender treatment and tracking
- Review all county fees and raise where appropriate
- Adequate funding for behavioral health, including restoration of the 2.5% Medicaid cut

Eagan noted the key issue of the 2012 Legislative Session for the County was the Governor's proposal to eliminate the inheritance tax under LB 970. The bill was killed by the Revenue Committee but the Governor intends to reintroduce legislation to eliminate the inheritance tax in the 2013 Session.

Joe Kohout, Kissel/E&S Associates, noted hearings were recently held on the state-based health insurance exchange system that will be created under the Affordable Care Act and said the Governor questioned how to fund it. He said one of the organizations in attendance suggested use of the premium tax, a portion of which goes to counties. Lancaster County receives \$352,000 a year from the tax.

Hudkins said that several current and former state senators have expressed the feeling that county governments have not reduced spending and are not as responsible with the taxpayers dollars as they should be. Gordon Kissel, Kissel/E&S Associates, agreed there is that perception in the Legislature. Kohout said that perception isn't limited to county government. Hudkins said he believes the County has not articulated its position effectively. Schorr suggested the County hold a press conference, in coordination with the Nebraska Association of County Officials (NACO) and League of Municipalities and the Nebraska Association of School Boards, at the start of the next legislative session to explain what spending reductions have been made and their impact.

Sheli Schindler, Youth Services Center (YSC) Director, appeared and said there are other states that provide significant reimbursement to counties for providing community-based services. She said she sent letters to State Senators Kathy Campbell and Colby Coash and Commissioner Smoyer, in his capacity with the Legislature, regarding this issue. Eagan said it is the same issue the County has had for years on boarding contracts. The State is responsible for post-adjudication programs but if there are not sufficient funds available to pay for the services, the County is to appropriate a fund until other funding sources can be found. He said the County fund then becomes the primary source of funding.

Board consensus was to establish the following legislative priorities for the 2013 Legislative Session: 1) Oppose elimination of inheritance tax; 2) Support Expansion of Medicaid under the Affordable Care Act; 3) Eliminate Responsibility of Counties to Pay Nebraska Health and Human Services (HHS) Rent; 4); Modify Right to Court Appointed Attorney in Juvenile Court; and 5) Definition and Oversight for Staff Secure Juvenile Detention Facilities.

There was also consensus to hold the proposals of modification of the strict liability provisions of Nebraska Revised Statute §13-911 when a vehicular pursuit is terminated by a law enforcement officer and allowing pretrial diversion for driving while intoxicated (DWI) first-time offenders for now.

4 COUNTY CHANGE OF ZONE NO. 12025 AND COUNTY MISCELLANEOUS NO. 12013, AMENDING ZONING RESOLUTION AND LAND SUBDIVISION RESOLUTION TO ALLOW SETTING FEES BY SEPARATE RESOLUTION - Sara Hartzell, Planner

Sara Hartzell, Planner, gave an overview of County Change of Zone No. 12025, a text amendment to the Lancaster County Zoning Resolution to remove reference to application filing fees; and County Miscellaneous No. 12010, a text amendment to the Lancaster County Subdivision Resolution to remove reference to application filing fees (Exhibits C and D). She said the proposed changes in process won't have much impact on users. Any proposed changes in fees will be brought directly to the Board for public hearing rather than going through the Planning Commission process.

Hartzell also discussed a request for a resolution to adopt the revised Planning Department fee schedule (see Exhibit E). She noted the Planning Department will be moving to a new document management software that will track the process of each application and calculate the fees. The proposal is to move to a straight per lot fee that will make those calculations easier. Hartzell said the overall fee increase is approximately 10%, noting some of the fees will decrease slightly. The Chair asked Hartzell to give the Board a presentation on the new software at a future meeting.

Hudkins asked how the \$66 fee for a zoning confirmation letter was determined. Marvin Krout, Planning Director, appeared and said the Planning Department recently assumed that duty and said the fee was based on the average amount of research time that is needed.

5 TRANSPORTATION AGREEMENT BETWEEN COUNTY SHERIFF AND CORRECTIONS DEPARTMENT - Terry Wagner, Lancaster County Sheriff; Mike Thurber, Corrections Director

Terry Wagner, Lancaster County Sheriff, and Mike Thurber, Corrections Director, requested authorization to proceed with the agreement that will cover transport of prisoners to the new Lancaster County Adult Detention Facility (LCADF). It was noted that the agreement will also cover the Youth Services Center (YSC).

Board consensus was to schedule the transportation agreement on a County Board of Commissioners Meeting agenda for action.

ADDITIONS TO THE AGENDA

- A. Storage Building for the New Lancaster County Adult Detention Facility (LCADF)

Smoyer said he was contacted by a businessman who said he had submitted a bid for the storage building. He said his design was disqualified because it wasn't within the bid parameters. The businessman indicated his design could save the County \$200,000 and asked whether the Board would consider rebidding the project. Smoyer said he was also contacted by Coby Mach, President and Chief Executive Officer (CEO), Lincoln Independent Business Association (LIBA), who said he was contacted by another bidder who claimed his bid was rejected although it was lower than the bid that was selected. Mike Thurber, Corrections Director, appeared and said, to his knowledge, a selection has not been made. He agreed to follow-up with the Purchasing Department.

- B. September 20th Staff Meeting

Board consensus was to cancel the meeting.

ADMINISTRATIVE OFFICER REPORT

- A. Keno Prevention Fund Grant Recommendations

Board consensus was to schedule adoption and approval of the recommendations on the September 18th County Board of Commissioners Meeting agenda.

- B. Additional Planning Commission Opening (Greg Butcher)

The Chair asked that Board members submit their nominations. Hudkins noted he had nominated Wayne Heyen and said Heyen has indicated he would be willing to serve.

ACTION ITEMS

- A. Paycheck Insert for September 27, 2012 (Flu Shots)

MOTION: Hudkins moved and Smoyer seconded approval. Hudkins, Smoyer, Raybould and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

6 LABOR NEGOTIATIONS - Richard Grabow, Deputy County Attorney

MOTION: Smoyer moved and Raybould seconded to enter Executive Session at 9:25 a.m. for the purpose of protecting the public interest with regards to labor negotiations.

The Chair restated the motion for the record.

ROLL CALL: Raybould, Hudkins, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

MOTION: Smoyer moved and Raybould seconded to exit Executive Session at 9:44 a.m. Smoyer, Raybould, Hudkins and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

7 CRIME COVERAGE WITH HARTFORD - Tom Champoux, UNICO Group, Inc.; Sue Eckley, County Risk Manager

Sue Eckley, County Risk Manager, said the Crime Coverage quote that was reported to the Board at the August 30th Staff Meeting did not include electronic funds transfer coverage. She said that coverage has been added to the premium for Hartford.

Tom Champoux, UNICO Group, Inc., said the coverage is important because the County's payroll is done through an electronic funds transfer. The revised quote includes \$1,000,000 in computer fraud funds transfer coverage and \$50,000 in forgery or alteration coverage.

MOTION: Hudkins moved and Smoyer seconded to approve the insurance renewals as shown on Page 14 of the agenda packet, including the revised Crime coverage quote. Hudkins, Smoyer, Raybould and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

8 ACTION ITEMS

A. Paycheck Insert for September 27, 2012 (Flu Shots)

Item was moved forward on the agenda.

9 CONSENT ITEMS

There were no consent items.

10 ADMINISTRATIVE OFFICER REPORT

- A. Keno Prevention Fund Grant Recommendations
- B. Additional Planning Commission Opening (Greg Butcher)

Items A and B were moved forward on the agenda.

11 PENDING

There were no pending items.

12 DISCUSSION OF BOARD MEMBER MEETINGS

- A. Region V Governing Board - Smoyer

Smoyer said they discussed budget issues and approved the draft Invitation to Negotiate (ITN) document.

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

Schorr said they approved the budget for the upcoming fiscal year and the interlocal agreements for the Hickman and Waverly quiet zones (a railroad grade crossing at which trains are prohibited from sounding their horns in order to decrease the noise level for nearby residential communities). The RTSD also approved allocation of \$200,000 in the budget for a new study of traffic issues in the North 33rd Street and Cornhusker Highway area.

- C. Board of Health - Smoyer

Smoyer said discussion focused on fee changes.

- D. Community Mental Health Center (CMHC) Invitation to Negotiate (ITN) Committee - Raybould, Smoyer

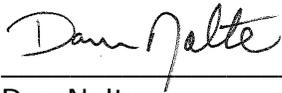
Raybould said they "tweaked" the draft ITN document. She said funding will be a huge issue, especially since they have included primary care of CMHC clients that are receiving General Assistance (GA). Raybould said they also discussed the future of the CMHC facility and the Midtown Center (day rehabilitation facility).

13 EMERGENCY ITEMS AND OTHER BUSINESS

There were no emergency items or other business.

14 ADJOURNMENT

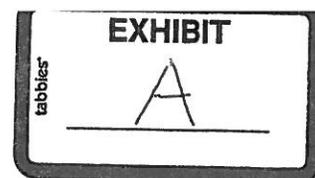
MOTION: Smoyer moved and Raybould seconded to adjourn the meeting at 10:01 a.m. Raybould, Hudkins, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.



Dan Nolte
Lancaster County Clerk



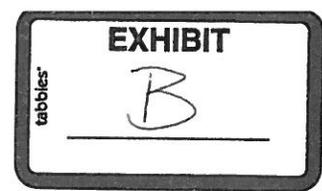
2012 LANCASTER COUNTY LEGISLATIVE PRIORITIES



1. **Reduce County Employee Pension Match for New Employees**
Under the County Employees Retirement Act (Neb. Rev. Stat. §§23-2301 et seq.) and Neb. Rev. Stat. §23-1118 the employer (county) contributes an amount equal to 150% of the employee's contribution. Reducing the county match to 100% for new employees would be more comparable to the private sector and would help counties stay within budget lids by controlling future personnel costs.
2. **Extend 2011 LB 465 to Include General Assistance**
LB 465 repealed Neb. Rev. Stat. §68-1070, which had the effect of making immigrants with legal permanent resident (LPR) status ineligible for Medicaid for the first five (5) years after they obtain LPR status. Since Medicaid is no longer available to this class of immigrants, General Assistance becomes the program of last resort to meet their medical needs. The financial burden on counties could be significant, and legislation is necessary to extend the effect of LB 465 to include General Assistance.
3. **Increase Funding for Sex Offender Treatment and Tracking**
All sex offenders are transferred to the Lincoln Regional Center prior to release from state custody. This policy results in a disproportionate number of sex offenders in our community. Since state policy is increasing the number of sex offenders in the County, additional funding should be provided by the State to address this problem. Also, the Lancaster county Sheriff is statutorily required to register sex offenders under the Sex Offender Registration Act, Neb. Rev. Stat. §29-4004 (Reissue 2008). The Sheriff devotes a full time employee to perform this mandated function. Likewise, the Corrections Department has additional duties under §29-4007. To help defray these costs sex offenders should be required to pay a registration fee.
4. **Definition and Oversight for Staff Secure Juvenile Detention Facilities**
Lancaster County has successfully operated a staff secure facility for preadjudicated juvenile detention since February of 2002. Staff secure detention provides an ideal solution for low-risk law violators and status offenders. Although the Nebraska Juvenile Code specifically refers to staff secure facilities as an authorized type of non-secure detention, there are no statutory provisions defining these facilities or how they should be regulated. Given the function of the staff secure detention, the County believes general oversight should be placed with the Jail Standards Division of the Nebraska Commission on Law Enforcement.
5. **Review All County Fees and Raise Where Appropriate**
A number of county statutory fees have not been raised for many years. Lancaster County should work with NACO to review all county fees and submit legislation proposing to raise fees which are too low or inadequate.

Other Priorities

- a. **Amend Neb. Rev. Stat. §29-2022 to give judges discretion on jury sequestration;**
- b. **Authorize deduction of court costs and fines from cash bonds under §29-2206;**
- c. **Allow jurors to waive fee required under Neb. Rev. Stat. § 33-138;**
- d. **Restore the 2.5% cut in Medicaid funding for behavioral health, and maintain adequate funding for the behavioral health regions; and**
- e. **Clarify financial responsibility for detainees needing medical care when lodged**



LANCASTER COUNTY LEGISLATIVE PROPOSALS 2013 SESSION

INTRODUCTION

The signature issue of the 2012 legislative session for Lancaster County was Governor Heineman's proposal to eliminate the inheritance tax under LB 970. Although LB 970 was killed by the Revenue Committee, the Governor intends to reintroduce elimination of the inheritance tax in the 2013 session. In FY 2010-11 the county collected \$6,685,528 of inheritance tax, which is equivalent to a property tax levy of 3.5¢ per \$100,000 of value and almost 14% of the entire property tax levy for that budget year. In FY 2011-12 the County collected \$8,185,277 of inheritance tax, the equivalent of a 4.3¢ levy and 17% of the entire levy. Loss of this revenue would be devastating to Lancaster County. Preservation of the inheritance tax will be a top priority in 2013.

In addition to the defeat of LB 970, the County accomplished a number of other legislative objectives in the 2012 session:

- LB 865 allows jurors to waive the jury service fee;
- LB 881 clarifies the arresting governmental agency is responsible for injuries or wounds suffered during the course of apprehension or arrest, and not the facility where the individual is lodged;
- LB 722 authorizes a court or magistrate to deduct fines or costs from a cash bond posted by the offender; and
- LB 867 gives Lancaster County the discretion to lower the County's pension match to at least 100% of the employee's contribution, instead of 150%.

Regarding other County priorities for the 2012 session, LB 787 was introduced to clarify that juvenile staff secure facilities fall under the jurisdiction of the Nebraska Jail Standards Board and not the Health and Human Services Department. Although LB 787 was placed on general file, it did not get addressed before the Legislature adjourned. The County may want to reintroduce this Bill in 2013. Other priorities which did not get addressed in 2012 include:

- Expand 2011 Neb. Laws LB 465, which provides legal permanent residents are not eligible for Medicaid for five (5) years, to include General Assistance
- Amend Neb. Rev. Stat. §29-2022 to give judges discretion on jury sequestration
- Increased funding for sex offender treatment and tracking
- Review all county fees and raise where appropriate
- Adequate funding for behavioral health, including restoration of the 2.5% Medicaid cut

As the Legislature begins the first year of a new budget cycle, the Lancaster County Board will have a number of new proposals to consider for the priority list. But as with the previous session, defeat of the Governor's proposal to eliminate the inheritance tax will require the County's full attention in 2013.

NEW PROPOSALS

1. **Expansion of Medicaid under the Affordable Care Act**

Lancaster County expends approximately \$2 million a year for General Assistance medical services. If Medicaid is expanded under the Affordable Care Act, virtually all of these medical services will be covered by Medicaid.

2. **Eliminate Responsibility of Counties to Pay HHS Rent**

When the State assumed responsibility for welfare, a legislative provision was added requiring counties to maintain facilities for the Department of Health and Human Services (HHS) as they existed on April 1, 1983. See Neb. Rev. Stat. §68-130. Although some relief from this antiquated statute was provided in 2011 Neb. Laws LB 234 (allowing payment reductions for HHS space eliminated since 1983 and determining whether additional space can be eliminated), the use of local property tax to pay for HHS facilities should be eliminated in its entirety. This is especially true in light of the State's total elimination of state aid to counties.

3. **Modify Right to Court Appointed Attorney in Juvenile Court**

The increasing cost of court appointed attorneys is a major concern to the Lancaster County Board. One possibility to help lower this cost is reducing the number of appointments through a statutory change clarifying that non-custodial parents, parents against whom there are no allegations filed, or even custodians of children who have no legal relationship to the children do not have the right to a court appointed attorney.

4. **Eliminate Jail Time on Appropriate Low-Level Misdemeanors**

The Legislature should conduct a study on misdemeanor penalties to determine whether jail time is necessary to protect the public safety on low-level criminal offenses. The study should include both state law and city ordinances. The reduction in the County jail population could result in a significant savings.

5. **Examine Allowing Pretrial Diversion for Driving While Intoxicated (DWI)**

Neb. Rev. Stat. §29-3604 provides that no person charged with driving while intoxicated shall be eligible for pretrial diversion. However, Sarpy County has been allowed to continue its grandfathered DWI diversion program in spite of this blanket prohibition. The Legislature should conduct a study to examine the effectiveness of the Sarpy program and determine the feasibility of allowing other counties to offer DWI diversion. The recidivism rate of first-time DWI offenders is low. It is possible a well-run program could enhance public safety and result in a substantial savings to counties.

6. Increase the Indigent Defense Fee

Neb. Rev. Stat. §33-156 provides for a three dollar indigent defense fee which is taxed as costs for each case filed in each county court and district court, and credited to the Public Advocacy Operations Cash Fund. Pursuant to Neb. Rev. Stat. §29-3933, this Fund is used to reimburse counties for a portion of their indigent defense system expenditures. Increasing the indigent defense fee would help defray the growing cost of providing indigent defense.

7. Tax Incentives for Compressed Natural Gas (CNG)

The County is investigating the possibility of converting a portion of its motor vehicle fleet to CNG. However, conversion costs are high and state tax incentives could help speed the switch to this more efficient fuel.

8. Clarify Funding Source When Courts Assign Non-IV-D Cases to a Child Support Referee

Under Neb. Rev. Stat. §43-1610 funding for a child support referee shall be provided by the county and state to the district Court, separate juvenile court, and county court. Neb. Rev. Stat. §43-1611 provides these courts may by rule or order assign any matter regarding the establishment, and collection of child, spousal, or medical support, paternity matters, and protection orders to a child support referee. However, when a child support referee is assigned non-IV-D cases federal funds may not be used to cover the cost. Since the courts have complete discretion in assigning cases to a child referee, it is possible the county may incur additional costs under the IV-D program over which it has no control. The statutes should be clarified to provide state funding will be used in this situation rather than county funding.

9. Increase Behavioral Health Funding

Additional state funding for behavioral health can help reduce County costs for mandated functions such as law enforcement, emergency protective custody, corrections, and General Assistance. Lancaster County should monitor LR's 508 and 549, and should support efforts to strengthen the Nebraska Health Care Cash Fund. The County should also oppose any proposed rate cuts to behavioral health providers in the Governor's budget.

10. Corrections Booking Fee

A significant portion of the cost for housing inmates is incurred during the booking process. The Lancaster County Corrections Department has recommended the imposition of a booking fee to help recoup these expenses. However, legislation is needed to create statutory authority for the County to charge booking fees.

11. Increase the Cigarette Tax

The average cost per pack of cigarettes in the United States is \$1.49, and the Nebraska tax on a pack of cigarettes is only 64¢. Statistics indicate price increases on cigarettes cause adults to

quit smoking and prevent teenagers from starting to smoke.

12. Clarify Election Commissioner's Responsibilities When Caucus System Used to Select Delegates to County Convention During a Presidential Election Year

Neb. Rev. Stat. §32-707 should be amended to clarify the responsibilities of the election commissioner, including that the election commissioner is taken out of the process once a political party has chosen to use the caucus system to select delegates to the county convention in a presidential election year. The County would realize a small savings with this legislation.

13. Eliminate the Option for a Class III School District to Nominate Candidates by District or Ward

Lancaster County currently has one Class III school district (Norris) which nominates board members by district or ward in a statewide primary election and elects at a statewide general election. Preliminary research by the Election Commissioner indicates Norris may be the only Class III school district in the state that uses this process. Amending Neb. Rev. Stat. §§79-543 and 79-550 to eliminate this option would save ballot space and result in a small savings.

EXISTING PROPOSALS

1. Review All County Fees and Raise Where Appropriate

A number of county statutory fees have not been raised for many years. Lancaster County should work with NACO to review all county fees and submit legislation proposing to raise fees which are too low or inadequate. Examples include the fee for issuing a locksmith license, marriage license, and an amusement license under Neb. Rev. Stat. §23-816.

2. Amend Neb. Rev. Stat. §29-2022 to Give Trial Courts Discretion with Regard to Sequestered Juries in Criminal Cases

Defendants in criminal cases have the right to keep a jury sequestered until a verdict is reached, regardless of the severity of the case or the actual risk the jury members may be influenced by improper contact or communications. Neb. Rev. Stat. §29-2022. When a jury is sequestered counties are responsible for paying all the costs of housing and feeding the jury members, as well as the costs of providing security. These expenses can be significant. Additionally, sequestration can result in a substantial hardship to the members of the jury. This statute should be amended to give the trial court discretion in deciding whether a jury in a criminal case should be sequestered until a verdict is reached, based on the actual potential of the jury being improperly influenced and thereby undermining the fairness of the trial.

3. Modify Strict Liability Provisions of Neb. Rev. Stat. §13-911 When a Vehicular Pursuit Is Terminated by a Law Enforcement Officer

As interpreted by the Nebraska Supreme Court, a political subdivision can be held strictly liable under §13-911 for damages to an innocent third party caused by a fleeing motorist, even after a pursuing law enforcement officer has stopped the pursuit. §13-911 should be amended to eliminate strict liability when the damages are caused by the fleeing motorist after the pursuit has been terminated by the officer. This amendment would provide an incentive to law enforcement to stop pursuits which have become dangerous to innocent third parties.

4. Increase Funding for Sex Offender Treatment and Tracking

All sex offenders are transferred to the Lincoln Regional Center prior to release from state custody. This policy results in a disproportionate number of sex offenders in our community. Since state policy is increasing the number of sex offenders in the County, additional funding should be provided by the State to address this problem.

Also, the Lancaster County Sheriff is statutorily required to register sex offenders under the Sex Offender Registration Act, Neb. Rev. Stat. §29-4004 (Reissue 2008). The Sheriff devotes a full time employee to perform this mandated function. Likewise, the Corrections Department has additional duties under §29-4007. To help defray these costs sex offenders should be required to pay a registration fee.

5. Provide a Definition and Oversight Responsibility for Staff Secure Juvenile Detention Facilities

Lancaster County has successfully operated a staff secure facility for preadjudicated juvenile detention since February of 2002. Staff secure detention provides an ideal solution for low-risk law violators and status offenders. Although the Nebraska Juvenile Code specifically refers to staff secure facilities as an authorized type of non-secure detention, there are no statutory provisions defining these facilities or how they should be regulated. Given the function of staff secure detention, the County believes general oversight should be placed with the Jail Standards Division of the Nebraska Commission on Law Enforcement.

6. Reintroduce Transfer of Development Rights

Although LB 33 was killed in committee during the 2010 legislative session, enabling legislation is still needed to give the County authority to allow the voluntary transfer of noncontiguous residential development rights. Such transfers could assist the County in maximizing the use of existing infrastructure, preserving natural resources, and preventing development in flood plains.

7. Review and Revise the Criminal Code Regarding Appropriate Use of Jail Time

LR 272 was enacted by the Legislature for the purpose of studying the fiscal impact of the criminal law on counties, especially new criminal laws and procedures. LR 272 will also examine

if the criminal law is effectively addressing the problems it is trying to solve, and whether a cost-benefit analysis could be performed prior to enacting new criminal offenses and enhanced criminal procedures. Criminal offenses which carry jail time increase county costs for jails and indigent defense, and the Legislature very seldom if ever appropriates funding to assist counties with these costs. The criminal justice system continues to grow at an alarming rate, and Lancaster County could benefit from a sensible approach to the creation of new jailable offenses, as well as a review of the effectiveness of the imposition of jail time on existing offenses.

8. Clarify Who is Entitled to the Proceeds in a Tax Increment Financing Special Fund Upon Payment of All Bonds, Loans and Other Indebtedness for a Redevelopment Project

Tax increment financing is widely used by cities and villages to finance community redevelopment projects. Essentially, two land values are established for tax parcels lying within the boundaries of a project: the value of the parcel prior to redevelopment and the value of the project after redevelopment. Any property taxes collected as a result of the increase in the value of the parcel because of the redevelopment project are placed in a special fund to be used solely to pay the principal, interest, and premiums on any bonds, loans, notes, or other indebtedness incurred to finance the redevelopment project. Neb. Rev. Stat. § 18-2147(1)(b)(Reissue 2007) provides, “When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies...”

A question has arisen regarding whether a city has the authority to amend a redevelopment project after all indebtedness has been paid, and thus continue using the proceeds in the special fund for redevelopment purposes, instead of distributing the balance of the special fund to the respective public bodies which levy on the property. Legislation is needed to clarify whether a city or village has the authority to amend a redevelopment project after the original indebtedness has been paid.

9. Clarify Inheritance Tax Rules on Treatment of Non-Children as Children for Purposes of Determining Tax Rate

Nebraska law allows a more favorable tax rate with regard to recipients with which the decedent had a close relationship resembling that of a parent and child, even though the recipient was not the actual child of the decedent. Additional clarification should be provided in the statutes for when this favorable treatment is appropriate.

10. Provide Statutory Guidance on Enforcement of Insurance Subrogation Clauses

In the case of Blue Cross and Blue Shield of Nebraska, Inc. v. Dailey, 268 Neb. 733 (2004), the Nebraska Supreme Court held a subrogation clause in the insurance contract could not be enforced against the insured under the equitable made whole doctrine. The Dailey case involved an

employee covered under an insurance contract between his employer, the Nebraska Association of County Officials, and Blue Cross. The employee was injured as a result of the negligence of a third party, and subsequently recovered a one-time payment of \$1,225,000 and monthly payments of \$10,000 for life against the third party. Even though the contract clearly provided Blue Cross would be entitled to recover approximately \$794,000 it had paid on behalf of the insured for injuries caused by a third party, the Supreme Court held Blue Cross was not entitled to recover these funds because the insured had not yet been made whole for the injuries. A statutory solution is needed to provide for the enforcement of reasonable subrogation clauses to help control health insurance costs.

11. Amend Neb. Rev. Stat. §32-1203(2) to Allow Recovery of Ballot Costs

Although counties can recover from political subdivisions some of the cost of producing ballots, the cost recovery formula described in §32-1203(2) does not adequately reimburse counties for their actual costs. This section should be amended to allow counties to recover all expenses, such as the cost of programming counting machines, as well as other actual costs not addressed in the existing formula.

12. Create the Position of Magistrate

In 2009 the Legislature passed LR 183 to examine the creation of a specialized magistrate for the State's largest courts. The magistrate would have authority to issue search warrants, subpoenas, arrest warrants, summonses, and set bail. The purpose for creating this position is to help reduce jail populations, as well as reduce the need for new judges.

13. County Input in the Approval of Tax Increment Finance Districts Which Affect the County Tax Base

The Nebraska Redevelopment Act, Neb. Rev. Stat. §58-501 et seq. is intended to encourage economic growth through redevelopment of blighted and substandard areas within cities. The Act generates funds for redevelopment projects by creating tax increment financing (TIF) districts. Essentially, property tax increases within a TIF district attributable to valuation increases from redevelopment projects are deposited into a special fund and used to pay the cost of financing the projects for up to fifteen (15) years. Consequently, other taxing entities in the county where the TIF district is located lose the benefit of the property valuation increase for the entire district during the period the project is financed. In recent years there has been a sharp increase in the number of TIF districts created by the City of Lincoln. TIF districts often encompass a large area, regardless of the size or number of the individual projects within the TIF, and regardless of whether the entire district is blighted or substandard. Since the other taxing entities, including counties, are being denied essential tax revenue, they should have direct input into the establishment of TIF districts. This would help guarantee TIF districts are actually targeted to blighted or substandard areas and do not unnecessarily remove growth from the assessed valuation for other taxing entities.

14. Occupation Tax on Wineries

Neb. Rev. Stat. §53-132(4) gives authority to cities, villages and counties to charge an

occupation tax on retail, craft brewery, and microdistillery licenses. However, no such authority exists for farm winery licenses. Given the growing number of farm wineries, it may be advisable to authorize an occupation tax on farm winery licenses.

15. Amend Neb. Rev. Stat. § 83-1,103.04 to Provide for the Appointment of a Private Attorney Rather than the Public Defender

When the Office of Parole Administration determines an amendment of the conditions of community supervision is necessary for an individual subject to lifetime supervision, if the person requests legal counsel and is indigent, an attorney from the public defender office is appointed. Since this proceeding is civil in nature, appointment of the public defender is not appropriate. Also, the cost of appointing a private attorney should be borne by the State.

16. Clarify How the County Visitors Improvement Fund Can be Spent

Lancaster County established the County Visitors Improvement Fund in 2005. Neb. Rev. Stat §81-1255 generally authorizes the Improvement Fund to be used to improve the visitor attractions and facilities in the county. However, if the Visitors Promotion Committee (VPC) determines visitor attractions in the county are adequate and do not require improvement the Fund can also be used to promote, encourage, and attract visitors to the county to use its travel and tourism facilities.

The implementation of this statute is cumbersome, requiring the VPC to repeatedly make specific findings regarding the adequacy of travel and tourism facilities prior to the funds being used for such worthwhile purposes as targeted promotion for large events. The statute should be amended to streamline the procedure for using the Improvement Fund for specific promotional purposes.

17. Authorize Posting Noxious Weed Notices Online or On-site

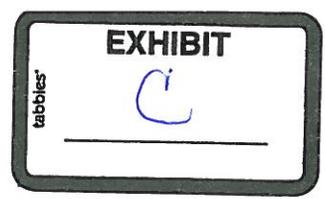
Allowing noxious weed notices to be published on-line or on-site would help cut costs and streamline enforcement of noxious weed violations.

18. Revise Consolidation Statutes to Facilitate Governmental Mergers

A number of state laws authorize the consolidation of governmental functions, including the Interlocal Cooperation Act, the Joint Public Agency Act, and the Consolidation of Counties and Offices Act. These statutes should be reviewed and revised to remove possible barriers to potential tax saving consolidations, including mergers such as City Public Works/County Engineer and City Police/County Sheriff.

19. Review County Elected Positions

A review of existing county elected positions should be conducted by the Legislature to determine whether the positions should continue to be elected, or whether the public would be better served if the positions were appointed by the county board.



COUNTY BOARD FACTSHEET

SEP 12 2012

LANCASTER COUNTY BOARD

TO : County Clerk: Attn: Angela Zocholl
 FROM : Marvin S. Krout, Director of Planning *M Krout*
 RE : **County Change of Zone No. 12025**
 (Text amendment to the Lancaster County Zoning Resolution to remove reference to application filing fees)
 DATE : September 11, 2012

1. This proposed text amendment to the Lancaster County Zoning Resolution and the associated proposed text amendment to the Lancaster County Land Subdivision Resolution (Miscellaneous No. 12010) were heard at the same time before the Planning Commission.
2. Attached is the Planning staff report (p.2-3), the minutes of the Planning Commission (p.4-5) and the proposed text (p.6-7) on **County Change of Zone No. 12025**, by the Director of Planning, to amend the Lancaster County Zoning Resolution by amending Article 23, "Fees", to remove the language describing application fees from the text and reference a separate fee schedule to be adopted by resolution of the County Board.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the removal of the fee language from the text of the Zoning Resolution will allow direct review of any changes in the fee schedule by the County Board, without previous hearing and recommendation by the Planning Commission, reducing the time and resources required to update the fees and focusing the Planning Commission efforts on land use issues. The staff presentation is found on p.4.
4. There was no testimony in opposition.
5. On September 5, 2012, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval.
6. On September 12, 2012, the Planning Commission also voted 8-0 to recommend approval of the associated amendment to the Lancaster County Land Subdivision Resolution (Miscellaneous No. 12010).

Please take the necessary steps to schedule this item on the County Board agenda and inform us of the public hearing date. The Planning staff is scheduled to brief the County Board on this item at their regular staff meeting on Thursday, September 13, 2012, at 9:00 a.m.

If you need any further information, please contact Jean Preister in the Planning Department (402-441-6365 or plan@lincoln.ne.gov).

cc: County Board
 Brittany Behrens, County Attorney
 County Engineer
 Kerry Eagan, County Commissioners
 Gwen Thorpe, County Commissioners
 Sara Hartzell, Planning

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT
for September 5, 2012, PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 12025 and Miscellaneous No. 12010

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL: Text changes to the Zoning Resolution of Lancaster County and the Land Subdivision Resolution of Lancaster County to remove the language describing application fees from the text and referencing a separate fee schedule to be adopted by resolution by the County Board.

LOCATION: Article 23 of the Zoning Resolution and Chapter 10 of the Land Subdivision Resolution.

CONCLUSION: The removal of the fee language from the text of the zoning and subdivision codes will allow direct review of any changes by the County Board of Commissioners, without previous hearing and recommendation by the Planning Commission, reducing the time and resources required to update these fees and focusing the Planning Commission's efforts on land use issues.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY: Fees have been included as a part of the Zoning and Subdivision resolutions since their adoption in 1979 and 1982, respectively. All amendments to fees have required a Change of Zone or Miscellaneous application to be reviewed by the Planning Commission for their recommendation before final action by the County Board.

In August of 2008 the City of Lincoln amended the Zoning Ordinance and Land Subdivision Ordinance of the Lincoln Municipal Code to remove the fee schedule from the text of the code for adoption as a separate resolution by the City Council.

ANALYSIS:

1. Fees for development applications handled by the Planning Department are currently located in Article 23 of the Zoning Resolution and in Chapter 10 of the Land Subdivision Resolution of Lancaster County. In addition, the Planning Department maintains an unofficial fee schedule that is posted online and available in print for the convenience of the public.

2. From time to time the County Board may amend these fees through a change to the text of these two resolutions. Because these resolutions fall under the area of responsibility of the Planning Commission, these changes require a Change of Zone or Miscellaneous application be filed in the Planning Department and a public hearing on these applications be scheduled in order to receive the recommendation of the Planning Commission.
3. The Planning Commission is directed by State statute to review and vote on policies and applications related to land use and public facilities. Although some budgetary items do come before the Planning Commission, notably the Capital Improvement Plan and Transportation Improvement Plan which the Planning Commission reviews in relation to the Comprehensive Plan, the budget itself is reviewed by the City Council and County Board.
4. Fees collected for zoning and subdivision applications comprise a small portion of the Planning Department's annual budget. In part because the Planning Department budget is not under the purview of the Planning Commission, fees were removed from the City Zoning and Land Subdivision ordinances in 2008 to be adopted by separate resolution of the City Council.
5. The Director of Planning requests that the fee schedule be separated from the County Zoning and Land Subdivision resolutions and adopted by separate resolution by the County Board. In the future all amendments to this fee schedule would be brought directly to the County Board for approval by resolution. The fees would be displayed in a document titled "Lancaster County Zoning and Subdivision Fee Schedules".
6. In addition, a new fee schedule is being proposed for the approval of the County Board should these text changes be approved. This fee schedule is provided to the Planning Commission for their review but no recommendation is being requested at this time. The fee increases would in most cases comprise a 10% increase in fees. These fee increases are similar to those approved by the City Council in July of 2012 to go into effect in the City jurisdiction October 1, 2012.

This change will more accurately reflect the relationship of the County Board to the Planning Department's budget process and will remove the burden of review of a non-land use issue from the Planning Commission. In addition, removing the necessity of review and public hearing by the Planning Commission will streamline the amendment process.

Prepared by:
Sara S. Hartzell, Planner
402-441-6371, shartzell@lincoln.ne.gov

DATE: August 22, 2012

APPLICANT: Marvin Krout, Director
Lincoln and Lancaster County Planning Department

**COUNTY CHANGE OF ZONE NO. 12025
and
COUNTY MISCELLANEOUS NO. 12010**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 5, 2012

Members present: Hove, Sunderman, Lust, Weber, Butcher, Baylor Baird, Francis and Cornelius.

Staff recommendation: Approval

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the text changes to the Lancaster County Zoning Resolution and Land Subdivision Resolution. Currently, the text in both of these resolutions contains language describing the amount of the application filing fee for different zoning and subdivision applications, which is identical to what the city's zoning and subdivision text used to show.

In 2008, the city removed the reference to the fees in the zoning and subdivision ordinances to expedite the process needed to change the fee schedule. By doing the same in the county regulations, the resolution adopting the fee schedule can now go directly to the County Board rather than coming through the Planning Commission process. Another reason this change was made in the city regulations and is being proposed in the county regulations is that the Planning Commission's role is to focus more on land use issues and public facilities, rather than budgetary issues in general.

The proposed new fee schedule attached to the staff report will be presented to the County Board as a separate resolution and is nearly identical to the city fee changes that were adopted by the City Council in August, 2012. This is also an attempt to simplify the ways that the fees are calculated.

There was no testimony in opposition.

**COUNTY CHANGE OF ZONE NO. 12025
ACTION BY PLANNING COMMISSION:**

September 5, 2012

Lust moved approval, seconded by Francis.

Cornelius commented that this is pretty straight forward and he agrees that it makes sense to streamline the county regulations in similar ways as the city regulations are structured.

Motion for approval carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

COUNTY MISCELLANEOUS NO. 12010
ACTION BY PLANNING COMMISSION:

September 5, 2012

Lust moved approval, seconded by Francis and carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

**ARTICLE 23
FEES**

23.001. General Regulations. Any person applying for a change of zone, a community unit plan, a special permit, an administrative amendment to a special permit, an appeal to the Board of Zoning Appeals, a text change, an Airport Zoning District Height Permit, an administrative special permit, a postponement which requires additional legal notice, or any other application under the Zoning Resolution of Lancaster County, or requesting a zoning confirmation letter, shall pay an appropriate fee therefor established by resolution of the Lancaster County Board of Commissioners. The fees set forth in this article shall apply to this resolution. Under no condition shall any fee required hereunder be refunded for failure of said application to be granted by the County Board of other appropriate authority. No fee shall be required when any action is recommended by the County Board on its' own motion or by any person or group officially designated to participate in the admission of this resolution. (Resolution No. R-08-0084, October 1, 2008)

~~23.002. Notification.~~ \$0.00. (Resolution No. 99-2319, November 23, 1999)

~~23.003. Change of Zone.~~ The following fees shall be charged at the time of filing an application for a change of zone:

~~_____ a) For the filing of an application for a change of zone in the "AG", "AGR", and "R" zoning districts:~~

~~_____ 1) Where the area for which the change of zone is requested is one (1) acre or less, the application fee shall be \$300.00.~~

~~_____ 2) Where the area for which the change of zone is requested is in excess of one (1) acre, the application fee shall be \$440.00.~~

~~_____ b) For the filing of an application for a change of zone in all other zoning districts:~~

~~_____ 1) Where the area for which the change of zone is requested is one (1) acre or less, the fee shall be \$440.00.~~

~~_____ 2) Where the area for which change of zone is requested is in excess of one (1) acre, the fee shall be \$890.00.~~

~~_____ (Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 3, 2003; Resolution R-06-0070, September 1, 2006; Resolution No. R-08-0084, October 1, 2008)~~

23.004 Historic Preservation Change of Zone. The application fee for a Historic Preservation Change of Zone shall be \$300.00. (Resolution No. R-08-0084, October 1, 2008)

23.005. Community Unit Plan and Mobile Home Courts. The application fee for a special permit for a community unit plan as required in Article 14 shall be \$720.00, plus \$120.00 per lot or \$240.00 per acre whichever is less, to a maximum of \$3,000.00. (Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 3, 2003; Resolution R-06-0070, September 1, 2006; Resolution No. R-08-0084, October 1, 2008)

23.009. Special Permit. The filing fee for an application for a special permit under Article 13, other than mobile home courts and community unit plans, shall be as follows:

~~_____ a) If the area for which the special permit is requested is one (1) acre or less, the fee shall be \$300.00;~~

~~_____ b) If the area for which the special permit is requested is in excess of one (1) acre, the fee shall be \$890.00.~~

~~(Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 3, 2003;~~

~~Resolution R-06-0070, September 1, 2006; Resolution No. R-08-0084, October 1, 2008)~~

~~23.011. Administrative Amendment and Administrative Special Permit (wireless). The filing fee for an application for an administrative amendment to a special permit or an administrative special permit (wireless) shall be \$150.00. (Resolution No. 99-2319, November 23, 1999;~~

~~Resolution No. 03-0093, September 3, 2003; Resolution R-06-0070, September 1, 2006; Resolution No. R-08-0084, October 1, 2008)~~

~~23.013. Board of Zoning Appeals. The filing fee for an application for an appeal to the Board of Zoning Appeals shall be \$300.00. (Resolution No. 03-0093, September 5, 2003; Resolution No. R-08-0084, October 1, 2008)~~

~~23.015. Airport Zoning. The filing fee for an application for a height permit in connection with the airport zoning district, Article 18, shall be \$300.00. (Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 5, 2003; Resolution No. R-08-0084, October 1, 2008)~~

~~23.017. Changes in Text. The filing fee for an application for a change of text in the 1979 Zoning Resolution of Lancaster County shall be \$300.00. (Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 3, 2003; Resolution R-06-0070, September 1, 2006)~~

~~23.019. General Fees. The filing fee for an application in connection with the 1979 Zoning Resolution of Lancaster County not otherwise covered by this article shall be \$300.00. (Resolution No. 99-2319, November 23, 1999; Resolution No. 03-0093, September 5, 2003; Resolution No. R-08-0084, October 1, 2008)~~

~~23.023. Postponement Fee. A fee of \$150.00 shall be charged at the time of filing an application to remove and readvertise action on an item that was postponed for an indefinite period at the request of the applicant. (Resolution No. 03-0093, September 5, 2003; Resolution R-06-0070, September 1, 2006)~~



SEP 12 2012

LANCASTER COUNTY BOARD

COUNTY BOARD FACTSHEET

TO : County Clerk: Attn: Angela Zocholl
 FROM : Marvin S. Krout, Director of Planning *M Krout*
 RE : **County Miscellaneous No. 12010**
 (Text amendment to the Lancaster County Land Subdivision Resolution to remove reference to application filing fees)
 DATE : September 11, 2012

1. This proposed text amendment to the Lancaster County Land Subdivision Resolution and the associated proposed text amendment to the Lancaster County Zoning Resolution (Change of Zone No. 12025) were heard at the same time before the Planning Commission.
2. Attached is the Planning staff report (p.2-3), the minutes of the Planning Commission (p.4-5) and the proposed text (p.6) on **County Miscellaneous No. 12010**, by the Director of Planning, to amend the Lancaster County Land Subdivision Resolution by amending Chapter 10, "Fees", to remove the language describing application fees from the text and reference a separate fee schedule to be adopted by resolution of the County Board.
3. The staff recommendation of approval is based upon the "Analysis" as set forth on p.2-3, concluding that the removal of the fee language from the text of the Land Subdivision Resolution will allow direct review of any changes in the fee schedule by the County Board, without previous hearing and recommendation by the Planning Commission, reducing the time and resources required to update the fees and focusing the Planning Commission efforts on land use issues. The staff presentation is found on p.4.
4. There was no testimony in opposition.
5. On September 5, 2012, the Planning Commission agreed with the staff recommendation and voted 8-0 to recommend approval.
6. On September 12, 2012, the Planning Commission also voted 8-0 to recommend approval of the associated amendment to the Lancaster County Zoning Resolution (Change of Zone No. 12025).

Please take the necessary steps to schedule this item on the County Board agenda and inform us of the public hearing date. The Planning staff is scheduled to brief the County Board on this item at their regular staff meeting on Thursday, September 13, 2012, at 9:00 a.m.

If you need any further information, please contact Jean Preister in the Planning Department (402-441-6365 or plan@lincoln.ne.gov).

cc: County Board
 Brittany Behrens, County Attorney
 County Engineer
 Kerry Eagan, County Commissioners
 Gwen Thorpe, County Commissioners
 Sara Hartzell, Planning

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for September 5, 2012, PLANNING COMMISSION MEETING

PROJECT #: Change of Zone No. 12025 and Miscellaneous No. 12010

Note: This is a combined staff report for related items. This report contains a single background and analysis section for all items.

PROPOSAL: Text changes to the Zoning Resolution of Lancaster County and the Land Subdivision Resolution of Lancaster County to remove the language describing application fees from the text and referencing a separate fee schedule to be adopted by resolution by the County Board.

LOCATION: Article 23 of the Zoning Resolution and Chapter 10 of the Land Subdivision Resolution.

CONCLUSION: The removal of the fee language from the text of the zoning and subdivision codes will allow direct review of any changes by the County Board of Commissioners, without previous hearing and recommendation by the Planning Commission, reducing the time and resources required to update these fees and focusing the Planning Commission's efforts on land use issues.

RECOMMENDATION:

Approval

GENERAL INFORMATION:

HISTORY: Fees have been included as a part of the Zoning and Subdivision resolutions since their adoption in 1979 and 1982, respectively. All amendments to fees have required a Change of Zone or Miscellaneous application to be reviewed by the Planning Commission for their recommendation before final action by the County Board.

In August of 2008 the City of Lincoln amended the Zoning Ordinance and Land Subdivision Ordinance of the Lincoln Municipal Code to remove the fee schedule from the text of the code for adoption as a separate resolution by the City Council.

ANALYSIS:

1. Fees for development applications handled by the Planning Department are currently located in Article 23 of the Zoning Resolution and in Chapter 10 of the Land Subdivision Resolution of Lancaster County. In addition, the Planning Department maintains an unofficial fee schedule that is posted online and available in print for the convenience of the public.

2. From time to time the County Board may amend these fees through a change to the text of these two resolutions. Because these resolutions fall under the area of responsibility of the Planning Commission, these changes require a Change of Zone or Miscellaneous application be filed in the Planning Department and a public hearing on these applications be scheduled in order to receive the recommendation of the Planning Commission.
3. The Planning Commission is directed by State statute to review and vote on policies and applications related to land use and public facilities. Although some budgetary items do come before the Planning Commission, notably the Capital Improvement Plan and Transportation Improvement Plan which the Planning Commission reviews in relation to the Comprehensive Plan, the budget itself is reviewed by the City Council and County Board.
4. Fees collected for zoning and subdivision applications comprise a small portion of the Planning Department's annual budget. In part because the Planning Department budget is not under the purview of the Planning Commission, fees were removed from the City Zoning and Land Subdivision ordinances in 2008 to be adopted by separate resolution of the City Council.
5. The Director of Planning requests that the fee schedule be separated from the County Zoning and Land Subdivision resolutions and adopted by separate resolution by the County Board. In the future all amendments to this fee schedule would be brought directly to the County Board for approval by resolution. The fees would be displayed in a document titled "Lancaster County Zoning and Subdivision Fee Schedules".
6. In addition, a new fee schedule is being proposed for the approval of the County Board should these text changes be approved. This fee schedule is provided to the Planning Commission for their review but no recommendation is being requested at this time. The fee increases would in most cases comprise a 10% increase in fees. These fee increases are similar to those approved by the City Council in July of 2012 to go into effect in the City jurisdiction October 1, 2012.

This change will more accurately reflect the relationship of the County Board to the Planning Department's budget process and will remove the burden of review of a non-land use issue from the Planning Commission. In addition, removing the necessity of review and public hearing by the Planning Commission will streamline the amendment process.

Prepared by:
Sara S. Hartzell, Planner
402-441-6371, shartzell@lincoln.ne.gov

DATE: August 22, 2012

APPLICANT: Marvin Krout, Director
Lincoln and Lancaster County Planning Department

**COUNTY CHANGE OF ZONE NO. 12025
and
COUNTY MISCELLANEOUS NO. 12010**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

September 5, 2012

Members present: Hove, Sunderman, Lust, Weber, Butcher, Baylor Baird, Francis and Cornelius.

Staff recommendation: Approval

There were no ex parte communications disclosed.

Staff presentation: **Sara Hartzell of Planning staff** presented the text changes to the Lancaster County Zoning Resolution and Land Subdivision Resolution. Currently, the text in both of these resolutions contains language describing the amount of the application filing fee for different zoning and subdivision applications, which is identical to what the city's zoning and subdivision text used to show.

In 2008, the city removed the reference to the fees in the zoning and subdivision ordinances to expedite the process needed to change the fee schedule. By doing the same in the county regulations, the resolution adopting the fee schedule can now go directly to the County Board rather than coming through the Planning Commission process. Another reason this change was made in the city regulations and is being proposed in the county regulations is that the Planning Commission's role is to focus more on land use issues and public facilities, rather than budgetary issues in general.

The proposed new fee schedule attached to the staff report will be presented to the County Board as a separate resolution and is nearly identical to the city fee changes that were adopted by the City Council in August, 2012. This is also an attempt to simplify the ways that the fees are calculated.

There was no testimony in opposition.

**COUNTY CHANGE OF ZONE NO. 12025
ACTION BY PLANNING COMMISSION:**

September 5, 2012

Lust moved approval, seconded by Francis.

Cornelius commented that this is pretty straight forward and he agrees that it makes sense to streamline the county regulations in similar ways as the city regulations are structured.

Motion for approval carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

COUNTY MISCELLANEOUS NO. 12010
ACTION BY PLANNING COMMISSION:

September 5, 2012

Lust moved approval, seconded by Francis and carried 8-0: Hove, Sunderman, Lust, Weber, Butcher, Gaylor Baird, Francis and Cornelius voting 'yes'. This is a recommendation to the Lancaster County Board.

CHAPTER 10 FEES

Sec. 10.010. GENERAL REGULATIONS. Any person submitting an application for approval of a final plat, preliminary plat, amendment to a final plat or preliminary plat, survey error to correct final plat, vacation of a final plat, street name change, text change, waiver not accompanying another application, postponement that requires additional legal notice, or any other application under the Land Subdivision Resolution of Lancaster County shall pay an appropriate fee therefor established by resolution of the Lancaster County Board of Commissioners. The fees set forth in this chapter shall apply to this resolution. Under no condition shall any fee required hereunder be refunded for failure of said application to be granted by the County Board or other appropriate authority. No fee shall be required when any application or requested action is initiated by the County Board on its own motion or by any board member or any person or group officially designated to participate in the administration of this Resolution.

Sec. 10.020. ADMINISTRATIVE SUBDIVISION FEE. ~~The following fees shall be charged at the time of filing an application for an administrative subdivision.~~

- ~~_____ (a) Filing fee of \$150.00~~
- ~~_____ (b) Unit fee of \$30.00 per lot or \$120.00 per acre, whichever is less, to a maximum unit fee of \$3,000.00~~

Sec. 10.030. PRELIMINARY PLAT FEE.

~~The following fees shall be charged at the time of filing an application for a preliminary plat:~~

- ~~_____ (a) Filing fee of \$720.00;~~
- ~~_____ (b) Unit fee of \$60.00 per lot or \$240.00 per acre, whichever is less, to a maximum unit fee of \$3,000.00.~~

Sec. 10.040. FINAL PLAT FEE.

~~The following fees shall be charged at the time of filing an application for a final plat:~~

- ~~_____ (a) Filing fee of \$ 150.00;~~
- ~~_____ (b) Unit fee of \$ 30.00 per lot or \$120.00 per acre, whichever is less, to a maximum unit fee of \$3,000.00.~~

Sec. 10.050. CORRECTED FINAL PLAT FEE.

~~A filing fee of \$150.00 shall be charged at the time of filing an application for a corrected final plat, or to file an affidavit to correct a drafting error on an approved final plat.~~

Sec. 10.060. VACATED FINAL PLAT FEE.

~~A filing fee of \$300.00 shall be charged at the time of filing an application to vacate a final plat.~~

**Sec. 10.070. REQUEST TO AMEND THE CONDITIONS OF AN APPROVED FINAL PLAT;
FEE.**

~~A filing fee of \$300.00 shall be charged at the time of filing an application for a request to amend the conditions of approval for an approved final plat.~~

Sec. 10.090. CHANGES IN TEXT; FEE.

~~A filing fee of \$300.00 shall be charged at the time of filing an application for a change of text to the Lancaster County Land Subdivision Regulations.~~



COUNTY BOARD FACTSHEET

LANCASTER COUNTY BOARD

TO : County Clerk: Attn: Angela Zocholl
 FROM : Marvin S. Krout, Director of Planning *M Krout*
 RE : **Request for Resolution adopting Planning Department Fee Schedule**
 DATE : September 11, 2012

1. The purpose of this resolution is to adopt the revised Planning Department Fee Schedule (p.2) reflecting a proposed increase in application review fees under Article 23 of the Lancaster County Zoning Resolution; Chapter 10 of the Lancaster County Land Subdivision Resolution; for amendments to the Comprehensive Plan; and for Zoning Confirmation Letters. A similar proposed fee increase for application reviews in the City of Lincoln jurisdiction was adopted by the Lincoln City Council in August, 2012.
2. The Planning Department collects fees for all development applications that are filed and processed in accordance with the County's zoning and subdivision resolutions and the City's analogous ordinances. The fees collected with applications in 2010-11 amounted to about \$110,000 in revenue. These fees represent about 20% of the estimated direct costs (staff time processing applications, preparing agendas and minutes, mailing, copying and publishing costs) to provide these services, and about 15% of direct and indirect costs (updating codes, maintaining information systems, administrative costs, office space, equipment, etc.) for the broader functions supporting Development Review operations. The Development Review functions take about half of the department's resources; the other half is used for long range planning functions such as updating the Comprehensive Plan, preparing the Capital Improvement Program, historic preservation, and the federal transportation program activities. These percentages are typical for planning operations in peer communities around the country, as are the fees for various applications.
3. By tradition, the application fees are deposited upon receipt in the City and County general fund accounts, based on the jurisdiction of the land for each application. So these revenues are not reflected in the department's budget as a component of funding for the department.
4. Development application fees were last increased in 2000, 2003 and 2008. The purpose of the increase in 2000 was to fund an additional position in the Development Review section to more effectively handle the caseload at the time. Staffing has since been reduced. The next two increases averaged 15-20% and reflected local inflation rates at the time.
5. The proposed fees reflect a slower rate of inflation over the past 4 years, and in most cases would mean a 10% increase over the current charges. This would result in about \$10,000 in additional revenue based on the 2010-11 volume of applications. In addition, we are recommending some other adjustments to make certain fees simpler to calculate and eliminate some inconsistencies between similar types of applications.

Please take the necessary steps to schedule this item on the County Board agenda and inform us of the public hearing date. The Planning staff is scheduled to brief the County Board on this item at their regular staff meeting on Thursday, September 13, 2012, at 9:00 a.m.

If you need any further information, please contact Jean Preister in the Planning Department (402-441-6365 or plan@lincoln.ne.gov).

cc: County Board
 Brittany Behrens, County Attorney
 County Engineer
 Kerry Eagan, County Commissioners
 Gwen Thorpe, County Commissioners
 Sara Hartzell, Planning

DRAFT **PROPOSED FEE INCREASE: AUGUST 2012**

**LANCASTER COUNTY
ZONING AND SUBDIVISION FEE SCHEDULES**

ZONING FEES - RESOLUTION # ~~R-08-0084~~ - EFFECTIVE 11/1/08

Administrative Amendment	\$150.00	165.00	
Administrative Special Permit (wireless facilities)	\$150.00	(N/A)	
Airport Zoning District Height Permit	\$300.00	330.00 ¹	
Board of Zoning Appeals	\$300.00	330.00 ¹	
Change of Zone to (map):			
AG, AGR, R, 1 acre or less	\$300.00		
AG, AGR, R, greater than 1 acre	\$440.00		
Other districts, 1 acre or less	\$440.00	330.00	
Other districts, greater than 1 acre	\$890.00	792.00	
Historic Preservation	\$300.00	(N/A)	
Text Change	\$300.00	330.00	
Community Unit Plan, Mobile Home Court & Mobile Home Sub			
Base	\$720.00	792.00	
Plus lesser of per-lot or per-acre (Maximum \$3000)	\$120.00	\$240.00²	
132.00			
Postponement Fee	\$150.00	165.00	
Special Permit (other than CUP, Mobile Home Court and Mobile Home Sub):			
1 acre or less (based on lot area)	\$300.00	330.00	
Greater than 1 acre	\$890.00	792.00	
All other zoning applications	\$300.00	330.00	

SUBDIVISION FEES - RESOLUTION # ~~R-08-0085~~ - EFFECTIVE 11/1/08

Final Plat:			
Base	\$150.00	165.00	
Plus lesser of per-lot or per-acre (maximum \$3000)	\$ 30.00	\$120.00²	33.00
Final Plat Amendment (amend conditions of approval)	\$300.00	330.00	
*Postponement fee	\$150.00	165.00	
Preliminary Plat:			
Base	\$720.00	792.00	
Plus lesser of per-lot or per-acre (Maximum \$3000)	\$ 60.00	\$240.00²	132.00
Street Name Change	\$300.00	330.00	
Survey error Correct final plat	\$150.00	165.00	
Text Change (Same fee as CZ Text)	\$300.00	330.00	
Vacation of Plat	\$300.00	330.00	
*All other subdivision applications	\$300.00	330.00	
*Waivers (not accompanying another application)	\$300.00	330.00	
*Waiver (time extensions or waiver if associated with Final Plat in process)		165.00	

OTHER FEES

*Comprehensive Plan Amendment	\$330.00
*Zoning Confirmation Letter	\$66.00

¹File with Building and Safety
²Per lot/per acre
 • For lot fee, exclude outlots.
 *not in previous resolutions