

**MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, APRIL 22, 2014
COUNTY-CITY BUILDING, ROOM 112
10:30 A.M.**

Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on April 18, 2014.

Commissioners present: Larry Hudkins, Chair
 Brent Smoyer, Vice Chair
 Roma Amundson
 Jane Raybould
 Deb Schorr

Others present: Kerry Eagan, Chief Administrative Officer
 Brittany Behrens, Deputy County Attorney
 Dan Nolte, County Clerk
 Cori Beattie, Deputy County Clerk
 Angela Zocholl, County Clerk's Office

The Chair called the meeting to order at 10:31 a.m. and the location of the Nebraska Open Meetings Act was announced.

1) **PLEDGE OF ALLEGIANCE**

2) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, April 15, 2014.**

MOTION: Smoyer moved and Raybould seconded approval of the minutes. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

3) **CLAIMS: Approval of all claims processed through Tuesday, April 22, 2014.**

MOTION: Schorr moved and Raybould seconded approval of the claims. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

4) **SPECIAL PRESENTATION:**

- A. **Review of proposed amendments to the 2014 Lancaster County Visitors Improvement Fund Grant Guidelines – Julie Lattimer, Visitors Promotion Committee Chair, and Jeff Maul, Convention & Visitors Bureau Executive Director. (See 6A for correlating item.)**

Item was delayed until later in the meeting.

5) **PUBLIC HEARING:**

- A. **Issuance by the Hospital Authority No. 1 of Lancaster County, Nebraska, of its Healthcare Revenue Refunding Bonds (Tabitha, Inc. Project), Series 2014, solely for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended. (See 6B for correlating item.)**

The Chair opened the public hearing.

Colleen Duncan, Gilmore & Bell, was administered the oath. She said a public hearing must be held on the bonds for the purpose of the Internal Revenue Code.

Blaine Spady, Smith Hayes Financial Services, and Darcie Brink, Tabitha, Inc., were administered the oath. Spady said some of the bonds from 2009 and 2010 are being refinanced due to a significant savings.

The Chair closed the public hearing.

6) **NEW BUSINESS:**

- A. **Approval of revised 2014 Lancaster County Visitors Improvement Fund Grant Guidelines (changes highlighted).**

Item was delayed until later in the meeting.

- B. **Resolution approving the issuance, sale and delivery by Hospital Authority No. 1 of Lancaster County, Nebraska, of not to exceed \$8,600,000 principal amount of its healthcare revenue refunding bonds (Tabitha, Inc., project), Series 2014, solely for the purposes of Section 147(f) of the internal revenue code of 1986, as amended, and related matters. (R-14-0020)**

MOTION: Raybould moved and Smoyer seconded approval of the resolution. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

- C. **Resolution in the matter of establishing a policy governing Lancaster County motor vehicle titles. (R-14-0021)**

MOTION: Raybould moved and Amundson seconded approval of the resolution. Amundson, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

- D. **Special designated license applications from Hillcrest Country Club, 9401 O Street, for events on May 25, June 1, July 6, July 20, August 24 and August 31, 2014.**

Andy Reetz, Hillcrest Country Club, discussed the events for the six special designated licenses. Hudkins noted there had been no liquor violations and commended the staff for having hospitality training.

MOTION: Raybould moved and Smoyer seconded approval of the special designated licenses. Smoyer, Schorr, Raybould, Amundson and Hudkins voted aye. Motion carried 5-0.

NEW BUSINESS CONTINUED:

- E. Request from Lancaster County Corrections to use \$16,000 from the Inmate Benefit Fund for the Good News Jail and Prison Ministries of Fairfax, Virginia, to provide counseling and religious activities for Lancaster County inmates.**

Mike Thurber, Corrections Director, explained that the inmate benefit fund, which is derived from commissary and phone commissions, is used for various inmate programs.

Sheldon Crapo, Good News Jail and Prison Ministries, said his position is not tax supported and fundraising must be done outside the jail. Use of the Inmate Benefit Fund would help provide the financial support needed.

MOTION: Schorr moved and Raybould seconded approval of the request. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

- F. 2011 sub-recipient agreement in the amount of \$24,749 for the 2011 State Homeland Security Program from the Nebraska Emergency Management Agency (NEMA). Term of the agreement is September 23, 2011, to August 31, 2014. (C-14-0205)**

Mark Hosking, Emergency Management Director, noted the funds are for the Southeast Region.

MOTION: Amundson moved and Smoyer seconded approval of the agreement. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

Schorr commented on last week's Emergency Management agreement (Item 71 from the April 15, 2014, meeting), stating a portion of the \$120,000 grant would be used for medical emergency response, particularly for rural responders. Hosking said this would help with preparedness for first responders prior to arrival at the hospital.

- G. Mini-grant contract application and award with the Nebraska Office of Highway Safety in the amount of \$8,649.85 for the County Sheriff to perform selective overtime enforcement geared toward safety belt and child restraint violations as part of the "Click It or Ticket" mobilization May 19, to June 1, 2014. (C-14-0206)**

MOTION: Smoyer moved and Raybould seconded approval of the contract application and award. Amundson, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

- H. Recommendation from Purchasing and the Weed Control Authority to issue a contract to Mr. Yards and More, LLC, at an estimated cost of \$18,000 for the annual requirements of noxious weed control, spraying and mowing. (B-14-0021)**

MOTION: Raybould moved and Amundson seconded approval of the recommendation. Smoyer, Schorr, Raybould, Amundson and Hudkins voted aye. Motion carried 5-0.

- I. Agreement with Raymond Contracting in the amount of \$15,580 for on-site drain system repairs. (C-14-0207)**

NEW BUSINESS CONTINUED:

Pam Dingman, County Engineer, said there are 16 buildings in the outlying areas of the County and updates are needed for some of the buildings.

MOTION: Amundson moved and Smoyer seconded approval of the agreement. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

- J. **Fee agreement for services of Baylor, Evnen, Curtiss, Gritmit & Witt, LLP. (C-14-0208)**

MOTION: Amundson moved and Smoyer seconded approval of the agreement. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

- K. **Agreement with the Administrative Office of the Nebraska Supreme Court for administration of the Adult Drug Court for the District Court of Lancaster County. The Administrative Office of the Courts will pay the County \$61,710 for the services. Term of the agreement is April 1, 2014, to June 30, 2014. (C-14-0209)**

MOTION: Smoyer moved and Schorr seconded approval of the agreement. Amundson, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

- L. **Agreement with Seim Johnson, LLP, to prepare and deliver the Medicare Form CMS 2088-92 cost report for the period ended January 31, 2014, for the Community Mental Health Center. The County will pay \$4,600 to \$5,100 for the services. Term of the agreement shall be from the date work begins until the cost report has been submitted to the County. (C-14-0210)**

MOTION: Raybould moved and Amundson seconded approval of the agreement. Smoyer, Schorr, Raybould, Amundson and Hudkins voted aye. Motion carried 5-0.

- M. **Recommendation from the Pension Review Committee to place the Core Plus Bond/PIMCO Fund on the watch list for purposes of the Lancaster County Employee Retirement and 457 Deferred Compensation Statement of Overall Investment Objectives and Policy.**

MOTION: Schorr moved and Raybould seconded approval of the recommendation. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

- 7) **CONSENT ITEMS: *These are routine business items that are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:***

- A. **Right-of-way contract between the County Engineer and Paul Smedra and Debra Quandt-Smedra, Stagecoach Road and S. 110th Street, in the amount of \$1,648. (C-14-0211)**

CONSENT ITEMS CONTINUED:

- B. **Setting of public hearings on Tuesday, April 29, 2014, at 10:30 a.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln), regarding the following:**
1. **Class C liquor license for Topper Grill, LLC, d/b/a Dockside Bar & Grill, 10005 West Davey Road.**
 2. **Class D liquor license for Casey's Retail Company, d/b/a Casey's General Store 2721, 4131 Old Woodlawn Road.**

MOTION: Raybould moved and Smoyer seconded approval of the consent items. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

- 8) **PUBLIC COMMENT: Those wishing to speak on items relating to County business not on the agenda may do so at this time.**

No one appeared for public comment.

RETURNING TO ITEM 4A:

Julie Lattimer, Visitors Promotion Committee Chair, said revisions are being made to the visitors improvement fund grant request form, including questions on total projected budget, impact on visitor recruitment and lodging tax, estimated annual impact based on lodging tax use and total economic impact based on the formula given. This will help the Visitors Improvement Committee in making recommendations for grants.

Schorr questioned how people could learn more about the grant request process. Lattimer said this could be done through the Convention & Visitors Bureau web site (www.lincoln.org) and through Jeff Maul, Convention & Visitors Bureau Executive Director.

RETURNING TO ITEM 6A:

MOTION: Smoyer moved and Amundson seconded approval of the revised 2014 Lancaster County Visitors Improvement Fund Grant Guidelines. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

9) **ANNOUNCEMENTS:**

- A. **The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, April 24, 2014, at 8:30 a.m., in the Bill Luxford Studio of the County-City Building (555 S. 10th Street, Lincoln).**
- B. **The Lancaster County Board of Commissioners will hold their next regular meeting on Tuesday, April 29, 2014, at 10:30 a.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln) with the Board of Equalization immediately following.**
- C. **The County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.**

ANNOUNCEMENTS CONTINUED:

D. The Lancaster County Board of Commissioners meeting is broadcast live. It is rebroadcast on Tuesday and Saturday on 5 City-TV, Cable Channel 5. In addition, the meeting may be viewed on the internet at lancaster.ne.gov under 5 City-TV, Video on Demand or 5 City-TV on YouTube.

10) **ADJOURNMENT**

MOTION: Raybould moved and Smoyer seconded to adjourn the Board of Commissioners meeting at 10:58 a.m. Amundson, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk



**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, APRIL 22, 2014
COUNTY-CITY BUILDING, ROOM 112
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY
BOARD OF COMMISSIONERS MEETING**

Advance public notice of the Board of Equalization meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on April 18, 2014.

Commissioners present: Larry Hudkins, Chair
Brent Smoyer, Vice Chair
Roma Amundson
Jane Raybould
Deb Schorr

Others present: Norm Agena, County Assessor/Register of Deeds
Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Brittany Behrens, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The Chair called the meeting to order at 10:58 a.m. and the location of the Nebraska Open Meetings Act was announced.

1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, April 15, 2014.**

MOTION: Amundson moved and Raybould seconded approval of the minutes. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.

2) **ADDITIONS AND DEDUCTIONS TO THE TAX ASSESSMENT ROLLS: (See attached additions and deductions)**

MOTION: Raybould moved and Schorr seconded approval of the additions and deductions. Raybould, Amundson, Smoyer, Schorr and Hudkins voted aye. Motion carried 5-0.

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

**Catholic Bishop of Lincoln
Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints
Madonna Rehabilitation Hospital
St. Monica's Home**

MOTION: Raybould moved and Amundson seconded approval of the motor vehicle tax exemption applications. Amundson, Smoyer, Schorr, Raybould and Hudkins voted aye. Motion carried 5-0.

4) APPEAL OF PROPERTY EXEMPTION STATUS:

City of Lincoln

Scott Gaines, Deputy County Assessor/Register of Deeds, explained that property owned by a governmental subdivision is exempt if used for a public purpose. If the property is not used for a public purpose, the Assessor's Office notifies each governmental entity of intent to tax by March 1. Once notice is received, protests must be filed to the Board of Equalization by April 1 who must make a decision by May 1. Beyond that, an appeal may be made to the Tax Equalization and Review Commission by June 1.

Gaines said the City of Lincoln started selling properties that had been acquired over the years in 2012, declaring them surplus and trying to sell into private ownership. Discussions began with the City to determine which ones were used for public purpose and which ones were not. Notices were sent to the City in February 2013 and no protests were filed for that tax year. In August 2013, the City contacted the Assessor's Office with additional information indicating some of the properties may not be subject to tax since they were used for public purpose. The deadline for 2013 had passed so the properties were reviewed for 2014. Initially, a notice of intent to tax was sent to the City on 63 parcels, but after more information was received, 21 notices were rescinded. On March 31, the City protested 18 of the parcels: four in Olympic Heights, five at 48th Street & Madison Avenue, six along N. 27th Street and three in the Antelope Valley Project. He felt the information could be presented today and the Board could make a decision at next Tuesday's meeting.

Rod Confer, City Attorney, said the four Olympic Heights properties were acquired to satisfy delinquent special assessments. The opinion is that the properties are being held for public purpose based on a Nebraska Supreme Court case from 2003 (City of Alliance v. Box Butte Board of Equalization). In this case, Box Butte was taxing the properties, contending that the City of Alliance had acquired them to sell, which was not a public purpose. The Nebraska Supreme Court said the properties were acquired to satisfy delinquent special assessments and could only receive money by selling the properties. The main difference is that the City of Alliance was willing to sell the properties for the special assessment amount, while the City of Lincoln is looking to sell the properties for their market value. He also noted a case from York County in 2003 that said if the primary purpose for acquiring and holding the property is subject to a public purpose, a secondary purpose does not diminish this fact. Since the primary purpose in holding the City properties is to recollect the delinquent special assessments, the fact that additional money may be made should not defeat the primary purpose.

Hudkins asked if the York case was a Nebraska Supreme Court decision. Confer said yes; there were three different cases surrounding the York Airport. The York Airport Authority was holding property for different purposes and was renting it for farm ground. Nebraska Supreme Court said the fact that they rented it did not matter; the primary purpose was still a public purpose and it was held exempt.

Raybould asked if there is a reasonable time limit for selling the properties. Confer said there is not a limitation stated in the State statutes or in the constitutional provisions. In the City of Alliance cases, the Nebraska Supreme Court relied on other cases. In a Texas case, the property had been held for 30 years.

APPEAL OF PROPERTY EXEMPTION STATUS CONTINUED:

Hudkins questioned what is the longest a property has been held. Michelle Backemeyer, City Real Estate Division, said the Olympic Height properties were purchased in 1989 for tax and special assessment reasons. Originally, there were more lots, but it was decided the City could take the remaining properties once the park was planned, which was around September 2008. There had been no interest until recently.

Confer said the remaining properties were for redevelopment in the N. 48th Street, N. 27th Street and Antelope Valley areas. Under Nebraska Revised Statute §77-202, property held for community development by a political subdivision is held for a public purpose. The properties were acquired by the City, as they were declared blighted and substandard. Under the community redevelopment law, either the houses on the property are being remodeled or razed and sold to a developer. At this time, no private developers are interested but the properties could be repackaged and sold later. In his opinion, the properties are being held for community redevelopment, and therefore, being held for a public purpose.

John Watson, Deputy County Attorney, said the Board has until May 1 to take action. He had advised the Assessor's Office to leave the properties on the tax roll until further discussion could take place with the County Board.

Hudkins asked Watson if he had reviewed Confer's references to the related Supreme Court rulings. Watson felt Confer's characterization of those cases was correct but there may be a difference of opinions as to the inferences drawn from the cases. Hudkins asked if the Nebraska Supreme Court has more definitive rulings as to which decisions may be based. Watson felt the cases noted are the landmark cases and Confer provided the most applicable Nebraska Supreme Court cases to be referenced in the decision. He agreed to provide a copy of Nebraska Revised Statute §77-202 for the Board's review.

The consensus was to hold the item for one week and to discuss it further at the April 24, 2014, staff meeting.

5) **ADJOURNMENT**

MOTION: Smoyer moved and Raybould seconded to adjourn the Board of Equalization meeting at 11:22 a.m. Schorr, Raybould, Amundson, Smoyer and Hudkins voted aye. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk

