

**MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 112
TUESDAY, OCTOBER 21, 2014
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 October 17, 2014.

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

Commissioners absent: Roma Amundson

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

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

1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, October 14, 2014.**

MOTION: Raybould moved and Smoyer seconded approval of the minutes. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

2) **CLAIMS: Approval of all claims processed through Tuesday, October 21, 2014.**

MOTION: Smoyer moved and Raybould seconded approval of the claims. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

3) **SPECIAL PRESENTATION:**

- A. **Lancaster County Visitors Improvement Fund Grant to the Lincoln Parks Foundation for Construction of an upper level viewing deck at the Woods Park Tennis Court – Christie Dionisopoulos, Lincoln Parks Foundation Director; Julie Lattimer, Lancaster County Visitors Promotion Committee Chair; and Jeff Maul, Lincoln Convention & Visitors Bureau Executive Director. (See 4A for correlating item.)**

Jeff Maul said the initial application was for \$50,000 and the County agreed to allocate an extra \$50,000. He commented on the growth of events and development in Lincoln, which creates more need for the grant funds.

Christie Dionisopoulos discussed previous projects benefiting from the grant funds and the current project of replacing the Woods Park bubbles with buildings.

SPECIAL PRESENTATION CONTINUED:

Julie Lattimer explained that the initial recommendation of \$50,000 was increased to \$100,000 (payable over two budget years) based on some additional figures showing growth in the tennis community.

Susan Larson Rodenburg expressed her appreciation for the opportunity to work with the Lincoln Parks Foundation.

4) NEW BUSINESS:

- A. **Grant contract between Lancaster County (sponsor) and Lincoln Parks Foundation (grantee) for \$100,000 from the Lancaster County Visitors Improvement Fund. The grant will be used to construct an upper level viewing deck at the Woods Park Tennis Center. Term of the contract is November 1, 2014, to December 31, 2016. (C-14-0554)**

MOTION: Schorr moved and Raybould seconded approval of the contract. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

ITEM 4I:

Roger Figard, City Engineer, said the blanket agreement outlines a process for projects within the City's three-mile jurisdiction. The City Engineer's Office is required to prepare and review plans with the County Engineer's Office who can accept, request revisions, or reject the plans. When the project is done, operation and maintenance of that property would remain the County's responsibility until it is annexed. He discussed examples of NW 48th Street north of Interstate 80 and Rokeby Road between S. 70th Street and S. 84th Street.

Pam Dingman, County Engineer, clarified that the agreement would allow the City to do projects in the County's jurisdiction, but it would not allow the County to do projects in the City's jurisdiction, which would be needed under the One and Six-Year Road and Bridge Improvement Program.

MOTION: Smoyer moved and Raybould seconded approval of the agreement. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- B. **Resolution directing the County Engineer to conduct a study regarding vacating SW 31st Street, south of W. Denton Road to the north lot line of Outlot I, more particularly described in Exhibit "A," Lancaster County, Nebraska. (R-14-0067)**

MOTION: Schorr moved and Smoyer seconded approval of the resolution. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- C. **Resolution in the matter of the vacations of portions of SW 28th Street, W. Simon Street and W. Frye Street, more particularly described in Exhibit "A" and located in Martell, Lancaster County, Nebraska. (R-14-0068)**

MOTION: Smoyer moved and Raybould seconded approval of the resolution. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

NEW BUSINESS CONTINUED:

- D. Resolution in the matter of withdrawing Lancaster County participation from Project No. HRRR-STWD(116), advance railroad signing installation. (R-14-0069)**

Pam Dingman said the County applied for grant money to fix railroad crossings. However, due to time delays, the improvements were previously made, and the money could not be applied to any other project.

MOTION: Smoyer moved and Raybould seconded approval of the resolution. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- E. Recommendation from Purchasing to award a bid to Jacobsen Fire Equipment for \$4,000 (four-year term) for fire extinguisher inspection, testing and maintenance. (B-14-0037)**

MOTION: Schorr moved and Smoyer seconded approval of the recommendation. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- F. Contract between General Fire and Safety, the City of Lincoln and Lancaster County for fire suppression, inspection, testing and maintenance. Term of the contract is four years from the date of execution by all parties. (C-14-0555)**

MOTION: Raybould moved and Smoyer seconded approval of the contract. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- G. Amendment to County Contract C-08-0580 with Electronic Contracting Company for fire alarm and security system monitoring services at the County Motor Vehicle Services Building. The amendment extends the agreement for an additional four months from October 16, 2014, to February 15, 2015. (C-14-0556)**

MOTION: Smoyer moved and Raybould seconded approval of the amendment. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- H. Agreement between the State of Nebraska, Department of Roads, and Lancaster County for the expansion of transportation services for Lancaster County Public Rural Transit. (C-14-0557)**

MOTION: Raybould moved and Smoyer seconded approval of the agreement. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

- I. Interlocal agreement with the City of Lincoln for cooperation on various construction, improvement and/or road maintenance projects. (C-14-0558)**

Item was moved forward on the agenda.

- J. Business Associate Agreement between Medicalistics, LLC and Lancaster County, on behalf of the Mental Health Crisis Center. (C-14-0559)**

NEW BUSINESS CONTINUED:

MOTION: Schorr moved and Raybould seconded approval of the agreement. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

K. Business Associate Agreement between McLean Hospital Corporation and Lancaster County, on behalf of the Mental Health Crisis Center. (C-14-0560)

MOTION: Schorr moved and Raybould seconded approval of the agreement. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

L. Information exchange agreement and computer matching and privacy protection act agreement between the Social Security Administration and Lancaster County, on behalf of the Lancaster County General Assistance Office. The agreement provides the Lancaster County General Assistance Office with electronic access to Social Security Administration (SSA) information, records and data. The agreements are effective from January 1, 2015, to June 30, 2016. There will be no cost to the County. (C-14-0561)

MOTION: Raybould moved and Smoyer seconded approval of the agreement. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

M. Liability insurance coverage with National Legal Aid and Defender Association (NLADA) Service Corporation for the Lancaster County Public Defender's Office, in the amount of \$6,180. The policy begins on November 1, 2014, for a period of 12 months.

MOTION: Schorr moved and Raybould seconded approval of the insurance coverage. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

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

Gary Aldridge, 7112 S. 45th Street, read a letter he submitted to Jon Bruning, Attorney General, regarding administration of the oath during public hearings at County Board meetings (Exhibit A).

Schorr shared an award presented to the Railroad Transportation Safety District from the American Civil Engineer Companies for the design of the South Lincoln Quiet Zone.

6) ANNOUNCEMENTS:

A. The Lancaster County Board of Commissioners will not hold a staff meeting on Thursday, October 23, 2014. Instead, the Board will attend the Tri-County Meeting with Douglas and Sarpy Counties that day at 8:30 a.m., at the Pinnacle Bank Arena (3rd Floor, Club Lounge, 400 Pinnacle Arena Drive, Lincoln).

ANNOUNCEMENTS CONTINUED:

- B. The Lancaster County Board of Commissioners will hold their next regular meeting on Tuesday, October 28, 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. A public hearing will be held on Tuesday, October 28, 2014, at 7:00 p.m., in Room 112 of the County-City Building (555 S. 10th Street, Lincoln), regarding the One and Six-Year Road and Bridge Improvement Program for July 1, 2015, through June 30, 2020.
- D. The County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.
- E. 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.

7) **ADJOURNMENT**

MOTION: Raybould moved and Smoyer seconded to adjourn the Board of Commissioners meeting at 11:08 a.m. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.



Dan Nolte
Lancaster County Clerk



MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
COUNTY-CITY BUILDING, ROOM 112
TUESDAY, OCTOBER 21, 2014
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 October 17, 2014.

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

Commissioners absent: Roma Amundson

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

The Chair called the meeting to order at 11:08 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, October 14, 2014.**

MOTION: Smoyer moved and Raybould seconded approval of the minutes. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

2) **ADDITIONS AND DEDUCTIONS TO THE TAX ASSESSMENT ROLLS**

MOTION: Raybould moved and Smoyer seconded approval of the additions and deductions. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

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

Calvary Community Church
Developmental Services of Nebraska
Lincoln Medical Education Partnership
Madonna Rehabilitation Hospital
Priestly Fraternity of St. Peter

MOTION: Schorr moved and Raybould seconded approval of the motor vehicle tax exemption applications. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

4) **PROPERTY TAX EXEMPTION APPLICATIONS:**

**IHCC Charitable Trust
Pillar Charitable Trust
Sound Words Charitable Trust**

Scott Gaines, Deputy County Assessor/Register of Deeds, recommended approval of all three applications.

MOTION: Schorr moved and Raybould seconded approval of the property tax exemption applications based on the recommendation of the County Assessor/Register of Deeds. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

5) **CHANGE IN EXEMPTION STATUS:**

Kansas-Nebraska Association of Seventh Day Adventists

Scott Gaines said the property was sold to a private individual, so it would become taxable.

MOTION: Smoyer moved and Raybould seconded approval of the change in exemption status. Schorr, Raybould, Smoyer and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

6) **APPEAL OF PERSONAL PROPERTY TAX PENALTY:**

Johnson Flodman Guenzel & Widger

Scott Gaines recommended denial of the appeal. State Statute does not provide authority to reduce or waive a penalty unless it was wrongly imposed or incorrectly calculated, which does not apply in this situation.

MOTION: Raybould moved and Smoyer seconded denial of the appeal based on the recommendation of the County Assessor/Register of Deeds. Raybould, Smoyer, Schorr and Hudkins voted aye. Amundson was absent. Motion carried 4-0.

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

No one appeared for public comment.

8) **ADJOURNMENT**

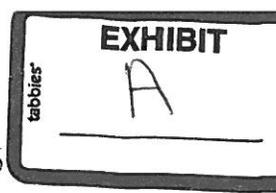
MOTION: Schorr moved and Raybould seconded to adjourn the Board of Equalization meeting at 11:12 a.m. Smoyer, Schorr, Raybould and Hudkins voted aye. Amundson was absent. Motion carried 4-0.



**Dan Nolte
Lancaster County Clerk**



7112 S. 45
Lincoln, NE. 68516



Jon Bruning
Office of Attorney General
2115 State Capitol
Lincoln 68509

1 October 2014

A prior letter (Aldridge to Bruning, MY ERROR on dates –letter dated 15 September 2014 that should be correctly dated 26 September 2014) I expressed ‘some grave concerns’.

It’s a bit past that now.

I allege now that a political subdivision of the State of Nebraska acted and will continue to act to deny rights (speech and petition) explicitly embedded in state statute. This unlawful activity by a political subdivision of Nebraska denies a right owned by citizens (statutory right).

On 30 September 2014 I attended a public meeting of the Lancaster County Board of Commissioners (County Board). The County Board is a taxing authority political sub division of Nebraska (23 NRS 119?).

The 30 September 2014 meeting of the County Board was held at the Lancaster County – City Building in Lincoln, NE. A quorum of the County Board was present.

A meeting Agenda was available for the public. The County Board took no formal action with respect to the agenda (adopt, approve, amend, or change). A true and correct photocopy (first page only) of that meeting agenda is attached.

A Public Notice was published in the Lincoln Journal Star prior to this meeting. This Notice (copy attached) advised that the County Board would hold a ‘SPECIAL HEARING’, ‘for the purpose of hearing ‘support, opposition, criticism, suggestions, or observations’ of taxpayers. This ‘SPECIAL HEARING’ is required by statute (77 NRS 1601.02).

A political subdivision taxing authority can only take action ‘setting the final tax request’ AFTER (as in FOLLOWING) ‘a special public hearing...for such purposes is held’.

State statute would be satisfied by the 30 September 2014 Agenda item ‘3) **PUBLIC HEARINGS**: A. Setting the final tax request...’ (See agenda).

During the PUBLIC HEARING the Board chair asked ‘anyone else..to offer testimony.. come forward’.

Unlawful activity

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I approached the microphone to offer 'support, opposition, criticism, suggestions, or observations' during the '3) PUBLIC HEARING' part of the 'SPECIAL HEARING'

Prior to my comments on the record, the county clerk attempted to administered this oath: 'Do you solemnly swear or affirm that the testimony you are about to give is the truth and nothing but the truth'. **The meeting was video recorded and this video record is available on the County Board web site.**

Published 'Board Guidelines for Public Participation, #4. Public Hearings' states 'The County Clerk will administer the oath before testimony begins.' (copy attached)

I DID raise my hand (the clerk said 'raise your hand') during this administration. Before answering I asked the clerk to repeat the 'swear or affirm' statement.

My response: 'I am not here to testify. If I was here to testify I would not 'swear' or 'affirm' anything without advice of legal counsel'. I said this more than one time.

The Board, I, and the county attorney then took turns trying to hash this out. Legal counsel for the Board at one point said something VERY chilling (When I later reviewed the video record I took this comment by Board legal counsel as threat) 'obviously the oath is swearing so for later purposes the testimony can be used..uh..' Can be used HOW.

Because I would not 'swear or affirm' at Agenda item '3. PUBLIC HEARING' the County Board chair(Hudkins), on advice of legal counsel, and one or more Board members, denied me a right (speech and participation in formation of public policy) established in state statute,

Legal counsel offered that the Board 'has authority to make reasonable rules and regulations'. I have NO quarrel with the Boards authority to make reasonable rules and regulations.

What I DO quarrel with are rules and regulations by a political subdivision that TRUMP state statute.

So it seems each and every citizen – to speak to the County Board at a PUBLIC HEARING during the Board meeting must swear or affirm the truthfulness of statements and/or comments offered by that citizen.

Here is the problem: I find nothing in the 'Nebraska Budget Act' (13 NRS 501 et.seq) or the 'Open Meeting Act' (84 NRS 1407 et.seq.), or 'Property tax request; procedure' (77 NRS 1601.02) that require a citizen to take an oath (swear or affirm) before offering 'support, opposition criticism, suggestions, or observations' on public policy.

When the County Board denied me an opportunity to offer 'support, opposition, criticism, suggestions, or observations' did the County Board act unlawfully?

Unlawful activity

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That is the question for the Attorney General. If this County Board policy is challenged the Attorney General may be required to defend this County Board policy.

If a citizen acting within the plain language of 31 NRS 501 et seq. and/or 77 NRS 1601.02 refuses to swear or affirm, and the public body refuses to accept comment from that citizen, it seems the public body that refuses, has placed an undue burden or barrier on the right of citizens to participate in public policy formation. Swear/affirm or take a hike.

If the State of Nebraska wishes to label or call public participation through speech 'testimony' and if the State of Nebraska wishes all citizens who offer public comment through speech to 'solemnly swear or affirm the testimony is the truth and nothing but the truth' then the State of Nebraska should simply and plainly concrete this policy in state statute.

I do NOT find either of the above as policy of the State of Nebraska with respect to public participation through speech.

If a citizen takes this oath, and later, these public comment are shown to be somewhat short of the 'truth and nothing but the truth' the legal system has criminalized public participation through speech.

And here is the true dumbassness of this situation. Suppose I had taken the oath. And in my prepared statement I offered an untruth. And I knew it was untrue. Justice could charge me with and punish me for perjury.

But suppose I had presented my prepared statement in another part of the agenda that had no oath requirement. With the same untrue statement I knew was untrue. The public body would have blindly accepted the same exact thing in one place that was not accepted in another but WITHOUT the risk of perjury.

gary aldrige

w/attachments

cc ACLU – Nebraska