

MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, MARCH 30, 1999
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.

Commissioners Present: Kathy Campbell, Chair
Bernie Heier
Larry Hudkins
Linda Steinman
Bob Workman

Others Present: Connie Ahlschwede, County Assessor's Office
Diane Staab, Deputy County Attorney
Gwen Thorpe, Deputy County Clerk

- 1) **MINUTES:** Approval of the minutes of the Board of Equalization meeting held on Tuesday, March 23, 1999. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)

MOTION: Hudkins moved and Heier seconded approval of the minutes of March 23, 1999. On call Campbell, Hudkins, Heier, Workman and Steinman voted aye. Motion carried.

- 2) **ADDITIONS AND DEDUCTIONS:**

Approval of 31 additions and deductions to the tax assessment rolls per Exhibit A. (1999543) (1999558)

MOTION: Workman moved and Steinman seconded approval. On call Heier, Campbell, Steinman, Hudkins and Workman voted aye. Motion carried.

- 3) **APPROVAL OF MOTOR VEHICLE TAX EXEMPTIONS:**

First Evangelical Covenant Church

MOTION: Steinman moved and Heier seconded approval of a motor vehicle tax exemption for First Evangelical Covenant Church. On call Steinman, Workman, Heier, Campbell and Hudkins voted aye. Motion carried.

- 4) **ADJOURNMENT:**

By direction of the Chair, the Board of Equalization meeting was adjourned.

Gwen Thorpe
Deputy County Clerk

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- 1) **MINUTES:** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, March 23, 1999. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)

MOTION: Steinman moved and Heier seconded approval of the minutes of March 23, 1999. On call Campbell, Hudkins, Heier, Workman and Steinman voted aye. Motion carried.

- 2) **CLAIMS:** Approval of all claims processed through Tuesday, March 30, 1999.

MOTION: Heier moved and Hudkins seconded approval. On call Heier, Campbell, Steinman, Hudkins and Workman voted aye. Motion carried.

- 3) **SPECIAL PRESENTATIONS:**

A. The Commissioners Award of Excellence for the month of March, 1999 was presented to Cory S Ritchey, an employee of Lancaster Manor. (1999453)

No action was taken.

B. The County-City Volunteer of the Month Award was presented to Anita Fussell for her services with the Election Commissioner's office.

No action was taken.

- 4) **NEW BUSINESS:**

- A. A real estate purchase agreement, in the amount of \$500,000, with Mary Vestecka for the purchase of property located at 1221 Dairy Drive in Lincoln, Nebraska. (1999546)**

MOTION: Hudkins moved and Heier seconded approval.

Don Killeen, County Property Manager, appeared and stated they would proceed with the environmental aspect of the agreement including removal of a fuel oil tank prior to closing. He stated there would be a question as to conducting a Phase I or a Phase II Environmental Audit and that they would need direction from the County Board.

Dennis Banks, Attention Center Director, stated they looked at approximately ten sites. He explained the site is a four to five minute drive to the courts, it has good access for law enforcement and is somewhat isolated which addresses neighborhood concerns.

Heier added that there is also room for expansion at the site.

ROLL CALL: Workman, Hudkins, Campbell, Steinman and Heier voted aye.
Motion carried.

- B. A contract with Sid Swanson Electric, in the amount of \$15,074.55, for the installation of light fixtures at Lancaster Manor. (1999550)**

MOTION: Hudkins moved and Workman seconded approval. On call Hudkins, Steinman, Workman, Heier and Campbell voted aye. Motion carried.

(Heier exited the chambers due to a conflict of interest on New Business Item 4C.)

- C. A supplemental agreement with the City of Lincoln, State of Nebraska, Department of Roads and Lancaster County increasing the funding for a corridor study of the south and east beltways for a cost to the County of \$49,166.67. (1999557)**

MOTION: Steinman moved and Workman seconded approval.

Roger Figard, Public Works and Utilities and Project Manager for the study sponsors for the south and east beltway, appeared and stated the supplemental agreement is the formal conclusion of an agreement made approximately a year ago to agree to pay an additional cost for several items in the south and east beltway. The three major items were as follows:

1. A broader historical survey of the entire study area for the beltway project
2. An archeological survey for the east beltway
3. Anticipated archeological site work

He explained a meeting was held approximately one year ago and it was recommended that the broader survey and the archeological work be conducted. Money was available within the current contract to pay the contractor for the work and the City and County were asked to provide equal monetary amounts in the 1998-1999 budget year to cover it. Figard stated it was agreed they would come back upon completion of the work and formally amend the contract to include the additional cost.

Alan Retzlaff, 1905 South 148th Street, appeared in opposition of tax dollars being used on the corridor study and read a written statement into the record (Exhibit "A").

In response to a question asked by Workman, Figard stated the agreement was a change in scope. When the initial scope of the project was set up they had intended to conduct the historical building survey and the archeological work later in the project. He stated the community asked that the broader work be done prior narrowing it to a single corridor.

Figard added that it was a specific request of the Federal Highway Administration and the Nebraska Historical Preservation Association to conduct the broader study earlier in the process.

Hudkins asked Figard if he had any indication that the existing study was improperly conducted according to federal guidelines.

Figard stated he feels they have conducted themselves openly and fairly according to the Federal Highway Administration and have had no indication that they have not followed the legal process.

Workman asked if the Ecological Impact Studies on each corridor have been conducted properly.

Jim Linderholm, HWS Consulting Group Inc., stated they are following the scope of services and guidelines which have been set forth by the sponsors.

Rodney Otley, 141st and Adams Streets, stated he is concerned that the planning process for the study isn't taking family farms into consideration and that the individuals in the far east corridor haven't had the opportunity to provide input into the process. Otley also submitted written testimony into the record (Exhibit "B").

Linderholm stated they will be visiting with citizens living along the corridor which was selected for study. The meetings will begin in mid-April with citizens living along the south corridor. In May they will begin working along the east corridor.

Svata Louda, Route 13, stated that she is a member of Citizens for Accountable Route Selection (CARS) and read written testimony into the record (Exhibit "C").

Workman asked Linderholm if the Environmental Impact Statement (EIS) was made public.

Linderholm stated to his knowledge the statement has not been made public, however, they are waiting for the sponsor groups to inform them that it should be made available.

Louda stated the scoping documents done in 1995 and the information used by the City Council and County Board to make their decision regarding the selection of a preferred route should have been made available for public comment prior to a decision according to her understanding of the National Environmental Policy Act (NEPA).

In response, Linderholm stated they had a series of public meetings. He stated environmental information was presented at a public meeting on December 15th, 1998. The environmental information was also presented to the Citizens Advisory Committee, the Technical Advisory Committee and the Management Board prior to being presented to the County Board and City Council.

He stated the EIS is a growing document and new information is being continuously added. It is basically a record of all data and decisions made on a regular basis. Linderholm stated in order to find specific impacts they need a more definitive route which is the reason the process was narrowed down to one route. Specific impacts can be further identified after meeting with citizens along the route who will be affected. He stated they will report any fatal flaws at a Commons meeting in June.

Louda stated that the Council on Environmental Quality Regulations state that the EIS draft document cannot be used to justify the selection of a particular route.

Linderholm stated the EIS will have the following four options:

- * East close
- * East middle
- * East far
- * No build

Figard stated in trying to be open they have created a process where individuals feel that some official decisions and processes have been occurring. He indicated he feels no decision has been made and can't be made until the draft EIS is written, approved by the Federal Highway Administration and submitted to the merge agencies. At that point a public hearing would be held. Figard stated after the EIS is approved the City Council and County Board must decide whether to place the document in the transportation/planning process to convert it from the study to a project.

Eleanor Francke, Walton, Nebraska, appeared and read written testimony into the record stating she is concerned that the original contract for the study wasn't based on requirements for a study requesting federal funding (Exhibit "D"). She suggested that the County Board obtain advice from an independent source.

J Michael Rierden, attorney representing CARS, appeared and disagreed that the additional funding is an over run. He characterized it as an oversight. Rierden also disagreed that citizens were allowed public input and noted that he knew of only one meeting in which the public was allowed to participate.

Rierden submitted documentation from the consultant's report regarding the EF1 beltway alignment, in particular, Section 6.7.2 (Exhibit "E"). He noted that the report recommended that EF1 be eliminated and asked why it was brought back into consideration as a feasible route.

Also submitted into the record by Rierden was the recommendation presented by the historic consultant that the proposed EF1 directly effects two Register eligible resources and indirectly effects one Register listed resource, precluding recommendation of the alignment (Exhibit "F").

He noted two portions of federal law: a) Section 4 of the Department of Transportation Act (1966) which states, "the Federal Highway Administration may approve a federally assisted transportation project that would involve harming a historic site only if there is no prudent feasible alternative to using the historic property" and the second criteria, "The beltway project includes all possible planning to minimize harm to the historic site" and b) Section 40 of the Code of Federal Regulations, Section 1502.14 which states, "The Federal Highway Administration and all those studying the federal project must rigorously explore and objectively evaluate all reasonable alternatives, devote substantial treatment to each alternative, include reasonable alternatives and include the alternative of no action".

Rierden stated he feels the process has been flawed from the beginning because the historic study wasn't conducted in a timely fashion and because alternatives are not being considered.

Steinman asked Linderholm if the historic study was to include all of the beltway options.

Linderholm stated the study was to include all options and that the Federal Highway Administration determined the satisfactory completion of work as applied to federal law.

Marlene Rickertsen, 8130 Dundee Drive, appeared and stated she could provide the County Board with copies of documentation from the Historical Society and the consultant laying out the 106 and 4F laws.

John Schlicher, 1430 Sumner, appeared on behalf Robert Niewig of the National Trust for Historic Preservation and read a written statement into the record (Exhibit "G").

Karen Miller, Walton, Nebraska, appeared on behalf of Citizens for Accountable Route Selection and indicated they have no opposition to the additional funds being requested, however, they do have concerns regarding why and how the money would be used. (For further detail see Exhibit "H".)

Hudkins asked Linderholm if he was correct that a decision won't be made until June 6th in the event they find that another alternative was more feasible.

Linderholm stated no decision would probably be made at the meeting to be held in June; it is simply an opportunity to bring the Commons up to date regarding the study and discussions with landowners.

In response to a statement made by Hudkins, Linderholm stated they are looking at an alternative which would miss the historic properties. He stated if it is prudent and feasible to miss the historic archeological sites, that would probably be the recommendation which the County Board and City Council would hear.

Jo Gutsell, 2105 "B" Street, appeared and asked for a copy of the scoping document from the fall of 1995.

Campbell suggested that she speak with Roger Figard or Jim Linderholm.

ROLL CALL: Steinman, Workman, Campbell and Hudkins voted aye. Motion carried.

(Heier entered the chambers.)

D. An agreement with Steven B Blum for mental health services for the Community Mental Health Center, at a rate of \$65 per hour for non-group services, and a rate of \$35 per hour for group services, beginning March 1, 1999 and ending June 30, 2000. (1999559)

MOTION: Workman moved and Hudkins seconded approval. On call Heier, Workman, Hudkins, Campbell and Steinman voted aye. Motion carried.

E. An agreement with Ted DeHass and Sons for the use of a County owned lot in Denton for temporary parking, for an approximate three week period, during a paving project. (1999553)

MOTION: Hudkins moved and Workman seconded approval. On call Campbell, Steinman, Workman, Heier and Hudkins voted aye. Motion carried.

F. An application from Level 3 Communications, LLC to install underground fiber optic cable on County rights-of-way. (1999561)

Don Thomas, County Engineer, stated Level 3 Communications would be following the railroad right-of-way until they get to Van Dorn Street. He stated they will follow Van Dorn to Southwest 40th Street which is to be graded in the year 2000.

Thomas stated they are concerned about damage to the fiber optic cable and placed conditions on the application. He added that Level 3 Communications hopes to bury the cable deep enough to accommodate future grading.

Workman inquired about compensation to the County for allowing such an easement.

Thomas stated he feels there should be compensation, however, it is a state mandated issue.

Hudkins asked if the County has any recourse if the contractor doesn't restore the rights-of-way properly.

Thomas stated most utility companies have done satisfactory work; however, they have fined companies in the past.

Heier, Campbell and Workman noted they own shares in Level 3 Communications, LLC.

MOTION: Steinman moved and Hudkins seconded approval. On call Heier, Workman, Steinman, Campbell and Hudkins voted aye. Motion carried.

G. A resolution relaxing design standards in connection with a road project on Southwest 40th Street between West Van Dorn Street and West "A" Street. (Project C55-L-403(1)) (1999560)

MOTION: Steinman moved and Heier seconded approval of Resolution 99-560. On call Steinman, Hudkins, Heier, Workman and Campbell voted aye. Motion carried.

H. Recommendation from the Purchasing Agent and the County Engineer to award a bid to Pavers LLC, in the amount of \$1,519,524.98, based on revised quantities, for asphaltic concrete resurfacing and paving at various County locations. (1999547)

MOTION: Steinman moved and Heier seconded approval.

Don Thomas, County Engineer, stated the bid includes the overlay work for Branched Oak Lake and that the County will be reimbursed approximately \$400,000 from the State.

Hudkins asked if it included the quarter mile which Malcolm Public Schools wanted to surface.

Thomas stated he hadn't received a response from them, however, he would call them.

ROLL CALL: Workman, Campbell, Hudkins, Steinman and Heier voted aye. Motion carried.

- I. **A political subdivision tort claim filed against the Corrections Department by Steve Dieter for lost property, in the amount of \$250. (1999551)**

MOTION: Steinman moved and Workman seconded to accept the Director's recommendation and deny the tort claim. On call Hudkins, Workman, Heier, Campbell and Steinman voted aye. Motion carried.

- J. **A political subdivision tort claim filed against the Corrections Department by Heather S Jordan for lost property, in the amount of \$75. (1999552)**

MOTION: Steinman moved and Heier seconded to accept the Director's recommendation and deny the tort claim. On call Campbell, Heier, Steinman, Workman and Hudkins voted aye. Motion carried.

- 5) **CONSENT ITEMS:** These are items of business that are routine and which 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. **A contract with Land Construction Company, Inc., in the amount of \$5,400, for removal of a corrugated metal pipe on North 134th Street south of Waverly Road. (1999531)**

- B. **Contracts relating to road improvements with the following:**

- * Lavern W and Janice Reetz on West Panama Road near Southwest 114th Street. This is a land donation (1999526)
- * Arnold L and Ellen J Archer on West Panama Road near Southwest 114th Street, in the amount of \$253.50 (1999529)
- * Craig L and Carol J Billsbach on Southwest 119th Street near West Saltillo Road, in the amount of \$276.25 (1999527)
- * Ronald L and Sandra K Stubbendick on Adams Street near North 176th Street. This is a land donation. (1999528)
- * William Bundy on Branched Oak Road near North 98th Street, in the amount of \$10 (1999530)
- * Bernadine Stransky on Southwest 70th Street near West Denton Road, in the amount of \$57 (1999554)
- * Brian S and Lori L Rhodig on Southwest 70th Street near West Denton Road, in the amount of \$207 (1999555)
- * Nohaco, LLC on Stagecoach Road near South 54th Street. This is a land donation. (1999556)

MOTION: Heier moved and Steinman seconded approval of the Consent Items. On call Hudkins, Campbell, Steinman, Heier and Workman voted aye. Motion carried.

6) **REPORT ON THE REMOVAL OF THE ENRON GAS PIPELINE:**

Workman reported that he had received telephone calls concerning a pipeline which is being removed by ENRON. He explained the pipeline runs from Texas to Minnesota, however, there is a section between Palmyra and Sioux City which is being removed due to obsolescence. The "A" line, which was built in 1931, has been deemed unsafe by ENRON. Workman stated that he and Commissioner Heier feel the pipeline is unsafe and should be abandoned. He stated the landowners affected will be compensated and will change to propane. Individuals north of Waverly will not be affected and will be allowed to switch to the "B" pipe.

7) **ADJOURNMENT:**

MOTION: Hudkins moved and Workman seconded adjournment. On call Steinman, Workman, Heier, Campbell and Hudkins voted aye. Motion carried.

Gwen Thorpe
Deputy County Clerk