

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, SEPTEMBER 12, 2000
IMMEDIATELY FOLLOWING REGULARLY
SCHEDULED COUNTY BOARD MEETING AT 1:30 P.M.
COUNTY-CITY BUILDING - ROOM 113**

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

Others Present: Mike Thew, Deputy County Attorney
Dave Kroeker, Budget & Fiscal Director
Bruce Medcalf, County Clerk
Gwen Thorpe, Deputy County Clerk
Lauren Wismer, Cline, Williams, Wright, Johnson & Oldfather
Eric Bergquist, Cline, Williams, Wright, Johnson & Oldfather
Bill Austin, attorney representing the Agricultural Society
Alan Wood, attorney representing the Agricultural Society

Commissioners Absent: Linda Steinman

Others Absent: Kerry Eagan, Chief Administrative Officer

AGENDA ITEMS

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**APPROVAL OF STAFF MEETING MINUTES OF TUESDAY,
SEPTEMBER 5 AND THURSDAY, SEPTEMBER 7, 2000**

Heier requested that agenda item 3, paragraph 3 be amended to read as follows:

Schrepf indicated that she is also seeking an increase in salary from \$60,000 to \$70,000 for the remainder of the year, as her salary was based on 20 hours per week but has increased to 30-40 hours per week.

MOTION: Workman moved and Hudkins seconded approval of the staff meeting minutes dated September 5 with the correction and to also approve the staff meeting minutes dated September 7, 2000. Heier, Hudkins, Workman and Campbell voted aye. Motion carried.

INTERLOCAL AGREEMENT WITH AGRICULTURAL SOCIETY FOR CREATION OF JOINT PUBLIC AGENCY

Eric Bergquist, Cline, Williams, Wright, Johnson & Oldfather law firm, highlighted the following areas in the *Joint Public Agency Agreement Creating the Lancaster County Fairgrounds Joint Public Agency* (Exhibit A):

- Article I - The agency has changed from a multi-use financing vehicle to a single use vehicle.
- Article II - Purposes: To join together in order to finance the acquisition of land and the construction of capital improvements on the fairgrounds.
- Article III - Organization: Unless the Board adopts different rules, each representative will have one vote.
- Article VI - Issuance of bonds
- Article VII - Levy Authority: The levy authority comes from the Agricultural Society and must not exceed seventy-five hundredths of one cent.
- Article VIII - Capital Improvements: The Agency and the Ag Society will enter into a facilities agreement for the construction and management of the facilities to be built.
- Article IX - Expenses: The operating expenses of the Agency will be paid by the Ag Society.
- Article X - Budgeting: The Agency shall adhere to the Nebraska Budget Act.
- Article XI - Biennial Report
- Article XIV - Dissolution: Change the following, as recommended by Alan Wood, attorney representing the Ag Society: "Upon dissolution of the Agency, provided the Society remains an active entity providing county fairs on the fairgrounds, any interest in the land and capital improvements or other assets used in the operation of the Lancaster County fairgrounds financed by the Society Bonds remaining in the Agency shall be transferred to the Society, all other assets shall be transferred to the County."
- Article XV - Manner of Acquiring and Holding Property

Mike Thew, Deputy County Attorney, addressed Article I by stating that the agreement shall be adopted by resolution of the County Board. He indicated that he does not interpret the state statute as requiring that the joint public agency agreement be included in the resolution. Thew stated he feels the resolution, which needs to be adopted for purposes of the statute, is simply a resolution by the County Board finding that there is a necessity for a joint public agency based upon the considerations which the statute lays out. He stated the agreement could be adopted at a later date and that it would not need to be published in the paper, however, the resolution would need to be published for three consecutive weeks, with each publication being seven days apart and the final publication occurring five days prior to the County Board's adoption of said resolution. He also noted that state statute includes criteria which the County Board must consider in determining whether a need exists for creating a joint public agency.

Thew recommended that the County Board make a record that they considered the following criteria as outlined in Nebraska Revised Statute 13-2509: "In determining whether a need exists, a governing body may take into consideration the present and future needs of the public agency with respect to the materials, goods, property and services which a joint public agency may utilize or provide, the adequacy, suitability and availability of such materials, goods, property and services to meet the needs of the participating public agency if no joint public agency is formed, and economic or other advantages or efficiencies which may be realized by cooperative action through a joint public agency."

Thew stated he didn't believe there was a need to rush the approval of the agreement, however, the resolution should be done on Tuesday, September 19th.

Bergquist stated that within 30 days after adoption of the resolution for creation of the joint public agency, a statement of formation must be given to the Secretary of State who issues a certificate of creation.

Consensus of the County Board that the resolution for creation of a joint public agency will be placed on the County Board's agenda for Tuesday, September 19, 2000. The joint public agency agreement will be placed on the County Board's agenda at a later date.

Thew addressed the following areas of concern regarding the joint public agency agreement:

- **Article I** - Location of Agency office. Will there be a physical office other than the County Clerk? Suggested language by Thew, "shall be kept on file by the Agency at the County Clerk's Office".
- **Article II, Subsection a** - Amend language from "To exercise any power, privilege or authority and to provide for the acquisition, construction, equipping, furnishing and financing such capital improvement or other projects . . ." to "To exercise any power, privilege or authority and to provide for the acquisition, construction, equipping, furnishing and financing such capital improvement or other projects relating to the County fairgrounds . . .".
- **Article III, Subsection a** - County Board would like majority or equal representation on the Board.

Bill Austin, attorney representing the Ag Society, explained that three appointed representatives and two County Board representatives would be appropriate for the following reasons:

1. The agreement is limited to providing funding for the fairgrounds.
2. The operative function of the agreement would be to issue bonds which do need County Board approval.
3. The agreement indicates that all expenses of the operation of the joint public agency should be paid for by the Ag Society.

Campbell stated she is concerned about the County's bond rating and feels that the County should have oversight.

Lauren Wismer, attorney with Cline, Williams, Wright, Johnson & Oldfather, indicated that he didn't believe the County's bond rating would be affected if the Ag Society failed. He suggested posing the question to Bill Giovanni or Scott Keene.

Campbell stated that the public questions the accountability factor.

She further stated that the Ag Society has indicated they would like to do some of the work themselves and has asked if the Ag Society would get reimbursed if they did do some of the work. Campbell stated all reimbursements would have to have County Board approval.

Wismer stated any disbursements of amounts for costs incurred by the Ag Society or for work that is performed by the Ag Society directly would need independent certification from the architect or an engineer indicating prevailing prices were in line and that the work had been completed in accordance with the plans and specifications.

Campbell reiterated that accountability is a factor.

- **Article III, Subsection d** - If representation was left as three Ag Society members and two County Board members, language could be included indicating that the County Board would need to vote giving them the majority of the vote.
- **Article III, Subsection e(ii)** - Comply with state statute that the secretary shall be elected, not appointed. It was suggested by Thew that if someone from the Ag Society would be operating the fairgrounds, they may want to give that individual the title of Executive Director of the Joint Agency. He explained that individual would be attending all of the meetings and would be a good candidate to act as secretary and they would be in the group from which they could be elected by state statute.
- **Article VII** -Amend the first sentence of the first paragraph to read, " Pursuant to the provisions of Section 13-2507, the Society hereby irrevocably allocates and assigns to the Agency, for the period beginning with the tax year starting January 1, 2002 and ending..."

Thew referred to paragraph two of Article VII and asked if it allowed the Agency to ask for more money than necessary to pay the bonds.

Bergquist responded they can only levy taxes to pay the bonds and referred to the first paragraph.

Thew responded he doesn't want the language to be so broad that the Agency could come back and request more money for other purposes other than paying the bonds.

Thew referred to paragraph three of Article VII and suggested the following language, "The County shall collect and account for all taxes collected . . .".

- **Article VIII** - Include language that all improvements will be made in compliance with the County Purchasing Act. Amend the last sentence to read, " The Society shall not sell, transfer, lease, or encumber the capital improvements on the land without the approval of the Board of the Agency."

Other areas of concern expressed by Thew were identified as follows:

- Will the Ag Society transfer ownership of assets it presently owns to the Agency?
- Clarification of property owned by the Ag Society.
- Clarification of bonding and insurance for Board members of the Agency, secretary and treasurer.
- Requirement for annual audit. (Campbell suggested that a report be given at the public hearing held by the County Board for the Lancaster County budget.)

Campbell asked if the Ag Society could purchase additional land.

Alan Wood, attorney representing the Ag Society, stated the Ag Society has the ability, by state statute, to acquire so much land, as necessary, for the fairgrounds.

Wismer stated they are limited by their financial resources.

Campbell commented that the Ag Society could continue to purchase, build and accumulate property while taxpayers pay off the bonds even if they (the Ag Society) make any profits or proceeds. She questioned whether there should be a limit regarding assets at which point the Ag Society would be required to turn a portion of the profits back to the County to pay for the bonds.

Wood stated the County Board could approve the budget for the Ag Society contingent upon them paying down the bonds if extra monies are made.

By direction of the Chair, the staff meeting was adjourned.

Bruce Medcalf
County Clerk