

**STAFF MEETING MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
COUNTY-CITY BUILDING, ROOM 113
THURSDAY, SEPTEMBER 4, 2008
8:30 A.M.**

Commissioners Present: Bob Workman, Chair
Bernie Heier, Vice Chair
Larry Hudkins
Ray Stevens
Deb Schorr

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

The Chair opened the meeting at 8:30 a.m.

AGENDA ITEM

**1 APPROVAL OF THE STAFF MEETING MINUTES OF THURSDAY,
AUGUST 28, 2008**

MOTION: Stevens moved and Hudkins seconded approval of the minutes of the August 28, 2008 Staff Meeting. Hudkins, Schorr, Workman, Heier and Stevens voted aye. Motion carried.

2 ADDITIONS TO AGENDA

- A. Meeting with Mayor
- B. Air Pollution Control Advisory Board Appointment (Exhibit A)
- C. Habitat for Humanity

MOTION: Heier moved and Stevens seconded approval of the additions to the agenda. Hudkins, Schorr, Workman, Heier and Stevens voted aye. Motion carried.

3 BUSINESS ZONING IN THE COUNTY - Marvin Krout, Planning Director; Mike DeKalb, Planner; Mike Merwick, Building & Safety Director; Dale Stertz and Terry Kathe, Building and Safety Department; Tom Fox, Deputy County Attorney

Schorr asked whether there are ways to broaden business zoning in the County to assist small, home-based businesses in succeeding. Several options were suggested: 1) Change the zoning to either business or industrial; 2) Expand the home-based occupation regulations; 3) Broaden permitted uses; 4) Explore conditional use options; 5) Allow by special permit; and 6) "Grandfather" existing businesses (exempt from provisions).

Workman said he favors the special permit option, but said the cost to apply may be a hindrance.

Marvin Krout, Planning Director, said a special permit allows you to look at a particular site and apply conditions to deal with neighbors' concerns. He said issues to consider include the scale of the business, number of employees, outside activity, screening, setbacks, lot size and whether there is a resident on the property.

Heier expressed concern regarding accumulation of "junk" and said business use needs to be clearly defined.

Workman said he believes there needs to be less government restriction.

Schorr asked whether it would be appropriate to appoint a task force to look at the issue.

Krout said it may be helpful to come up with ideas first.

The Board asked the Planning Department and Building and Safety Department to weigh the pros and cons and bring ideas back in a few weeks for the Board's consideration.

4 PUBLIC DEFENDER WORKLOAD STUDY - Dennis Keefe, Public Defender; Scott Helvie, Chief Deputy Public Defender; Dr. Liz Neeley, Senior Research Manager, University of Nebraska - Lincoln (UNL) Public Policy Center

Dennis Keefe, Public Defender, indicated plans to adopt the workload standards in the Lancaster County Public Defender Workload Assessment (see July 17, 2008 Staff Meeting minutes) as a policy for the Public Defender's Office. He said he will implement the new standards over the next twelve months, beginning September 1, 2008, for new incoming cases assigned. During that time, the Public Defender's Office will accept 105% of the recommended caseload standards for the various divisions within the office. Keefe added there will be budget implications and said he will keep the Board apprised of what those are. He noted there has been a decline in the County Attorney misdemeanors docket, largely because one County Court Judge is monitoring the appointment of counsel in these cases and has made it a special consideration to not appoint the Public Defender's Office unless there is substantial probability that a jail sentence will be imposed if the person is convicted.

Hudkins asked what is being done to make sure that individuals requesting counsel actually qualify.

Keefe said questioning reverted back to the judges after elimination of the Indigent Screener Program. He said he believes there were fewer appointments when the program was in place, but said the cost savings could not be quantified.

Stevens asked whether an individual can be billed for the Public Defender's services if it is determined they can afford to pay for counsel.

Keefe said the judges can order that to happen.

Scott Helvie, Chief Deputy Public Defender, said the pre-sentence investigation report would have to indicate assets.

Keefe stressed the need to try to reduce appointments for City misdemeanor cases. He said he will work with the City Attorney's Office and County Court Judges to define core types of cases that are appropriate for appointment of the Public Defender's Office to try to get the numbers down. Keefe said the second piece will be to look at City ordinances and penalties to see if penalties in some instances could be changed to eliminate jail as a possible sentence, thereby eliminating the right to appointed counsel.

Board consensus was to schedule discussion with the City at the next City-County Common Meeting. Discussion with Kim Etherton, Community Corrections Director, will be held prior to the Common Meeting, regarding the extent of screening being done by her staff.

5 A) EMERGENCY MEDICAL SERVICES (EMS) BOARD APPOINTMENT; AND B) RURAL AMBULANCE UPDATE - Greg Hall, Rural Emergency Medical Services Committee Chairman

A) Emergency Medical Services (EMS) Board Appointment

Greg Hall, Rural Emergency Medical Services Committee Chairman, said no names have been forwarded to the committee.

It was noted that Hall's name had been suggested. Hall said his other commitments preclude him from serving.

B) Rural Ambulance Update

Hall disseminated copies of a letter from Mayor Beutler indicating any organization or group that does not participate in the rural ambulance contract with the City will forego its privileges for Lincoln Fire & Rescue (LFR) ambulance service or intercepts (Exhibit B). The letter went on to state that any request for responses to non-contractual areas will be subject to approval by Lincoln's Fire Chief, with consideration only given to incidents such as mass casualties. He said there are indications all of the rural fire districts will participate in the contract, with the exception of Pleasant Dale.

The Chair asked Kerry Eagan, Chief Administrative Officer, to draft a letter to the Mayor and Niles Ford, Fire Chief, asking LFR to keep detailed records of the number of calls for rural ambulance service, type of calls and revenue from rural transports. Hall was asked to relay a request that the rural fire districts also keep detailed records of the calls for comparison.

Hall agreed to provide the Board with quarterly reports.

6 PENDING LITIGATION - Mike Thew, Chief Deputy County Attorney; Tom Fox, Deputy County Attorney

MOTION: Heier moved and Hudkins seconded to enter Executive Session at 10:00 a.m. for discussion of pending litigation.

Eagan recommended the Board consult Tom Fox, Deputy County Attorney, regarding proper wording of the motion.

The maker of the motion and the seconder withdrew their motion.

ADDITIONS TO AGENDA

A. Meeting with Mayor

Workman said discussion focused on Railroad Transportation Safety District (RTSD) "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) and the Jail bonding.

RETURNING TO ITEM 6

Tom Fox, Deputy County Attorney, appeared and said the motion should state the Board is going into Executive Session for the purpose of pending litigation, potential litigation and attorney/client privilege with regard to a request for a legal opinion.

MOTION: Heier moved and Hudkins seconded to enter Executive Session at 10:00 a.m. for the purpose of pending litigation, potential litigation and attorney/client privilege with regard to a request for a legal opinion.

MOTION: Heier moved and Hudkins seconded to exit Executive Session at 10:35 a.m. Hudkins, Workman and Heier voted aye. Motion carried.

7 EXECUTIVE SESSION - Mike Thew, Chief Deputy County Attorney

See Item 6.

Stevens and Schorr returned to the meeting at 10:36 a.m.

8 LINCOLN ELECTRIC SYSTEM (LES) IN-LIEU-OF-TAXES - Doug Curry, Counsel for LES

Doug Curry, Counsel for LES, gave a brief history of how LES came to pay in-lieu-of-taxes to the Lincoln Public Schools, City of Lincoln, Lancaster County and City of Waverly on revenues generated within the incorporated limits of the cities within the service area (Lincoln and Waverly). He said LES has paid almost \$169 million in-lieu-of-taxes since 1966 (the first year of payments), through and including 2007. Curry said LES has no position on the proposal by a Lincoln development attorney to divert the portion of LES's in-lieu-of-tax payment that goes to the County and Lincoln Public Schools District to the City of Lincoln to help rebuild streets and other deteriorating city infrastructure and to repeal impact fees. **NOTE:** The loss to the County would be approximately \$1.5 million.

In response to a question from Stevens, Curry said any change would require a charter revision.

ADDITIONS TO AGENDA

B. Air Pollution Control Advisory Board Appointment (Exhibit A)

The Board scheduled the item on the September 9, 2008 Board of Commissioners Meeting agenda.

C. Habitat for Humanity

Schorr suggested Board members consider participating in a Habitat for Humanity project.

Board members indicated interest in participating as a group.

9 INSURANCE RENEWALS - Tom Champoux, UNICO Group, Inc.; Sue Eckley, County Risk Manager; Kari Wiegert, Risk Management Specialist

Sue Eckley, County Risk Manager, said most of the County's insurance policies renew on September 30th.

Tom Champoux, UNICO Group, Inc., said preliminary rates for the following are fairly flat: business auto, general liability for the Public Building Commission properties; and boiler/machinery. He noted training has been arranged on how to properly maintain boiler equipment. Champoux said the rate for workers' compensation coverage is staying the same, but there is an increase due to the increase in payroll. He said the retention level is \$750,000 and recommended that it be increased to \$800,000, which will drop the renewal rate from \$61,479 to \$51,642.

Eckley said the County has only had two claims that will reach that level. She said she is still trying to negotiate a settlement on one of the claims.

Champoux noted legislation will take effect January 1, 2009 that sets a Medicare benchmark for what health care providers can charge for certain workers' compensation treatments, which should lower costs. He said the premium for the Community Mental Health Center (CMHC) general and professional liability insurance will decrease by \$1,988. Champoux said he is still negotiating the rate for legal liability, errors and omissions and general liability coverage, outside of the PBC properties. He said he rejected the initial renewal premium, which is an increase of \$5,543 over the expiring premium.

Heier asked how much the policy has paid out.

Eckley said she will forward the information.

Hudkins asked Champoux whether the Board should be looking at graduated self-insurance.

Champoux said the Board will have several options. He noted there is currently a \$250,000 self-insured retention and said the Board could look at a higher level.

Discussion then focused on collision insurance. Champoux said Continental Western Insurance, the business auto insurer, has agreed to provide defensive driver training.

Hudkins asked whether the insurance industry wants employers to impose driving restrictions on employees who have received DUI (driving under the influence) citations.

Champoux said the standard in the industry is to exclude an individual with a DUI from being a driver for a minimum of three years. He said the insurance company will not necessarily run checks on all of the drivers and said the County will need to "police" that themselves.

Eckley said her department has compiled a list of drivers of county vehicles and plans to run MVR's (a driving history report) on those individuals. She said a list will be sent annually to departments and said they will held be accountable for reporting violations.

There was general consensus to schedule further discussion of this issue at a Management Team Meeting.

10 ACTION ITEMS

- A. Appointment of Doug Ahlberg, Emergency Management Director, as County's Authorized Representative and Primary Contact for Federally Declared Disaster No. 1770

MOTION: Schorr moved and Stevens seconded to approve the appointment and authorize the Chair to sign the appropriate documentation. Hudkins, Schorr, Workman, Heier and Stevens voted aye. Motion carried.

11 ADMINISTRATIVE OFFICER REPORT

A. Pension Request for Proposals (RFP) Update

Eagan recommended the Board take formal action at the September 9, 2008 Board of Commissioners Meeting to award the bid to Prudential Retirement Insurance and Annuity Company for provision of bundled retirement services, including record keeping/administration, communication/education, and custodial trustee services, and unbundled investment management services for the Lancaster County, Nebraska Employees 401(a) Retirement and 457 Deferred Compensation plans. He said he and Doug Cyr, Chief Administrative Deputy County Attorney, will continue to negotiate a contract with Prudential.

B. Board of Health Appointment (Dr. Karla K. Lester)

Schorr said the Board of Health had specifically requested appointment of a veterinarian who is a rural resident as the Board of Health deals with many animal control issues and lacks a rural resident. She said Dr. Lester is a pediatrician and lives in Lincoln. Two pediatricians currently serve on the Board of Health.

The Board scheduled the appointment on the September 9, 2008 Board of Commissioners Meeting agenda.

C. General Assistance (GA) Subrogation Waiver

Tom Fox, Deputy County Attorney, appeared and gave a brief explanation of the waiver.

The Board scheduled the item on the September 9, 2008 Board of Commissioners Meeting agenda.

D. Joint Lincoln Public Schools Board/City Council/County Board Meeting (October 6, 2008)

Informational only.

12 DISCUSSION OF BOARD MEMBER MEETINGS

A. Lincoln-Lancaster County Ecological Advisory Committee (EAC) - Heier

Heier said soil mining regulations and wind turban generators were discussed. He also informed the Board that EAC will be submitting a request to temporarily, or permanently, close Southwest 86th Street and part of West Saltillo Road.

B. Chamber Coffee - Stevens

Stevens said he reported on the greenbelt protest hearings and the Jail financing. He said Doug Emery, City Council, stated the Council is scheduled to discuss the Mayor's proposal for a housing subsidy and the West Haymarket and Arena Study. Stevens said Susan Gourley, Lincoln Public Schools (LPS) Superintendent of Schools, was asked whether she has any concerns and she said she is primarily concerned with class size and changing demographics.

C. Nebraska Association of County Officials (NACO) Institute of Excellence
- Schorr

Schorr indicated she will be attending the session later in the day.

13 ADJOURNMENT

MOTION: Stevens moved and Schorr seconded to adjourn the meeting at 11:44 a.m. Hudkins, Schorr, Workman, Heier and Stevens voted aye. Motion carried.

Dan Nolte
Lancaster County Clerk