

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, DECEMBER 1, 2009
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.

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

Others present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer and
Interim Lancaster Manor Administrator
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 9:30 a.m.

- 1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, November 24, 2009.**

MOTION: Stevens moved and Workman seconded approval of the minutes. Stevens, Schorr, Workman and Heier voted aye. Hudkins abstained. Motion carried 4-0.

- 2) **CLAIMS: Approval of all claims processed through Tuesday, December 1, 2009.**

MOTION: Workman moved and Stevens seconded approval of the claims. Schorr, Hudkins, Workman, Stevens and Heier voted aye. Motion carried 5-0.

- 3) **SPECIAL PRESENTATIONS:**

- A. **Presentation of the Commissioner's Award of Excellence for November, 2009, to Jed Rojewski, Public Defender's office.**

Dennis Keefe, Public Defender, introduced Jed Rojewski, a Paralegal in his office. He praised Rojewski for handling his own work, as well as the work of a coworker on medical leave. He also noted Rojewski's technical knowledge with computers.

The Clerk read the nomination for the record.

Stevens presented the award to Rojewski.

3) **SPECIAL PRESENTATIONS CONTINUED:**

Rojewski thanked everyone for the award.

MOTION: Stevens moved and Workman seconded approval of the award. Workman, Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 5-0.

B. **Attestation review of Lancaster Manor, July 1, 2007, through June 30, 2009 – Mike Foley, Nebraska State Auditor.**

Mike Foley introduced his staff in attendance: Mary Avery, Deann Haeffner, Cindy Janssen, Craig Kubicek, and Jen Cromwell. He noted Liz Leber was not present but also worked on the project.

Foley thanked the Board, as well as Kim Bashore, Dennis Meyer and Gwen Thorpe, for their assistance with the audit.

Foley gave a summary of the report, a copy of which is on file in the County Clerk's office:

- Roughly 80% of the Manor residents are on Medicaid.
- Despite the Manor's reliance on Medicaid for the bulk of its revenue, the Manor has operated successfully for most of its history, paying off about \$9,000,000 in bond indebtedness and related interest expense.
- Although financially stable in the past and currently debt free, significant deficiencies in the general management and financial administration of the Manor, particularly the last two years, have resulted in large operating losses.
- For the two-year period ending June 30, 2009, the Manor accumulated combined operating losses of just over \$2,000,000, with \$1,700,000 occurring in the most recent fiscal year.
- The Manor received a cost allocation of about \$600,000. That cost was factored into the \$1,700,000 operating loss for the most recent fiscal year.
- In general, the Manor's accounting practices and fiscal procedures are inadequate to meet the needs of the facility. Accounting records do not include documented support for around \$1,200,000 in accounts receivable shown on financial statements, and the records do not provide accurate monthly billings.
- Billing data was reconstructed, using details of all resident files for two months of the most recent fiscal year. Approximately \$284,000 was under billed. Further testing would most likely have shown other billing problems. From July 2007 to December 2007, it would not have been possible to reconstruct billing data due to inaccurate records.
- There was a general lack of understanding by the staff on how to process Medicaid and Medicare reports. Approximately \$75,000 was over billed to Medicaid. Medicare services starting in August 2007 were not billed until July 2008.
- Approximately \$102,000 in therapy services was not billed.
- An excessive billing was received from Encore Rehabilitation Services, and Encore has now refunded about \$16,500.
- The Manor's resident trust bank account showed a check issued for \$444,532 from the trust funds payable to the Manor. There was no documentation for this check.

3) **SPECIAL PRESENTATIONS CONTINUED:**

- There has been a sharp increase in staff hours and temporary services, particularly in the previous fiscal year. Payroll expenses increased by over \$576,000 in Fiscal Year 2009. Use of temporary services in Fiscal Year 2009 was around \$180,000.
- The number of staff hours in Fiscal Year 2009 was about 24,000 hours higher than the prior year. This was supplemented by an additional 6,300 hours of temporary services.
- There were errors in overtime pay.
- If the Manor were sold for \$8,600,000, reimbursement to Nebraska Department of Health and Human Services (DHHS) for depreciation recapture would be around \$5,600,000.
- The Manor would benefit from becoming a preferred Blue Cross Blue Shield provider.
- In health and service deficiencies investigated by DHHS, the Manor was compared to Tabitha and Douglas County Health Center. Tabitha and Douglas had few substantiated incidents in the five years reviewed. The Manor had very few service deficiencies in the first three years, but 16 incidents have occurred in the last two years.
- The real estate appraisal report is becoming outdated, and a new appraisal should be obtained.

Heier submitted the Lancaster County Response to the State of Nebraska Attestation Review of Lancaster Manor (Exhibit A).

Workman thanked Foley's staff for their work. He said he felt the Manor was deficient prior to the two-year period reviewed because capital reserve funds in 2003-2004 were drawn upon to support operations.

Schorr noted other changes over the two-year period in addition to administrator turnover, including changes in reimbursements, the type of resident and increased competition.

Stevens expressed his appreciation for Foley and his staff's work. He discussed depreciation for the purposes of Medicaid billing and documenting indirect cost. Stevens also discussed Blue Cross Blue Shield provider status, noting it would take several steps and an additional employee to complete the process. He commented on the Manor's probation status as of November 28, 2009, stating the plan of compliance was filed with DHHS last week, and the Manor will not be reimbursed for new Medicare or Medicaid patients while on probation. Stevens talked about updating the appraisal, stating the appraiser did not think it was necessary. He finished by saying the interim administrator brought the Manor into compliance with County regulations and procedures, including issuance of purchase orders, hiring and termination processes, and contract negotiation and approval.

Hudkins thanked Foley and his staff for attending. He questioned the use of property tax dollars to support the Manor, noting the improvements that had been made.

Foley said large sums of money were taken from the Manor Fund and the Renewal and Replacement Fund to keep the Manor running. He stated no property tax dollars were used for improvements, only money from the Renewal and Replacement Fund.

Hudkins thanked Foley for finding the money from Encore. He questioned what should be done at the Manor.

3) **SPECIAL PRESENTATIONS CONTINUED:**

Foley said the two biggest issues were under billings and increased staff hours.

Hudkins questioned if the law requires the County to provide for the medically indigent, and he discussed the need to become a preferred provider. Hudkins asked Foley if there were two appraisals of Lancaster Manor.

Foley thought there was one appraisal with two different opinions of value based on private or government ownership. He said there was about \$1,000,000 difference with the private ownership being the higher number.

Stevens said changes have been made at the Manor, including a reduction in employees.

Workman addressed comments on a \$3,500,000 loss for the Manor. He said that number was initially mentioned when this year's operation budget was received; this was rejected by the Board, and the new figure is \$1,400,000. Workman said selling the Manor would remove risk from the County tax payer.

Hudkins stated at the end of June, 2009, there was approximately \$1,500,000 in the cash budget.

Foley said \$2,000,000 was lost, but those losses were covered by drawing from the Replacement and Renewal Fund and the Manor Fund.

Hudkins said there was a need for a new appraisal. He felt the facility was worth \$10,500,000 - \$12,000,000. He questioned if paying off the \$2,000,000 bond early increased the Manor's equity.

Foley replied that it improved the balance sheet position; \$2,800,000 of debt has been retired, but it also reduced the working capital.

Heier noted the jail bond was discussed after the decision was made to pay off the bond for the Manor. He also noted almost \$1,000,000 had to be paid back to Medicaid because 2008 claims were filed late. Heier thanked Commissioner Schorr for her work as the Manor liaison.

4) **NEW BUSINESS:**

- A. **A recommendation by the County Sheriff and the Purchasing Agent to issue an order for (7) seven Ford Crown Victoria Police Cruisers from the State of Nebraska Contract, 12610 OC, to be purchased at Tincher Ford Mercury at a cost of \$169,660.00. (B-09-0108)**

MOTION: Stevens moved and Hudkins seconded approval of the recommendation. Stevens, Workman, Schorr, Hudkins and Heier voted aye. Motion carried 5-0.

- B. **A recommendation by the County Engineer to award a bid to NGC Group, Inc., for Waverly window replacement in the amount of \$8,265. (B-09-0109)**

4) **NEW BUSINESS CONTINUED:**

MOTION: Stevens moved and Workman seconded approval of the recommendation. Workman, Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 5-0.

- C. **A recommendation from the Purchasing Agent to award a contract to A-TEC Recycling for fluorescent bulb recycling services at an estimated annual cost of \$2,000. (B-09-0110)**

MOTION: Hudkins moved and Stevens seconded approval of the recommendation. Schorr, Hudkins, Stevens, Workman and Heier voted aye. Motion carried 5-0.

- D. **A resolution in the matter of Comprehensive Plan Conformance No. 09011: Adopting the One and Six-Year Road and Bridge Construction Program for Lancaster County, Fiscal Years 2010 and 2011-2015. (R-09-0098)**

Don Thomas, County Engineer, summarized three corrections to the plan: moving pavement of Rokeby Road from the six-year program into standby status of the one-year program, moving right-of-way acquisition on S. 1st Street from the six-year program into standby status of the one-year program, and amending the NW 70th Street project from a road dam to a road grading project.

Stevens expressed his appreciation for the people who appeared at the public hearing and for Thomas putting the projects in standby status.

Thomas said putting these projects into standby status prevents the County from having to go through the State to amend the one-year program.

Workman noted there is not enough money to do everything that needs to be done, and those roads with a higher traffic count and greater need are completed first.

Hudkins commended Thomas and his crew. He said the need for more road projects to be completed should be considered when looking at the Engineer's budget. He stated he would like to see a traffic count while school is in session.

MOTION: Hudkins moved and Stevens seconded approval of the resolution. Hudkins, Stevens, Schorr, Workman and Heier voted aye. Motion carried 5-0.

- E. **A mini-grant contract application and award from the Nebraska Office of Highway Safety in the amount of \$2,100 for six preliminary breath testing instruments.**

Terry Wagner, County Sheriff, said the Nebraska Office of Highway Safety provides the opportunity for several mini-grants, and these breath testing machines are a part of the effort to improve safety on highways.

MOTION: Hudkins moved and Stevens seconded approval of the application and award. Hudkins, Stevens, Schorr, Workman and Heier voted aye. Motion carried 5-0.

4) **NEW BUSINESS CONTINUED:**

- F. **An agreement with the Child Guidance Center for the services of an internal case manager and for the provision of substance abuse evaluations for youth at the Youth Services Center. Term of the agreement is July 1, 2009, to June 30, 2010. The County will pay \$64,391.36 for the services of the case manager and \$113,745.69 for substance abuse evaluations, for a total compensation amount of up to \$178,137.05. (C-09-0610)**

MOTION: Stevens moved and Workman seconded approval of the agreement. Schorr, Hudkins, Workman, Stevens and Heier voted aye. Motion carried 5-0.

- G. **An agreement with Murphy Tractor and Equipment Co., Inc., for two motor graders complete with trade-in allowance for the County Engineer, in the amount of \$376,000. Murphy Tractor will pay for all repair costs, including parts and labor, in excess of \$4,500 per unit during the next seven years. (C-09-0611)**

MOTION: Stevens moved and Hudkins seconded approval of the agreement. Workman, Schorr, Stevens, Hudkins and Heier voted aye. Motion carried 5-0.

- H. **A contract with Otte Oil and Propane for the annual requirements for propane using cooperative purchasing with the City of Lincoln. The term of the contract is from December 1, 2009, to November 30, 2010. The pricing for the services is according to the pricing listed in the contract agreement between the City of Lincoln and Otte Oil and Propane executed by the City on December 1, 2007, Executive Order No. 80381. (C-09-0612)**

MOTION: Workman moved and Stevens seconded approval of the contract. Schorr, Stevens, Hudkins, Workman and Heier voted aye. Motion carried 5-0.

- 5) **CONSENT ITEMS:** *These are items of business that are routine 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. **Receive and place on file the Lancaster County Sheriff monthly report for October, 2009.**
- B. **Setting of a public hearing for Tuesday, January 5, 2010, at 9:30 a.m. in the County Commissioners Hearing Room, Room 112, on the first floor of the County-City Building regarding County Special Permit No. 09024 (expanded home occupation – Highway 77 & Hickman Road).**

MOTION: Stevens moved and Schorr seconded approval of the consent items. Stevens, Workman, Schorr, Hudkins and Heier voted aye. Motion carried 5-0.

6) **PUBLIC COMMENT:**

7) **ANNOUNCEMENTS:**

- A. **The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, December 3, 2009, at 8:30 a.m., in Room 113 on the first floor of the County-City Building.**
- B. **A public hearing will be held on Tuesday, January 19, 2010, at 9:30 a.m. in the County Commissioners Hearing Room, Room 112, on the first floor of the County-City Building regarding a request to vacate a portion of North 98th Street from Ashland Road to a point approximately 1600 feet south of Ashland Road lying in the Northeast Quarter of Section 2, Township 12 North, Range 7 East of the 6th Principle Meridian, Lancaster County, Nebraska.**
- C. **The Lancaster County Board of Commissioners meeting is broadcast live at 9:30 a.m., on Tuesdays and rebroadcast at 1:30 p.m., and 6:30 p.m., as well as on Saturday afternoon on 5 City-TV, Cable Channel 5. In addition, this meeting may be viewed on Nebraska On Demand Time Warner Channel 101 and is available on the Demand.**

8) **ADJOURNMENT**

MOTION: Stevens moved and Workman seconded to adjourn the Board of Commissioners meeting at 10:03 a.m. Workman, Schorr, Hudkins, Stevens and Heier voted aye. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk



MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, DECEMBER 1, 2009
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE REGULAR BOARD OF COMMISSIONERS MEETING

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

Others present: Norm Agena, County Assessor/Register of Deeds
Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer and
Interim Lancaster Manor Administrator
Tom Fox, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office


The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 10:03 a.m.

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, November 24, 2009.**

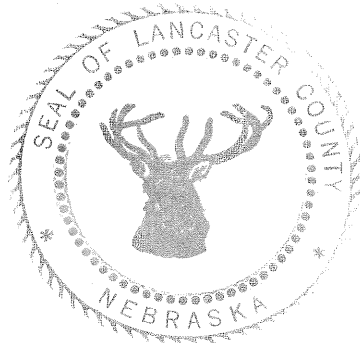
MOTION: Stevens moved and Schorr seconded approval of the minutes. Hudkins, Stevens, Schorr, Workman and Heier voted aye. Motion carried 5-0.

- 2) **ADJOURNMENT**

MOTION: Schorr moved and Stevens seconded to adjourn the Board of Equalization meeting at 10:04 a.m. Schorr, Hudkins, Workman, Stevens and Heier voted aye. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk



Lancaster County Response
To the
State of Nebraska
Attestation Review of Lancaster Manor
July 1, 2007 through June 30, 2009

Lancaster County began to take a more active role in the administration and operation of Lancaster Manor after the Administrator resigned in November 2008. An Interim Administrator was appointed by the Lancaster County Board of Commissioners and weekly updates were included on the County Board staff meeting agenda. The Lancaster County Budget and Fiscal Office became involved because Medicaid and Medicare cost reports were overdue. The Budget and Fiscal Office also became more involved in monthly reporting of financial activity to the County Board. The financial activity along with the weekly updates that included billing issues, staffing issues, contract issues, etc. became a priority of the County Board.

The attestation review noted the last three administrators but another issue the Manor has had to deal with is the turnover in the Business Office Manager position. The long time Business Office Manager retired in August 2007 and the position was not filled until October 2007. The position was open again in April 2008 due to a resignation and the position was not filled until June 2008.

Lancaster Manor started providing Medicare services in August 2007 which was the same time the Business Office Manager retired. Billings for the Manor did not start until July 2008 which resulted in cash flow concerns. The Commissioners opted to enter the Medicare arena based on conversations with long term care health leaders and the former Lancaster Manor Administrator, and in hindsight, the Manor was not prepared. The Manor was forced to outsource the Medicare billings to a private vendor to ensure billings were completed.

Another policy change noted in the review involved charging indirect costs to the Manor fund. Beginning July 1, 2008 the Manor reimbursed the County General Fund \$50,000 per month. This decision was made by the Commissioners after discussion with the former Lancaster Manor Administrator along with a review of his prepared FY2008-09 budget. This decision was made to help solve Lancaster County budget issues. However, the Manor's revenue projections for FY 2008-09 were too high and census was too low, thereby causing more cash flow concerns.

Lancaster County agrees with the Schedule of Revenues and Expenditures on Exhibit B. The financial information is consistent with audit reports and the County's financial system. It was the financial situation which caused the County Board to look into Lancaster Manor in depth.

Lancaster County is well aware of the billing issues and has been addressing them almost on a daily basis. The Manor updates at the weekly staff meetings have covered the billing issues. The Business Office has made huge strides in the billing process, in spite of employee turnover.

The Manor has started utilizing MDI for billing purposes. A former administrator opted to bring MDI in to the Manor. Training was provided, however, some employees decided not to complete the training. It was another change for Lancaster Manor that we were not adequately prepared for and the Business Office Manager has had to learn the process as she goes along.

The APA Correct Billable Revenues on Exhibit C show a calculated amount of \$18,759,309 for fiscal year 2009 billable revenues. Lancaster County understands there are concerns on the expenditure side also, but this billable revenue number would not have adequately covered the fiscal year 2009 expenditures.

Prior to our current interim administrator, the County Board was not made aware of all information and did not approve rates. The County Board has had more involvement and will continue to be involved to correct these issues.

Lancaster Manor has been working with DHHS over the last year to correct overpayments and refunds in regard to Medicaid. Lancaster Manor will continue to work with DHHS to resolve all over/underpayments.

Lancaster Manor will review payroll procedures established to ensure all payments are in compliance with approved labor contracts. We will also review the segregation of duties concern.

Temporary Services have been a concern for Lancaster Manor and has been a topic of discussion at the weekly updates at the Lancaster County Board staff meetings. We have struggled with the fine line of using temporary services or utilizing overtime for staff. We will continue to review staffing issues to ensure quality care for the residents. There is no doubt that temporary services have increased while the resident count has decreased since the beginning of calendar year 2009 when the possibility of a sale was discussed. The Manor has not been following the AFSCME contract regarding mandatory overtime. This has been corrected. When the possibility of a sale of Lancaster Manor was mentioned, some Manor employees began using sick and vacation time which has caused most of the temporary services cost.

Lancaster Manor understands the resident trust account issues and has been trying to reconcile on a regular basis. During fiscal years 2008 and 2009 there was turnover in the business office and the reconciliations were not performed. The transfer of \$444,532 to the Lancaster County

Treasurer in November 2008 was to catch up for the activity that was due to the County but had not been remitted. We are in agreement that reconciliations should be done on a monthly basis and care payments should be deposited with the County Treasurer in a timely matter. Lancaster Manor has been trying to make this a priority.

Lancaster County was aware of the supplies inventory issues and that was the reason an inventory was completed. The interim administrator has been in the process of changing how items are ordered and has stopped the ability of employees to purchase supplies for personal use.

Lancaster County has always included the expenses associated with the Manor employee cafeteria on the Medicaid cost report along with the revenue generated from employees and guests. The interim manor administrator, with support from the County Board, closed the employee cafeteria.

Lancaster County agrees with the Workers' Compensation Claims information included in the attestation review. Lancaster County would like to show the remainder of claims for the rest of Lancaster County:

FY2005	number of claims – 80	Payments - \$326,369.71
FY2006	number of claims – 95	Payments - \$330,178.33
FY2007	number of claims – 79	Payments - \$345,833.17
FY2008	number of claims – 88	Payments - \$375,858.69
FY2009	number of claims – 76	Payments - \$298,947.03

The Lancaster County Board met with Great Plains Appraisal, Inc. on October 15, 2009 to discuss the possibility of an updated appraisal report. It was determined based upon the recommendation of Great Plains Appraisal, Inc. an updated appraisal report was not necessary.

The Lancaster County Board has discussed becoming a preferred provider on two separate occasions. One motion to become a preferred provider failed to advance for a lack of a second and the other motion was defeated by the County Board due to the possibility of a sale.

Lancaster County understands the DHHS regulations involving recapture of depreciation and has been in contact with DHHS to discuss the situation. Exhibit J was prepared by DHHS and presented to Lancaster County to identify various options available.

The Memorandum of Understanding (MOU) between the County and the potential buyer specifically states, "Purchaser is committed to continuing to service the community's interest in serving the nursing facility needs of Medicaid patients." Regardless, the MOU is merely a non-binding, preliminary statement of intent of the County to sell and the purchaser's intent to buy

the Manor. The final sales agreement will set forth a specific number of certified Medicaid beds.

Lancaster County will keep working to resolve the issues noted throughout the attestation review. The County Board feels this report supports the reason a request for qualifications was issued.