STAFF MEETING MINUTES LANCASTER COUNTY BOARD OF COMMISSIONERS COUNTY-CITY BUILDING, ROOM 113 THURSDAY, JANUARY 27, 2011 9:30 A.M.

Commissioners Present: Deb Schorr, Chair

Larry Hudkins Jane Raybould Brent Smoyer

Commissioners Absent: Bernie Heier, Vice Chair

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 9:32 a.m.

AGENDA ITEM

1 APPROVAL OF THE MINUTES OF THE THURSDAY, JANUARY 13, 2011 AND JANUARY 20, 2011 STAFF MEETINGS

MOTION:

Hudkins moved and Smoyer seconded approval of the January 13, 2011 and January 20, 2011 Staff Meeting minutes. Smoyer, Hudkins, Raybould and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

2 ADDITIONS TO THE AGENDA

- A. Department Tours
- B. Good News Jail and Prison Ministry Chaplain Resignation (Exhibit A)
- C. Testimony on Legislative Bill (LB) 383 (Eliminate State Aid for Municipalities, Counties and Natural Resources Districts) and LB 96 (Change State Aid to Counties)
- D. Letter from Terry Wagner, Lancaster County Sheriff, Regarding Lancaster Manor Proceeds (Exhibit B)
- E. Testimony on LB139 (Change Surplus Property Sale Provisions of the County Purchasing Act)

MOTION: Hudkins moved and Smoyer seconded approval of the additions to the agenda. Hudkins, Raybould, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

A) NEW JAIL CONSTRUCTION UPDATE; AND B) DISTRICT ENERGY CORPORATION (DEC) ENERGY EFFICIENCY DESIGN REFUND - Mike Thurber, Corrections Director; Chuck Richter, Sampson Construction Company; Greg Newport, The Clark Enersen Partners

A) New Jail Construction Update

Chuck Richter, Sampson Construction Company, gave an update on construction of the new Lancaster County Adult Detention Facility (LCADF) (Exhibit C). He said three of the pods are fully erected and interior work is taking place in those areas (masonry, plumbing, electrical, etc.). Richter said the structure for the fourth pod is completed and work to pour concrete on the main level has begun.

In response to a question from Schorr, Richter expressed confidence that they will meet the projected completion date of February, 2012.

Raybould asked for an update on an issue involving the wells for the geothermal wellfield system that will heat and cool the facility.

Mike Thurber, Corrections Director, said KS Construction, the contractor, has requested a waiver of a finding by the Nebraska Department of Health and Human Services (HHS) that 145 of the wells that had been drilled did not meet state specifications. He said there have been assurances that the well situation won't slow down the LCADF project.

Schorr suggested that Don Killeen, County Property Manager, and Krishna Amancherla, DEC Project Manager, be asked to give an update on the geothermal energy facilities project to the Board and to explain the DEC's role in the LCADF project.

Raybould expressed concern regarding jail population numbers and suggested that holding night court on Friday evenings might help reduce weekend numbers.

Kerry Eagan, Chief Administrative Officer, said Lancaster County has a legislative proposal to create a magistrate position, which he believes is a better solution.

B) District Energy Corporation (DEC) Energy Efficiency Design Refund

Thurber said the DEC worked with the architect and the contractor during the design of the LCADF to find ways to reduce energy use.

Greg Newport, The Clark Enersen Partners, said the DEC has agreed to reimburse the project, through the Lancaster County Correctional Facility Joint Public Agency (JPA), for design services related to those energy saving enhancements (see agenda packet for supporting documentation).

Thurber said Dennis Meyer, Budget and Fiscal Officer, will draft an invoice for reimbursement.

Hudkins asked whether a decision has been made on the warehouse space.

Thurber said he hoped there will be sufficient funds from the DEC reimbursement to pay for its design and construction.

4 UPDATE ON CLEANUP OF NUISANCE WASTE AND HAZARDOUS WASTE - Judy Halstead, Lincoln-Lancaster County Health Department (LLCHD) Director; Scott Holmes, Environmental Public Health Division Manager, LLCHD; Nancy Clark, Environmental Public Health Supervisor, LLCHD; Ralph Martin, Senior Environmental Health Specialist, LLCHD; Brittany Behrens, Deputy County Attorney; Mel Goddard, Chief Building Inspector, Building & Safety Department

Nancy Clark, Environmental Public Health Supervisor, Lincoln-Lancaster County Health Department (LLCHD), informed the Board of a hazardous waste site within Lancaster County's jurisdiction. **NOTE:** The location was not revealed because it is part of an ongoing investigation but photographs showing the condition of the property were circulated. She said the LLCHD's hazardous materials staff was recently asked to provide technical assistance to law enforcement on an investigation of a property in the County. While there, staff saw numerous open containers of hazardous materials and other code violations, including two unsecured trailers filled with trash. Based on that evidence, the LLCHD and other agencies obtained an inspection warrant to go out to the property and document what was there and to identify specific violations.

Schorr asked whether the property was inhabited.

Clark said not presently, but it was recently. She said the owner of the property is currently incarcerated and his father, who had also resided there, has passed away. Clark said the property is in violation of the County's solid waste resolution (County Resolution No. 4308) which gives the LLCHD Director the authority to abate and remove nuisances. She said the property owner is being sent a notice of the violation, but said there is no expectation he will resolve the matter due to his status. Clark said the LLCHD is preparing for an abatement, which is estimated to cost \$10,000 to \$20,000.

Scott Holmes, Environmental Public Health Division Manager, LLCHD, said his department lacks sufficient funds to pay for the abatement.

Clark stressed the need to move quickly as there are concerns someone could go on the property and get hurt. There is also potential for water contamination (pesticides and chemicals stored in the wellhouse).

Holmes said a decision will also need to be made on whether to remove the trailers.

Mel Goddard, Chief Building Inspector, Building & Safety Department, said there were no permits for the trailers. He said the first one may have been "grandfathered" (exempted from provisions) but said placement of the second one was definitely a violation.

Smoyer asked whether the Nebraska Department of Environmental Quality (NDEQ) can assist with the cost of the clean-up.

Holmes said NDEQ does not have a clean-up fund but there may be a possibility of some federal reimbursement.

Hudkins suggested the Keno Fund might also be a funding source option.

MOTION: Hudkins moved and Smoyer seconded to authorize the Lincoln-Lancaster County Health Department (LLCHD) to proceed with the clean-up.

Hudkins asked that the County Attorney's Office pursue placing a lien on the property to help pay for the abatement.

ROLL CALL: Smoyer, Hudkins, Raybould and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

RUSS SHULTZ CONTRACT - Tom Fox, Deputy County Attorney; Brent Meyer, Noxious Weed Control Superintendent

Tom Fox, Deputy County Attorney, said it will cost Russ Shultz \$250 to secure general liability coverage and \$76 for motor vehicle coverage which will increase the amount of his contract for weed control services from \$27 to \$34 per hour (see January 13, 2011 Staff Meeting minutes).

Brent Meyer, Noxious Weed Control Superintendent, estimated that it will add \$326 to the cost of the contract.

MOTION: Hudkins moved and Raybould seconded to proceed, as outlined. Hudkins, Raybould, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

6 LANCASTER COUNTY EXTENSION STAFF APPRECIATION - Wes Daberkow, County Extension Board

Wes Daberkow, County Extension Board, invited members of the Board to participate in a recognition breakfast for Lancaster County Extension staff on March 15th at the County Extension Office, 444 Cherrycreek Road.

ADDITIONS TO THE AGENDA

B. Good News Jail and Prison Ministry Chaplain Resignation (Exhibit A)

Board consensus was to schedule recognition of Randy Bartelt, Good News Jail and Prison Ministry Chaplain, for his services on a County Board of Commissioners Meeting agenda.

D. Letter from Terry Wagner, Lancaster County Sheriff, Regarding Lancaster Manor Proceeds (Exhibit B)

Eagan said he believes several of the assumptions Wagner made in his letter are inaccurate: 1) The Manor was funded through general tax dollars; 2) The County's obligations to indigent elderly have changed since the Manor was built; and 3) The County is required by law to return the funds to the General Fund. He said most of the funding came from Medicaid funds although there was some property tax funding in the 1980's, before the current facility was built. Eagan disseminated copies of Nebraska Revised Statute §23-104.03 which addresses counties' authority to provide protective services (Exhibit D).

Raybould said she discussed this issue with Mike Tavlin, Chief Financial Officer (CFO) for Speedway Motors and B & J Partnership, noting Tavlin served on the team that assisted in the sale of Lincoln General Hospital (LGH) and its transition to the Community Health Endowment (CHE) and serves with her on the CHE's Board of Trustees. She said Tavlin assured her that the endowment funds will remain part of the County's asset sheet and under the County's control, authority and jurisdiction. Raybould said he also explained that provisions could be put in place that would allow the County to access those funds, based on certain criteria.

In response to a question from Hudkins, Raybould said Tavlin will not be available to testify at the public hearing on February 15th but has offered to meet individually with Commissioners or to submit a written report.

Schorr asked that the report be entered into the record at the public hearing.

Hudkins said he favors seeking a County Attorney's opinion on this matter at some point.

7 PENDING LITIGATION - Tom Fox, Deputy County Attorney

MOTION:

Hudkins moved and Smoyer seconded to enter Executive Session at 10:30 a.m. for the purpose of protecting the public interest with regards to pending litigation. Hudkins, Raybould, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

MOTION:

Smoyer moved and Raybould seconded to exit Executive Session at 10:55 a.m. Smoyer, Raybould, Hudkins and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

8 APPEAL FROM DENIAL OF DISASTER RELIEF TO THE NEBRASKA EMERGENCY MANAGEMENT AGENCY (NEMA) - Doug Ahlberg, Emergency Management Director

Doug Ahlberg, Emergency Management Director, presented a letter of appeal to the Nebraska Emergency Management Agency (NEMA) for two project worksheets related to a severe winter storm that occurred in December, 2009 that were deemed ineligible for disaster relief (Exhibit E). The first project worksheet addresses payment to the Public Building Commission (PBC) for their efforts to remove snow from City and County owned parking lots so law enforcement vehicles could leave and respond to calls for service, including emergency calls. The second addresses donated resources that were utilized by Emergency Management to meet the community's needs, i.e., volunteers transported essential medical staff to and from hospitals, nursing homes, and dialysis and rehabilitation facilities; transported individuals who required life sustaining dialysis treatments; and delivered meals to homebound individuals and families.

MOTION:

Hudkins moved and Raybould seconded to authorize submission of the letter, with signature by the Chair and Emergency Management Director. Raybould, Hudkins, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

ADDITIONS TO THE AGENDA

A. Department Tours

Board consensus was to schedule at least one tour each month, preferably following either a Tuesday County Board of Commissioners Meeting or a Thursday County Board Staff Meeting.

C. Testimony on Legislative Bill (LB) 383 (Eliminate State Aid for Municipalities, Counties and Natural Resources Districts) and LB 96 (Change State Aid to Counties)

Schorr said she joined others in testifying before the Legislature's Revenue Committee on Wednesday in opposition to LB 383. She said Governor Heineman testified in support of the bill, which was introduced on his behalf. Schorr said she was very discouraged by the Revenue Committee members' comments. She said she plans to testify later in the day in support of LB 96, which retains the state aid formula.

In response to a question from Raybould, Smoyer said if the bill is passed with an emergency clause, it would take effect upon the Governor's signature. He said it is unlikely that its passage would impact the current budget.

E. Testimony on LB139 (Change Surplus Property Sale Provisions of the County Purchasing Act)

Smoyer said he testified in support of LB 139, which he said would help the County to sell surplus personal property, including motor vehicles, that is valued less than \$2,500.

9 ACTION ITEMS

A. Microcomputer Request, C#66543 from County Treasurer's Budget in the Amount of \$1,953.67

MOTION: Hudkins moved and Raybould seconded approval. Hudkins, Raybould, Smoyer and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

10 CONSENT ITEMS

There were no consent items.

11 ADMINISTRATIVE OFFICER REPORT

A. Press Release Policy

Gwen Thorpe, Deputy Chief Administrative Officer, presented a draft press release policy (see agenda packet). Discussion took place on whether to require the approval of all five commissioners before issuing a press release, other than those dealing with an administrative matter, with consensus to schedule further discussion on the February 3, 2011 Staff Meeting agenda.

B. March 1 and 3, 2011 County Board Meetings

The Board cancelled the March 1, 2011 County Board of Commissioners/County Board of Equalization Meeting and March 3, 2011 Staff Meeting, due to the lack of a quorum on those dates. The Chair reminded Board members to check the office calendar before making vacation plans, noting there is an unwritten policy that no more than two Board members can schedule vacation leave on meeting dates.

C. Committee Letters Notifying Change in Board Attendance

Board consensus was to send letters of notification to any committees that have a change in County Board member assignment.

D. County Board of Zoning Appeals Appointment

Board consensus was to schedule reappointment of Lynette Nelson to the County Board of Zoning Appeals on the February 1, 2011 County Board of Commissioners Meeting agenda.

12 PENDING

There were no pending items.

13 DISCUSSION OF BOARD MEMBERS MEETINGS

A. Nebraska Association of County Officials (NACO) Legislative Committee - Smoyer

Smoyer said discussion focused on two legislative bills: 1) LB 383 (Eliminate state aid for municipalities, counties and natural resources districts); and 2) LB 96 (Change state aid to counties).

B. Region V Governing Board - Smoyer

Smoyer said the primary purpose of the meeting was orientation for new members.

C. Lancaster County Correctional Facility Joint Public Agency (JPA) - Schorr, Heier

Schorr said they approved claims totaling \$2,045,240.91, which reflect payments to Wells Fargo for bank fees, Sampson Construction Company, the construction manager at risk, and The Clark Enersen Partners, the architect. She said the JPA also received an update on the geothermal energy facilities project at the new Lancaster County Adult Detention Facility (LCADF).

D. Public Building Commission (PBC) - Hudkins, Schorr

Hudkins said the PBC held an emergency meeting to discuss the a bedbug problem in the Justice and Law Enforcement Center and bids for the remodel of the City Attorney's space on the third floor of the County-City Building.

E. Community Mental Health Center (CMHC) Advisory Committee - Raybould

Raybould said discussion focused on the budget deficit projections and how to capture additional revenue, i.e., insurance co-pays, and Medicaid and Medicare reimbursements for sliding scale clients. She said she recommended that the CMHC consider an assessment of its billing practices. Raybould also reported that the People's Health Center (PHC) has accepted CenterPointe's proposal, rather than the one submitted by the CMHC, to provide a full-time behavioral health specialist who can deliver behavioral health services at the PHC (see November 18, 2010 Staff Meeting minutes).

14 EMERGENCY ITEMS AND OTHER BUSINESS

There were no emergency items or other business.

15 ADJOURNMENT

MOTION:

Hudkins moved and Raybould seconded to adjourn the meeting at 11:34 a.m. Smoyer, Raybould, Hudkins and Schorr voted aye. Heier was absent from voting. Motion carried 4-0.

Dan Nolte

Lancaster County Clerk

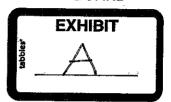
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RECEIVED

JAN 2 1 2011

LANCASTER COUNTY BOARD



January 19, 2011

Dear Friend,

This is to let you know that I am resigning from Good News Jail & Prison Ministry as Chaplain in Lancaster County jail. My last day will be February 3, 2011.

I accepted the Chaplain's position with the Nebraska State Penitentiary. My role in the State Pen is identical to what I am doing in the county jail except that I have the chance to minister to 1,200 inmates and 400 staff.

All current Sunday services and weekly Bible classes will remain as scheduled. The Program Director in the jail along with Good News Jail & Prison Ministry Regional Director Bob Potter are working together to insure continuity of ministry to the inmates. Bob Potter can be reached by calling 402-408-0133 if you have any questions.

Serving in the jail these past three years has been rewarding and I appreciate having had the opportunity to partner with you. Thank you for your prayers and financial support during my time with Good News. Even though I will miss serving in the jail, I am looking forward to the new challenges that await me as Chaplain in the State Penitentiary.

Please keep in touch. My personal email address is <u>rbartelt@windstream.net</u> and my cell phone is 402-580-5657.

Serving Christ together,

Randy Bartelt, Chaplain Lancaster County Jail

cc: Brenda Fisher, Program Director Bob Potter, Regional Director

CB/KPE/67

Office of the Sheriff Lancaster Count

William E. Jarrett Chief Deputy

575 S. 10th Street, Lincoln, Nebraska 68508-2869 Phone (402) 441-6500 Fax (402) 441-8320

January 17, 2011

Deb Schorr, Chair Lancaster County Board of Commissioners 555 South 10th Street Lincoln, NE 68508 RECEIVED

JAN 2 4 2011

LANCASTER COUNTY BOARD

Dear Ms. Schorr,

I am writing to urge the Lancaster County Board of Commissioners to reject the recommendation of the Lancaster Manor Proceeds Committee presented January 13, 2011 at the Board's Staff meeting, and instead put the \$2.65 Million dollars into a reserve fund

During these times when the County is having to make cuts in agencies' budgets, and our most trusted employees are receiving little or no pay raises, it would be prodent to use the interest income off of the principle to help the county meet its obligations for its employees and citizens alike

In addition, a brief review of Nebraska Statutes requires all income to be deposited into the general fund of the county. I may be mistaken, but there does not appear to be any permissive language allowing the establishment of an endowment. I believe a legal opinion would be necessary before action is taken to implement the recommendation of the committee

If one compares the Community Health Endowment from the proceeds of the sale of Lincoln General Hospital to the recommendation of the Lancaster Manor Proceeds Committee it is readily apparent the Manor Proceeds (\$2.65 Million) will have to be handled differently Lincoln General proceeds were \$37 million dollars. That fund has risen to \$52 million and is administered by three employees who earn over \$300,000 collectively. Who manages the funds and how much of the revenue of the Manor proceeds are going to be required to administer the proceeds?

This morning the Board allowed me to present Employee Awards to Sheriff's Office employees who provided outstanding service to the citizens of this county. One award was to an employee who organized a benefit supper and a garage sale to help another employee who was diagnosed with cancer and has spent a year recovering from surgery, radiation treatments and chemotherapy. This employee is a single parent, who works two jobs to make ends meet. It's not the Board who has to look these employees in the eye and tell them they will only receive a 1% raise because they are unrepresented when their represented co-workers receive 3.5%.

The Manor Proceeds Committee specified the funds should be used for low income, elderly residents. The Manor was funded through general tax dollars when Lancaster County's obligations to indigent elderly was different than today. Those funds should be returned to the general fund as required by law and from whence they came. I would urge the Board to take a wait and see approach with regard to the income from these funds, the overall economic condition of Lancaster County and the operating costs of the new jail.

Respectfully,

Terry **f. W**agner

Lancaster County Sheriff

Cc: Commissioner Heier Commissioner Smoyer Commissioner Raybould Commissioner Hudkins

EXHIBIT Control of the control of th

Lancaster County Adult Detention Facility

Lincoln, Nebraska



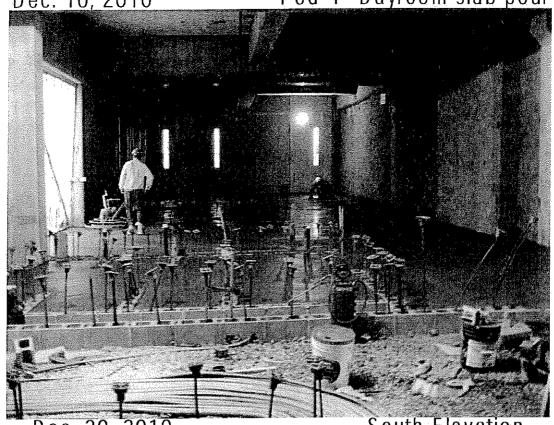
Progress Photos January 27, 2011

Dec. 7,2010 Retaining walls east of loading dock

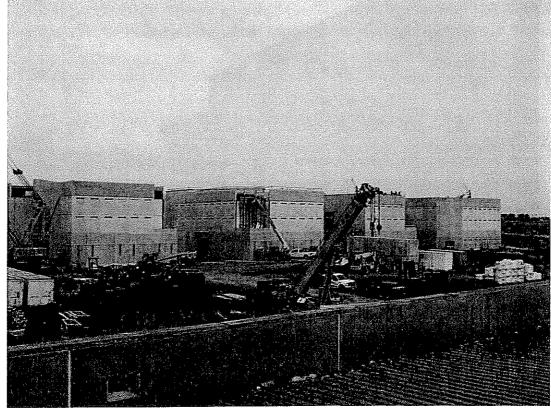




Dec. 10, 2010 Pod 'F' Dayroom slab pour



Dec. 20, 2010 South Elevation

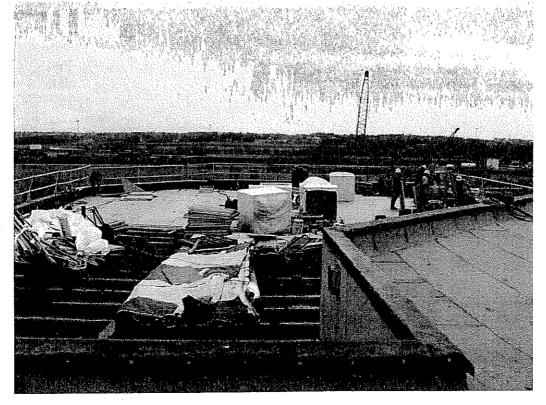


Dec. 20, 2010

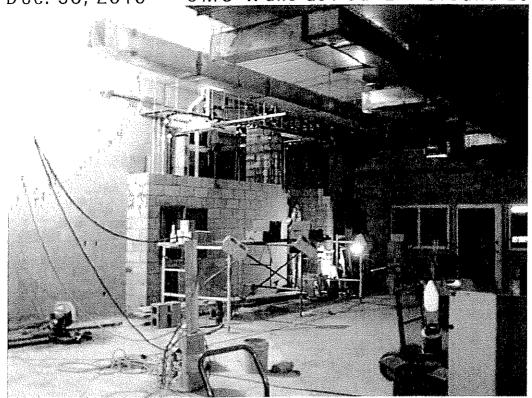


Dec. 20, 2010

Roofing at Pod 'F'

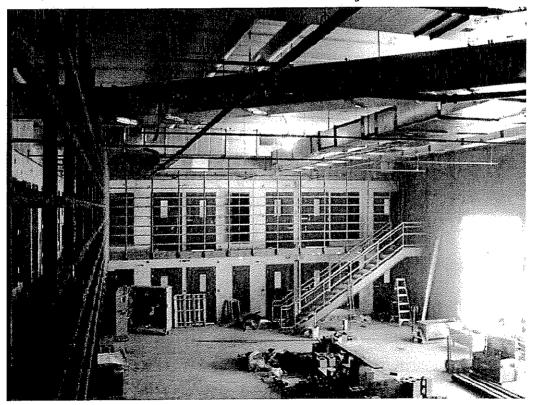


Dec. 30, 2010 CMU Walls at Pod 'E' - Ground Level

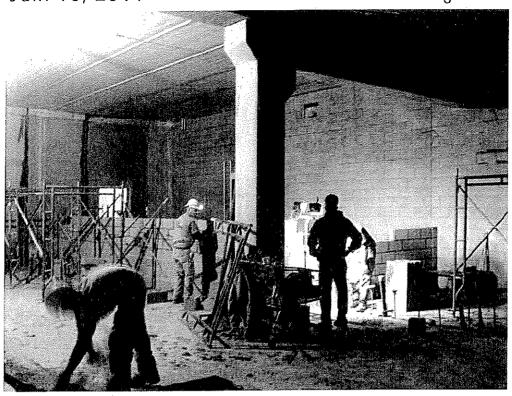


Jan. 4, 2011

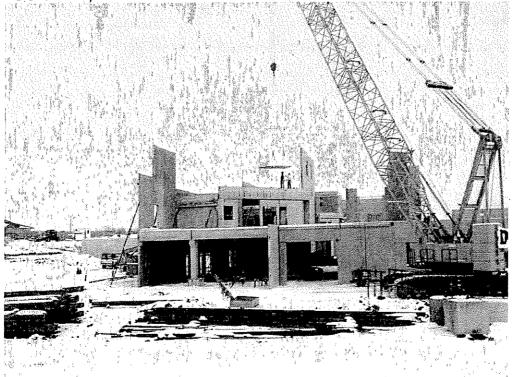
Pod'F' Dayroom



Jan. 10, 2011 CMU walls at Receiving Room



Jan. 21, 2011 Precast erection at west end of building





January 24, 2011

Mr. Earl Imler Nebraska Emergency Management Agency 1300 Military Road Lincoln, NE 68508

Dear Mr. Imler:

Please accept this letter as Lincoln and Lancaster County's formal appeal of two (2) project worksheets being declared ineligible under Federal Disaster 1878-DR-NE.

FEMA's Snow Policy (FEMA 9523.1) was published November 6, 2009 and thus applies to the snow emergency that affected the City of Lincoln and Lancaster County in December, 2009. However, we believe the policy as interpreted has resulted in the denial of legitimate emergency expenses.

The first project worksheet we are appealing is PW324. This worksheet was developed and submitted to address payment to the Public Building Commission for their snow removal efforts throughout the City of Lincoln and Lancaster County. It should be noted that the Public Building Commission is responsible for all snow removal on all City and County owned property. This includes but is not limited to the Hall of Justice and Lincoln Police Department Sub-Stations. Under FEMA's Snow Removal policy (FEMA 9523.1), emergency situations dictate whether or not a project is eligible. In order to respond to emergencies, all law enforcement vehicles must be able to leave their respective parking lots. Numerous Lincoln Police vehicles and Lancaster County Sheriff vehicles could not get out of their parking lots until the snow was removed. Without the services provided by the Public Building Commission, neither law enforcement agency could respond to calls for service, including emergency calls. During the time period covered by the project worksheet over 1800 emergency calls for service were dispatched from the 911 Center involving these law enforcement agencies. For these reasons we believe these costs rise to the level of being eligible for reimbursement under FEMA'S Snow Policy.

The second project worksheet we are appealing is PW487. This project worksheet addresses donated resources utilized by Emergency Management to meet the community's needs during the time frame indicated under Federal Disaster Declaration 1878-DR-NE. During this time frame Emergency Management utilized volunteers to transport 212 essential medical staff to and from hospitals, nursing homes, dialysis treatments and rehabilitation facilities. They also delivered Meals on Wheels to home-

bound individuals and families, and transported individuals who required life sustaining dialysis treatments, some of whom had not had a proper treatment for over three days. All of these volunteer transports were conducted because emergency response agencies were overwhelmed with other emergency calls for service. The fire departments were overwhelmed with other emergency calls for service. Under FEMA's Snow Policy #9523.1, an emergency situation did exist at the time Emergency Management volunteers conducted these transports, and for these reasons we believe these costs are eligible for reimbursement under FEMA'S Snow Policy.

We have attached signed copies of the project work sheets provided us by FEMA. We hope these will assist you in your re-evaluation of our formal appeal.

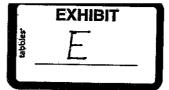
If you have any questions, please contact Doug Ahlberg at 402-441-7441 or email him at Dahlberg@lancaster.ne.gov .

Thank you for your consideration of our appeal.

Respectfully submitted,

Deb Schorr Chair County Board of Commissioners Doug Ahlberg Director Lancaster Lincoln-Lancaster County Emergency Management

23-104.03. Power to provide protective services.



Each county shall have the authority (1) to plan, initiate, fund, maintain, administer, and evaluate facilities, programs, and services that meet the rehabilitation, treatment, care, training, educational, residential, diagnostic, evaluation, community supervision, and protective service needs of dependent, aged, blind, disabled, ill, or infirm persons, persons with a mental disorder, and persons with mental retardation domiciled in the county, (2) to purchase outright by installment contract or by mortgage with the power to borrow funds in connection with such contract or mortgage, hold, sell, and lease for a period of more than one year real estate necessary for use of the county to plan, initiate, fund, maintain, administer, and evaluate such facilities, programs, and services, (3) to lease personal property necessary for such facilities, programs, and services, and such lease may provide for installment payments which extend over a period of more than one year, notwithstanding the provisions of section 23-132 or 23-916, (4) to enter into compacts with other counties, state agencies, other political subdivisions, and private nonprofit agencies to exercise and carry out the powers to plan, initiate, fund, maintain, administer, and evaluate such facilities, programs, and services, and (5) to contract for such services from agencies, either public or private, which provide such services on a vendor basis. Compacts with other public agencies pursuant to subdivision (4) of this section shall be subject to the Interlocal Cooperation Act.

Source: Laws 1971, LB 599, § 1; Laws 1972, LB 1266, § 1; Laws 1985, LB 393, § 15; Laws 1986, LB 1177, § 4.

Cross References

Interlocal Cooperation Act, see section 13-801.