

**MINUTES  
TRI-COUNTY MEETING  
DOUGLAS, LANCASTER AND SARPY COUNTY BOARDS  
THE VENUE AT HIGHLANDER  
2120 NORTH 30<sup>TH</sup> STREET, OMAHA, NE 68111  
NOVEMBER 4, 2019  
9:00 A.M.**

**Sarpy County:** Don Kelly, Gary Mixan, Jim Warren, David Klug, Angela Burmeister, County Commissioners; Dan Hoins, County Administrator; Deb Houghtaling, County Clerk; Scott Bovock, Deputy County Administrator; Bill Conley, Chief Financial Officer; Stu DeLeCastro, Director of Administrative Services; Amber Houghtaling, Administration; John Reisz, Deputy County Attorney; and Tim Gay and Kaitlin Reece (Sarpy County Lobbyists)

**Lancaster County:** Christa Yoakum, Rick Vest, Roma Amundson and Deb Schorr, County Commissioners; Kerry Eagan, Chief Administrative Officer; Dennis Meyer, Budget & Fiscal Officer; Dan Nolte, County Clerk; and Joe Kohout, Brennan Miller, Kissel Kohout ES Associates (Lancaster County Lobbyists)

**Douglas County:** Mike Boyle, Jim Cavanaugh, Clare Duda, Marc Kraft, PJ Morgan, Chris Rodgers, County Commissioners; Dan Esch, County Clerk; Patrick Bloomingdale, Chief Administrative Officer; Diane Carlson, Deputy County Administrator; Kim Bollow, Administrative Assistant; Joe Lorenz, Budget & Finance Director; Leia Baez, Public Information Officer; Marcos San Martin, Intergovernmental and Labor Relations Specialist; Catherine Hall, Assistant County Administrator; and Sean Kelley, Kelley Plucker LLC (Douglas County Lobbyist)

**Other Attendees:** Jon Cannon, NACO Deputy Director; Larry Dix, NACO Executive Director, Nebraska Association of County Officials (NACO); Reece Ristan, Omaha World-Herald

**NOTE:** A copy of the Open Meetings Act was available.

## **1. WELCOME**

Chris Rodgers, Douglas County Board Chair, opened the meeting at 9:00 a.m. Introductions were given by those in attendance.

## **2. LEGISLATIVE DISCUSSION**

### **a. Legislative Presentation by County**

Tim Gay and Kaitlin Reece, Sarpy County lobbyists, distributed and reviewed Sarpy County's 2020 legislative priorities (Exhibit A).

Kerry Eagan, Lancaster County Chief Administrative Officer, discussed Lancaster County's 2020 legislative priorities (Exhibit B). Additionally, Joe Kohout, Lancaster County lobbyist, outlined the Lancaster 101 process, which is a legislative priority discussion with the state senators.

Patrick Bloomingdale, Douglas County Chief Administrative Officer, distributed and reviewed Douglas County's 2020 legislative priorities (Exhibit C).

Jon Cannon, Nebraska Association of County Officials (NACO) Deputy Director, discussed NACO's proposed 2020 legislation (Exhibit D). He noted there is also a priority for clarifying the appeals process for special and conditional permits.

b. Biennium Budget Discussion

Dennis Meyer, Lancaster County Budget & Fiscal Officer, led discussion on a biennium budget. He described Lancaster County's current process of service-based budgeting. Concerns were voiced regarding how to budget based on unknown property valuations, and \$.15 allocations.

c. Home Rule Charter

Item moved to Juvenile Justice Initiatives discussion.

**3. BREAK**

The meeting recessed at 10:45 a.m. and reconvened at 11:00 a.m.

**4. CRIMINAL JUSTICE ISSUES**

a. Juvenile Justice Initiatives

Chris Rodgers led discussion on the County "Home Rule" proposal (Exhibit E).

Vest and Amundson exited the meeting at 11:20 a.m.

b. Corrections Facilities Potential Partnerships

Sarpy and Douglas Counties led discussion on repurposing or building new jail facilities.

**BREAK**

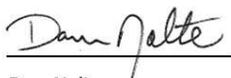
The meeting recessed at 11:48 a.m. and reconvened at 12:09 p.m.

**5. WORKING LUNCH/MENTAL HEALTH INITIATIVES**

Discussion ensued on mental health initiatives.

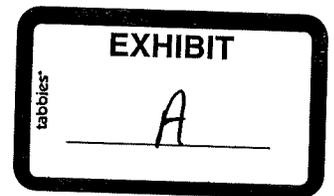
**6. ADJOURNMENT**

There being no further business, the meeting ended at 12:20 p.m.



Dan Nolte  
Lancaster County Clerk





## Legislative Issues for 2020

### 1. Provide for a turnback of state sales tax revenue on sewer and water fees to assist in paying for infrastructure improvements.

*Problem:* Sarpy County is separated by a ridge line that until recently has stymied development south of the geographic feature because existing sewer lines cannot pump over the ridge. With shovel ready sites quickly disappearing from the Metro area, the region must address its infrastructure challenges. The price tag is steep, however: \$31 million for the first phase and a total cost of \$220 million, and will require a multi-faceted approach. That's why the Legislature overwhelmingly supported LB 253 (2016) to create the public-private partnership that is the Sarpy County Wastewater Agency.

*Solution:* In 2017, legislation was introduced to provide a turnback tax of state sales tax revenue on sewer and water fees to assist with infrastructure improvements such as the City of Omaha's CSO project. We support legislation that includes the inclusion of the sewer agency as a type of entity that can utilize the turnback tax on sewer and water fees and ensure that eligible facilities include construction of the new facilities.

### 2. Clarify that counties with a jail or correctional facility are not financially responsible for medical bills incurred by arrestees who have not completed the facility admissions or booking process.

*Problem:* There is a pending case before the Nebraska Supreme Court (County of Chase v. City of Imperial) regarding which entity is fiscally responsible for medical costs incurred on behalf of arrestees who have not completed the booking process. At issue is the interpretation of the term "lodging" and the legislative intent of this language in § 47-703. The District Court ultimately found that Chase County was not fiscally responsible as the arrestees in question had not been taken into the facility's custody. The Court of Appeals reversed the order of the district court and Chase County appealed. Sarpy County has a hospital payment demand regarding a circumstance that is similar to this case and as a result, filed an amicus brief with the Supreme Court. In Sarpy County's instance, an arrestee received medical treatment while in the custody of the arresting/apprehending agency for non-arrest related medical reasons, was released from the hospital, and never booked or lodged in the Sarpy's jail facilities.

*Solution:* In 2019, Senator Arch introduced LB 455 at the request of Sarpy County. Sarpy, NACO and the League of Nebraska Municipalities are working together on an amendment to address the issue.

### 3. Defend against legislation that imposes spending limits on local government entities.

*Problem:* Sarpy County is a growing county and with growth comes growing pains such as increasing demands on road infrastructure, affordable housing, and public safety services like Sarpy County jail. Sarpy County's current jail is operating above design capacity with limited space for programming. Last year, the county spent \$600,000 housing prisoners in other facilities. The Sarpy County Board recently approved the location of a new county jail with additional design capacity and space for programming without raising property taxes. Sarpy County plans to invest \$23 million in 56 roads projects next year, almost twice the amount of funding the county typically spends to help Sarpy County respond to current growth and plan for the future. Spending lids and limits on local government entities leaves growing counties like Sarpy County less able to respond to the needs of its citizens.

*Solution:* Oppose legislation that imposes spending limits or lids on local government entities, recognizing that local government officials are stewards of taxpayer dollars and ultimately answer to the voters with how they spend these dollars.

**4. Help prevent motor vehicle involved accidents or deaths due to distracted driving.**

*Problem:* Distracted driving has become an increasing problem on Nebraska roads. The Nebraska Department of Roads has seen an increase of more than 1,000 more distracted driving related crashes in the last 10 years. Unfortunately, traffic-related deaths in Sarpy County due to speeding, distracted driving, and other factors are higher this year than the year before. This includes a recent accident in Sarpy County that resulted in the death of 10-year-old Abby Whitford.

*Solution:* Support legislation around texting and driving that Senator Hilkemann plans to introduce. This is also a priority for Bellevue Police Department.

**5. Modernize and streamline the process for appraisal inspections by allowing aerial photo technology to be used for appraisals.**

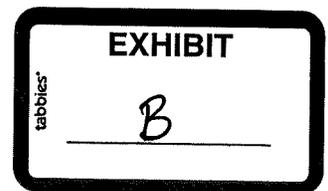
*Problem:* Inspections for property appraisals take significant time and resources for the Sarpy County Assessor's Office. Sarpy County has a GIS Department with very current and high-resolution aerial photographs that could help modernize and streamline the process for valuation decisions; however, current state law only allows the Assessor's office to verify what the appraisers and data collectors see in the field.

*Solution:* Introduce legislation to allow aerial photo technology to be used for appraisals.

**6. Standardize how the first acre of property for farm/home sites is valued to ensure this is enforced equally and fairly across the state.**

*Problem:* There is a good deal of variance among counties on how the first acre of property for farm/home sites is valued. This has been a challenge for Sarpy County for the last decade and legislation is needed to standardize and clarify how this is treated to ensure that the provision is enforced equally and fairly across the state.

*Solution:* Introduce legislation that standardizes and streamlines the first acre valuation for farm/home sites.



## 2020 LANCASTER COUNTY LEGISLATIVE PRIORITIES

### 1. Allow financing of County Bridges under Neb. Rev. Stat. §23-120(3)(b)

The number of structurally deficient county bridges in Nebraska is increasing at an alarming rate. Amending Neb. Rev. Stat. §23-120(3)(b) to include county bridges could provide a steady source of revenue to address this public safety issue.

### 2. Statutory Changes to Implement Statewide 24/7 Sobriety Program

The 24/7 Sobriety Program has been successfully used in other states to reduce recidivism for alcohol-related offenses such as driving under the influence. Lancaster County is in the process of establishing a 24/7 program under the supervision of the County's Community Corrections Department. Statutory changes are needed to mandatory sentencing and drivers license provisions to provide incentives for participants to actively participate and complete the program.

### 3. Amend the Mental Health Commitment Act to Allow Sharing of Mental Health Information Among Providers and Law Enforcement Agencies

The strict limitations on the release of mental health records under Neb. Rev. Stat. §71-961 can interfere with continuity of care and the ability of law enforcement to protect the public safety. §71-961 should be broadened to allow providers to share mental health records when it will assist in providing better continuity of care or when the safety of an individual or the public can be enhanced by allowing law enforcement agencies to have such information.

### 4. Adopt the Advance Mental Health Care Directives Act under LB 247

An acute mental health episode can cause a person to refuse treatment that the person would freely accept if not impaired by mental illness. If the mental health episode leads to incarceration, the person may refuse medications essential to their treatment. If that individual had signed a lawful advance mental health care directive, more timely care can be provided. Stabilizing a person in a mental health crisis can lead to shorter periods of incarceration and increased public safety.

## Standing Priorities

### 1. Property Tax Relief

Property tax relief continues to be the top legislative priority for Lancaster County.

Pressure on the property tax can be reduced by eliminating unfunded mandates which primarily benefit the State, including the obligation of counties to pay rent for certain Health and Human Services facilities under Neb. Rev. Stat. §68-130. Another way to reduce reliance on the property tax is to diversify county revenue sources. Potential new revenue sources for counties could include:

- Tobacco tax increase
- Occupation tax on wineries
- Remove sales tax exemption on soda, energy drinks, and candy, and earmark the proceeds for property tax relief
- Increase statutory fees to keep pace with the cost of the service being provided
- Establish reasonable fees for services provided by the county engineers for issuance of driveway permits, right-of-way permits, subdivision reviews, load permits, and for petitions to vacate or abandon a county public road

### 2. Funding for Adult Criminal Justice System Reform

Lancaster County's jail population and probation housing costs have increased as a direct result of 2015 Neb. Laws LB 605. Funding for the County Justice Reinvestment Grant Program created under LB 605 should be maintained or increased to help offset these additional costs. Additional property tax savings could be realized through criminal justice reforms such as no cash bail, and mandating home arrest for inmates who qualify for work release and for persons convicted for nonsupport of their children.

### 3. Funding for Juvenile Justice Reform

Juvenile justice reform under 2013 Neb. Laws LB 561 is not being adequately funded. With the passage of 2018 Neb. Laws LB 1112, adequate funding becomes even more critical. Additional funding should be appropriated for community-based post adjudication services, and existing funding levels for the Juvenile Justice Community Based Aid Program should be maintained or increased.

**BOARD OF COUNTY COMMISSIONERS**  
**DOUGLAS COUNTY, NEBRASKA**  
**106<sup>TH</sup> (2019, 2020) LEGISLATIVE BILLS**

**ACTIVE**

**NE - LB20** Require voter approval of public building commission bonds

106th 1st session, Douglas County oppose

Last Action: Notice of hearing for January 24, 2019 (January 17, 2019); Government, Military and Veterans Affairs Committee

Primary Sponsor: Briese

**NE - LB105** Designate corn as the state vegetable

106th 1st session, Douglas County support

Last Action: Notice of hearing for February 11, 2019 (January 30, 2019); Executive Board

Primary Sponsor: Linehan

**NE - LB163** Permit counties to conduct elections by mail

106th 1st session, Douglas County support

Last Action: Notice of hearing for March 06, 2019 (February 26, 2019); Government, Military and Veterans Affairs Committee

Primary Sponsor: Hunt

**NE - LB247** Adopt the Advance Mental Health Care Directives Act

106th 1st session, Douglas County support

Last Action: Notice of hearing for February 01, 2019 (January 23, 2019); Judiciary Committee

Primary Sponsor: Bolz

**NE - LB289** Change provisions relating to county assessor inspections of real property for property tax purposes

106th 1st session, Douglas County oppose

Last Action: Linehan AM1754 filed (May 16, 2019); on General File

Primary Sponsor: Linehan

**NE - LB312** Change and eliminate provisions relating to dental hygienists

106th 1st session, Douglas County support

Last Action: Health and Human Services AM1134 filed (April 5, 2019); on General File

Primary Sponsor: Hansen, B.

**NE - LB518** Adopt the Support for Trafficking Survivors Act

106th 1st session, Douglas County support

Last Action: Health and Human Services AM899 filed (March 25, 2019); on General File

Primary Sponsor: Linehan

**NE - LB550** Require voter approval of fees and taxes on wireless services and eliminate the Prepaid Wireless Surcharge Act

106th 1st session, Douglas County oppose

Last Action: Wayne AM1393 pending (April 17, 2019); on General File

Primary Sponsor: Vargas

**NE - LB646** Eliminate cash bail bonds, appearance bonds, and related provisions

106th 1st session, Douglas County support

Last Action: Notice of hearing for February 13, 2019 (February 5, 2019); Judiciary Committee

Primary Sponsor: Chambers

**NE - LR8CA** Constitutional amendment to limit the total amount of property tax revenue that may be raised by political subdivisions

106th 1st session, Douglas County oppose

Last Action: Notice of hearing for February 27, 2019 (February 20, 2019); Revenue Committee

Primary Sponsor: Linehan

**APPROVED**

**NE - LB103** Change provisions relating to property tax requests

106th 1st session, Douglas County oppose

Last Action: Approved by Governor on March 12, 2019 (March 13, 2019)

Primary Sponsor: Linehan

**NE - LB237** Change provisions relating to sales and use tax collection fees

106th 1st session, Douglas County support

Last Action: Approved by Governor on May 08, 2019 (May 8, 2019)

Primary Sponsor: Crawford

**NE - LB327** State intent to appropriate funds for an increase in rates paid to behavioral health service providers

106th 1st session, Douglas County support

Last Action: Provisions/portions of LB327 amended into LB294 by AM1329 (May 31, 2019)

Primary Sponsor: Bolz

**NE - LB516** Change provisions relating to child abuse, the Child Protection and Family Safety Act, human trafficking, and child welfare services

106th 1st session, Douglas County support

Last Action: Provisions/portions of LB516 amended into LB519 by AM1460 (May 31, 2019)

Primary Sponsor: Pansing Brooks

**NE - LB519** Change statutes of limitations for certain sexual and trafficking offenses and authorize interception of communications relating to such offenses

106th 1st session, Douglas County support

Last Action: Provisions/portions of LB517 amended into LB519 by AM1460 (May 31, 2019)

Primary Sponsor: Slama

**NE - LB522** Name and change the purpose of the County Civil Service Commission Act, change provisions relating to commission membership and duties, and provide for appointment of a human resources director

106th 1st session, Douglas County support

Last Action: Provisions/portions of LB522 amended into LB411 by AM1379 (May 31, 2019)

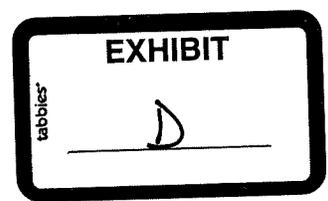
Primary Sponsor: Linehan

**NE - LB532** Change provisions relating to harassment protection orders, sexual assault protection orders, and domestic abuse protection orders

106th 1st session, Douglas County support

Last Action: Approved by Governor on May 30, 2019 (May 31, 2019)

Primary Sponsor: Cavanaugh



## Proposed 2020 NACO Legislation\*

### **1. Require Notice to Election Commissioners of Annexations**

**Problem:** When a municipality annexes territory in a way that alters the balance of population among election districts, the county clerk or election commissioner must redraw district boundaries to maintain substantial population equality between the districts. (§ 19-305(2)). Although the county assessor and register of deeds or county clerk must receive notice of annexations prior to July 1 for valuation purposes, election commissioners do not receive notice unless they are an ex officio county clerk.

**Solution:** Municipalities should be required to give notice of annexations to county clerks or election commissioners to allow adequate time to redraw boundaries before elections. In the alternative, county assessors or registers of deeds should provide copies of notices of annexations to election commissioners.

### **2. Regulate Poll Watchers**

**Problem:** Increased interest in elections has led to civic groups and others wanting to place poll watchers at polling sites on election day. Nebraska statutes are silent on allowing poll watchers and regulating their behavior.

**Solution:** Statutes should be enacted that give directions to poll watchers and election officials, including, but not limited to requirements for poll watchers to preregister with election officials and carry identification, as well as specifications about how close poll watchers can be to voters, election workers, and polling booths.

### **3. Revise Tax Exemption for Nursing Homes**

**Problem:** A non-profit company owning a number of assisted living/nursing home facilities has applied for property tax exemptions in several counties, citing the Nebraska Supreme Court's 2002 holding in *Bethesda Foundation v. Buffalo County Board of Equalization*, 604 N.W.2d, 263 Neb. 454 (2002). The Court found that the primary or dominant use of an assisted living facility was for charitable purposes. If these properties are exempted from property taxes, one county would experience a tax loss of over \$28,000. These facilities should not be exempted from property taxes simply because they are owned by non-profit or charitable entities.

**Solution:** Neb.Rev.Stat. §77-202(1)(d)'s exemption for property owned by charitable enterprises should be revised.

### **4. Authorize Scanning of Certain Documents Held by County Treasurers**

**Problem:** Records retention schedules require county treasurers to retain many documents related to taxation for ten years. In most cases, the original paper document is filed and not used again in that format. The paper documents take up valuable storage space but without specific authority to retain the official version of these records electronically, treasurers are reluctant to replace paper filings with electronic recordkeeping.

**Solution:** County treasurers should be given statutory authority to electronically preserve records for records retention purposes, subject to the Secretary of State's electronic records guidelines. Because the new motor vehicle titling and registration system requires some documents to be preserved electronically, there may be opportunities for efficiencies in the use of records preservation equipment.

\*Proposals are numbered for ease of discussion only

#### **5. Clarify when Grand Jury Reports are Available for Public Review**

**Problem:** When a no true bill and a grand jury report have been filed by the district court, § 29-1406 provides that they are available for “public review”, along with the grand jury transcript. This has been interpreted in some counties to mean that the clerk of the district court must make copies for anyone who requests them. In another county, the electronic evidence such as pictures and videos of crime scenes are saved to an electronic format and offered as evidence. The clerk of the district court was told to allow the viewing of the electronic evidence but it was not in a format that the clerk of the district court was able to allow the viewing. In one particular county, the grand jury did not find a no true bill but the court had ordered the transcript and evidence to be available for public view before the parties in the case came to trial. LB47 (2019) was introduced to address this disclosure but not pursued due to a Nebraska Supreme Court decision that a party in a subsequent order could move for a protective order to prohibit the release of the of the records.

**Solution:** Discussion of the issues presented in LB47 about who has access to grand jury reports, transcripts and exhibits should be continued. The issues that cannot be clarified by court rules should be addressed in legislation that requires the court to determine whether the transcript and/or the evidence are available for copies.

#### **6. Clarify Documents that Must be Withheld under Public Records Laws**

**Problem:** Inappropriate disclosure or failure to provide requested public records can lead to civil liability. State laws do not clearly distinguish between records that **may** be withheld and records that **shall** be withheld. In addition, federal law prohibits the dissemination of social security numbers but state law allows them to be released under certain circumstances.

**Solution:** Legislation should be introduced to help records custodians to identify when records become public and to specify the relationship between Nebraska’s public records laws and the federal Freedom of Information Act.

#### **NACO Carryover Bills**

LB387 (Pansing Brooks) Change and modernize provisions relating to juries

LB376 (Friesen) Provide for safekeeping of prisoners

LB455 (Arch) Change medical services payment provisions relating to jails

LB707 (Erdman) Authorize the Tax Equalization and Review Commission to hold certain hearings by videoconference and telephone conference

## **FRAMEWORK: County "Home Rule" Proposal**

### **BACKGROUND:**

Since 2004, Douglas County has taken steps to reform its juvenile justice system and change the way it serves children and families.

In 2007, the 144 unit Douglas County Youth Detention Center averaged approximately 210 youth per day and a length of stay of 60 days or more.

In partnership with the Nebraska Legislature, its Judiciary Committee, and State Probation, Douglas became the first Juvenile Detention Alternative Initiative (JDAI) in the state of Nebraska.

Since that time:

- The Legislature has changed and continues to change state statutes that lessening the reliance on detention;
- Douglas County has partnered with four private foundations (Sherwood, Kiewit, Lozier, and William and Ruth Scott) to implement a preventive effort (Operation Youth Success) to work upstream on preventative issues upstream and
- The Douglas County Board of Commissioners, Omaha City Council and the Omaha Public Building Commission have approved the issuance of \$120 million dollars' worth of bonds to build a one stop facility to serve children and families. This includes a five million dollar private donation to develop alternative to detention programming.

### **ISSUE:**

Though we have made great progress throughout the State of Nebraska, we feel Douglas County, particularly, has a "window of time" to change the cultural paradigm of services to children and families for generations to come.

To do this, Douglas County government needs a "heightened statutory"/home rule authority in the areas Criminal Justice and Public Health to address its specific needs and not burden Nebraska counties who don't have the same juvenile justice issues or want to take the "home rule" approach.

### **POTENTIAL SOLUTION FRAMEWORK:**

The suggested points are a framework for legislation that gives home rule authority to Nebraska Counties:

- An "opt in" option for those county that want to exercise this approach as a "single county" or with "multiple counties"
- The creation of a C.H.I.N.S. (Children in Needs of Service) Division at the local level to serve families in need
- An appointed advisory board (similar to 1184 teams with its same or greater degree of secrecy to protect families) that provides expertise to the county board
- Quarterly reports from the County to the Judiciary and Health and Human Services Committee
- A pay structure foundationally and initially funded by money in the existing system based on a population formula
- Addition of ordinance power in juvenile justice and public health
- Use of the state Ombudsman/women that would provide reports to the Board of Commissioners and the Judiciary and Health and Human Services Committees.