

**MINUTES  
LANCASTER COUNTY BOARD OF COMMISSIONERS  
LEGISLATIVE RETREAT  
THURSDAY, AUGUST 26, 2021  
JUSTICE AND LAW ENFORCEMENT CENTER, 575 SOUTH 10TH STREET  
LANCASTER COUNTY SHERIFF'S TRAINING CLASSROOMS B & C  
8:30 A.M.**

*Advanced public notice of the meeting was posted on the County-City Building bulletin board, and the Lancaster County, Nebraska, website and emailed to media on August 25, 2021, and published in the Lincoln Journal Star print edition and website on August 20, 2021.*

Commissioners Present: Rick Vest, Chair; Deb Schorr, Vice Chair; Roma Amundson; Sean Flowerday and Christa Yoakum

Others Present: Rachel Garver, County Treasurer; Rob Ogden, Assessor/Register of Deeds; Dennis Meyer, Budget and Fiscal Director; Jim Davidsaver, Emergency Management Director; Sara Hoyle, Human Services Director; Kerin Peterson, Facilities and Properties Director; Kim Etherton, Community Corrections Director; Ben Houchin, Chief Deputy Sheriff; Terry Wagner, County Sheriff; Pat Condon, County Attorney, Scott Etherton, Mental Health Crisis Center (MHCC) Director; Brian Pillard, Records and Information Management Services Director; Joe Nigro, Public Defender; Brad Johnson, Corrections Director; Pam Dingman, County Engineer; Joe Kohout and Brennen Miller, Kissel, Kohout ES Associates, LLC; Todd Wiltgen, Public Policy Specialist, Lincoln Chamber of Commerce; David Derbin, Chief Administrative Officer and Leslie Brestel, County Clerk's Office

The Chair noted the location of the Open Meetings Act and opened the meeting at 8:34 a.m.

**AGENDA ITEM**

**1. APPROVAL OF STAFF MEETING MINUTES FOR AUGUST 19, 2021**

This item was held until later in the meeting.

**2. OPENING COMMENTS AND REVIEW OF 2021 LEGISLATIVE SESSION – Rick Vest, Lancaster County Board Chair; and Joe Kohout and Brennen Miller, Kissel, Kohout, ES Associates LLC**

Kohout stated the main focus of the Legislature is the special session that will convene in September for redistricting. The census data was received within the previous two weeks by the legislative offices. Redistricting requires public hearings in all three congressional districts. The Speaker's Office will issue a memo later this week with an estimation of when the Legislature will convene. He noted the special session is limited to the scope of the call of the Governor. The anticipation is for the for call to only be for redistricting. There is concern other items may be brought up, such as vaccinations.

Kohout discussed interim study hearings. The Appropriations Committee will hold a hearing on October 5, 2021, for American Rescue Plan Act (ARPA) funds. The Health and Human Services

Committee will hold two hearings on September 15, 2021, on behavioral health workforce and acute placements post hospitalization.

Regarding the 2022 session, Kohout said there will be a separate bill on ARPA funds. It will have a hearing in October. Other issues to expect will be tax policy including inheritance tax as a revenue source for counties, and how to expand tourism throughout the State. The session is also a short session to be from January 5, 2022, to April 15, 2022.

Schorr asked if the Governor's Office will have a proposal for the spending of State ARPA funds. Kohout said there are conversations between the Appropriations Chairman, the Speaker and the Governor's Office. He anticipated the funds to be used for one-time funding opportunities.

Flowerday requested Kohout discuss how bills from the previous legislative session may keep their priority designations in the upcoming session. Kohout reported the Speaker has voiced his intent for the priority bills to maintain their status in the 2022 session. Historically, the priority status on bills has ended at the end of the year, and then the bills are reprioritized the next session. Flowerday added he expects the focus of this session to only be priority bills. Kohout added some bills will meet the time limit for the filing of a pull motion.

### **3. GENERAL LEGISLATIVE CONCERNS**

Vest opened the floor for discussion on legislative concerns (see agenda packet).

#### **New Proposals**

##### **1. Priority for Placement at State Hospitals for the Mentally Ill**

Scott Etherton, Mental Health Crisis Center (MHCC) Director, expressed his concern that the Department of Health and Human Services (DHHS) relies upon the order of placement to make recommendations as to who can be admitted to the Lincoln Regional Center (LRC). He felt this is how the LRC is moving to a forensic population and how individuals covered under the Mental Health Commitment Act are not prioritized.

Kohout expressed his support for bringing the bill forward. He felt a per diem rate could be determined for individuals being housed in the jail waiting for competency restoration who are not eligible for community competency restoration.

##### **2. Recovery of Costs for Lodging Mentally Incompetent Criminal Defendants in County Jails Pending Transfer to DHHS for Restoration of Competency to Stand Trial.**

Brad Johnson, Corrections Director, said this bill supports the priority for placement at state hospitals for the mentally ill. The jail currently has a waiting period of over 90 days. The 19 individuals in custody waiting for placement at the LRC have waited a total of 3,495 days as of June 8, 2021.

Kohout suggested combining the two issues into one to go to the Judiciary Committee. There was general discussion about using ARPA funds to increase the capacity of the LRC. Johnson voiced his concern about the lack of bed space and staffing at the LRC. S Etherton stated the LRC is for acute care, which from a managed care standpoint is a short duration. DHHS has had meetings with state

hospitals, MHCC and psychiatric administrators to determine who should be placed at LRC versus other places. Kohout added it is difficult to find guardianship for mentally ill individuals. He added using ARPA funds has been discussed in the meetings with DHHS.

Joe Nigro, Public Defender, said the Appropriations Committee should allocate funds to expand staffing and bedspace at LRC, including an adolescent wing.

Pat Condon, County Attorney, added the statute allows for the filing of a motion to dismiss if an individual is in custody longer than the sentence to be served. When this happens, the mental health issue has not been addressed and does not best serve the individual's needs.

### 3. Appropriations Bill to Cover Costs of State Public Assistance Programs (Medicaid).

No comments were offered.

### 4. Medication Assisted Treatment (MAT) in Problem-Solving Courts.

K Etherton outlined the legislation and the challenges faced by individuals who have had Medication Assisted Treatment (MAT) and no longer have access to their medications. The intent of the legislation is to access the Nebraska Opioid Settlement funds to have lifetime access to the medicine. The settlement funds are funneled to the Attorney General's Office. Kohout said the last time MAT funds were requested in 2018-2019, the funds were not added to the budget. There seems to be a higher level of frustration among the general public about opioid use and overdoses. Terry Wagner, Sheriff, Condon and Etherton felt law enforcement officials and the problem-solving courts would support this issue.

### 5. Court Technology

Condon noted electronic filing will be encouraged, in which the County will incur costs. No funding assistance is being discussed. Wagner noted when electronic citations were mandated, there was a cost to the County of \$1,500-\$2,000 per law enforcement vehicle.

### 6. State ARPA Appropriations

Vest noted behavioral health providers are facing many challenges including low reimbursement amounts and the impact it has on their ability to hire staff.

## **OTHER ITEMS**

### **Clean Up Legislation**

Regarding LB271 (Adopt the 24/7 Sobriety Program Act), Kohout reported a provision in the legislation was that \$5 of the permit cost would be designated to the program participant's county of resident. There will be a bill this year to designate the \$5 fee to the issuing county instead.

Flowerday exited the meeting at 9:29 a.m.

## **Pending Legislation and Interim Studies**

7. LB663 (Require the Nebraska Commission on Law Enforcement and Criminal Justice to create a mental health indicator in a criminal justice information system to alert emergency dispatch operators).

Condon stated during the legislative hearing last session, there was focus on how long an individual will remain on the list, and once released from the list, the length of time the mental health indicator will remain on the individual.

Flowerday returned to the meeting at 9:32 a.m.

Condon felt it important for the professionals to get involved in this issue.

7. LB242 (Provide for county bridges under the Political Subdivisions Construction Alternatives Act)

Discussion on this item was held with the infrastructure issues later in the meeting.

8. LB73 (Direct a portion of the proceeds from the Nebraska Racetrack Gaming Act to county agricultural societies).

Kohout noted the Gaming Commission has received multiple applications for gaming activities. He felt there could be an effort to cap how gaming licenses can be issued. There is no interim study on the issue.

9. LR215 (Interim study to examine set fee and fine amounts and the costs experienced by county governments when administering the associated services)

Derbin stated fee solutions with more flexibility, such as interlocal agreements, are being researched.

## **Prior Proposals**

There were no comments or discussions on prior proposals.

## **Standing Priorities**

1. Property Tax Relief

Flowerday said the opposition to Inheritance Tax is the opposite of property tax relief.

## **Pending Legislation on Watch List**

1. LB568 (Change provisions relating to truancy, juvenile courts, the Community-based Juvenile Services Aid Program, the Commission Grant Program, and compulsory education)

Sara Hoyle, Human Services Director, reported the bill would require all youth who have trancies

filed against them to go through Diversion. Currently, the County Attorney's Office screens the youth prior to going through Diversion. The Human Services Department would need an additional 3-4 full time equivalents (FTEs) as there would be an additional 200-250 more families and filings.

Concerning the community aid funding, Hoyle said there is the possibility of a change in how funds are distributed to being at the discretion of the Nebraska Crime Commission. She said Lancaster and Douglas Counties want to keep the funding tied to the formula currently in use.

#### **4. INFRASTRUCTURE ISSUES**

Pam Dingman, County Engineer, voiced her concern on LB242 (Provide for county bridges under the Political Subdivisions Construction Alternatives Act) noting that design-build options are not always the best solution for bridge replacements. She added permitting for bridges usually takes longer than designing the bridge.

Regarding LB339 (Require a utility coordination plan for certain highway and bridge contracts), Dingman stated the bill puts the responsibility for utility relocation on a county. She feels the utility companies should be responsible and not the counties.

#### **RETURNING TO STANDING PRIORITIES**

##### **1. Property Tax Relief**

Vest said there are renewed movements to reduce inheritance tax. Kohout stated there is concern with both the complexity to file inheritance tax and the fact that rates have not been adjusted recently. If part of the frustration is the continued increase in property valuations taxes, the tax code should be more reflective of the current economy.

Rob Ogden, County Assessor, added the Assessor's duty is to value the property at market value. He added property sales are slowing as are closings for amounts above list price.

#### **5. BREAK**

The meeting was recessed at 10:00 a.m. and reconvened at 10:17 a.m.

#### **RETURNING TO ITEM 1**

##### **APPROVAL OF STAFF MEETING MINUTES FOR AUGUST 19, 2021**

**MOTION:** Flowerday moved and Amundson seconded approval of the minutes. Flowerday, Amundson, Yoakum, Schorr and Vest voted yes. Motion carried 5-0.

#### **6. CRIMINAL JUSTICE ISSUES**

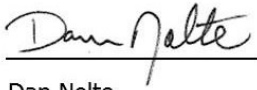
Kohout reported that last year the Judiciary Committee had a heavy focus on law enforcement credentialing and the issues with building a new prison. Other focuses included sentencing, Diversion and lowering the prison population. There are hearings scheduled for October.

K Etherton stated individuals cannot be successful in a Diversion program without the correct level of supervision. She added the risk management tool used in Community Corrections has helped lead to the success of program completions. The Mental Health Diversion Program is successful according to the statistics. K Etherton said she is not for using problem solving courts for all issues.

There was general discussion on systemic issues of poverty and mental health as they related to personal responsibility for decisions and actions and the effect these issues have on the criminal justice system.

## 7. ADJOURNMENT

**MOTION:** Schorr moved and Flowerday seconded to adjourn at 10:31 a.m. Amundson, Schorr, Yoakum, Flowerday and Vest voted yes. Motion carried 5-0.



Dan Nolte  
Lancaster County Clerk

