

CITY-COUNTY COMMON

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County Commissioners
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Mayor
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City Council
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AGENDA CITY COUNTY COMMON TUESDAY, NOVEMBER 4, 2008 COUNTY-CITY BUILDING 555 SOUTH 10TH STREET ROOM 113, 8:30 A.M.

1. Approval of Common Meeting Minutes of Monday, October 6, 2008

- 8:30 AM 2. City Misdemeanor Caseload for Public Defender - Dennis Keefe, Lancaster County Public Defender; Dr. Liz Neeley, Senior Research Manager, UNL Public Policy Center

- 8:45 AM 3. Update on Jail Financing - Ken Svoboda

- 9:00 AM 4. Personnel Department Director Replacement Procedure - Rick Hoppe, Aide to the Mayor

- 9:15 AM 5. Legislative Priorities - Kerry P. Eagan, Chief Administrative Officer

**CITY-COUNTY COMMON
MINUTES
TUESDAY, NOVEMBER 4, 2008**

Present: Robin Eschliman, Chair (8:35 a.m.); Ray Stevens, Vice Chair; Mayor Chris Beutler; Bob Workman; Doug Emery; Ken Svoboda; Dan Marvin; John Spatz; Bernie Heier; and Deb Schorr.

Absent: Jon Camp, Jonathan Cook, and Larry Hudkins.

Others Present: Dennis Keefe, Lancaster County Public Defender; Dr. Liz Neeley, Senior Research Manager, UNL Public Policy Center; Judge John Hendry, City Attorney; John Quinn, Deputy City Attorney; Scott Keene, Ameritas, Rick Hoppe, Aide to the Mayor; Kerry P. Eagan, Chief Administrative Officer

Dan Marvin opened the meeting at 8:31 a.m. Announcement made of The Nebraska Open Meetings Act posted on rear wall of Room 113.

1. Approval of Common Meeting Minutes of Monday, October 6, 2008

Heier moved approval of the Common Meeting minutes of Monday, October 6, 2008, seconded by Stevens. Motion passed 10-0.

2. Public Defender City Misdemeanor Caseload - Dennis Keefe; Dr. Liz Neeley (Attachment A)

Keefe gave background on Public Defender's caseload study which recommends standards of a specific number of cases. The issue is whether there is an alternative to adding staff or paying private attorneys. One recommendation was to have the City Council look at City Ordinances to see if some cases could eliminate jail so counsel appointment not required. The City contributes \$162,667/year to the County for Public Defender representation. Without some relief will ask for a renegotiation, to add staff or private attorneys.

Keefe identified ordinances seen as possibilities. Alternatives could be penalty increases, or community service. Approximately 35% of Public Defender's cases are identified in this group. Doesn't mean all 35% would be cases with no jail.

Keefe stated when an ordinance is passed it is under the general six month jail, \$500 fine. The City Attorney has the position they cannot recommend passing ordinances mirroring state statutes but with lesser penalties.

Since September 1st when standards were implemented have withdrawn from 109 cases. These 109 cases amount to \$21,800, if the Judges appoint someone in every case.

Spatz asked if it makes sense to eliminate some cases from ordinances, since it is state law? Keefe didn't recommend, because if the City Prosecutor doesn't prosecute, the City may save the case expense, but local government spends more as the County Attorney's misdemeanor time is twice the City Attorney's.

Mayor Beutler thought constitutional requirement was an offense with jail of one year, or more, being required to have legal counsel. Keefe replied no, if a probability jail will be imposed from a misdemeanor conviction then counsel is required.

Eschliman asked of the 35% how many alcohol related? Keefe suggests the number at 95%, most crimes are alcohol related. Stevens asked if community service same as jail time? Keefe replied no. Stevens added someone may think a 1,000 hours of community service was worse than 7 days in jail.

Schorr asked the City Council how willing they are to make changes, with expenses at \$10,000/\$15,000 a month? Spatz would like legal to answer questions. Svoboda thought to put on a noon agenda or a pre-council, adding it seems the Public Defender and City Attorney offices have some discourse. Keefe

stated the possible disagreements are in regard to what to do with ordinances without legislative change.

3. Update on Jail Financing - Scott Keene, Ameritas

Keene reported documents almost ready for rating agencies to review. Hope for approvals and prepared to go to market early December. If the market doesn't allow because of interest rates/market conditions looking at trying in January. Now probably have an average interest rate of between 5.25% and 5.50%, and 3 months ago was in the 4.75% range.

Keene said some hedge funds currently selling off securities are the same who bought lots of municipal bonds a year ago, and now may not be participants. Don't want to be greedy, but don't want to rush into market when not advantageous.

Workman asked if the municipal bonds market not due to interest rates but to economic slowdown to provide projects? Keene replied some insurers are on the long forward calendar. Government entities plan in advance with needs not necessarily driven by the market. Will see issuance, just a rate question, and where the demand will be.

Stevens thought once an agency decides the rating basically a clock starts, is it absolute or approximate? Keene replied approximation, typically like the bonds to go to market within 30 days of when they provide the rating. If not able to get into market early in December, they would allow us to carry over into January. Bond buyers step aside usually by the end of the second week in December.

Workman stated with 75 basis points, if we issued today from 4.75% - 5.50%, how much per year, \$600,000? Keene replied approximately, the JPA agreement has a maximum commitment of the City's levy of \$3.5 million, and we would be under, combined with the \$2 million levy from the County. If trying to get into the market now could meet the threshold.

4. Personnel Director Replacement Procedure - Rick Hoppe (Attachment B)

Hoppe stated Don Taute, Personnel Director, will return to the City Attorney's office. The County Board and Mayor jointly appoint the personnel director with the City Council voting on the appointment of the Mayor. This is a joint appointment with the Mayor and County Board representatives meeting to put together the process outline. Commissioners Schorr and Stevens will be the County representatives. Specific names are moving forward, and will contact Council Members shortly to talk about the process.

Eschliman asked about the process last time. Hoppe said a group reviewed applications, did interviews, deciding on Mr. Taute. Eschliman asked if County and City representatives reviewed the applications? Heier stated the Board Vice-Chair and the Mayor. Hoppe anticipates to fill the position in December. Svoboda asked with the fire union contract would Taute maintain the position as negotiator but as a City Attorney as opposed to Personnel Director? Hoppe thought Taute would be involved in the negotiations with his position in law, short term not as important as the fact he will be involved.

5. Legislative Priorities - Kerry P. Eagan (Attachment C)

Eagan distributed 2009 County Legislative priorities. No.1 is property tax relief through state funding for county governments. Law suggested to be more broad as there is a Legislative study going on concerning a state aide formula for County and City governments. Also, Mental Health funding is important for community based programs and emergency protective custody, but the Legislative Branch may be cutting funding to EPC. This is a County obligation subsidized by the State and if cut may have a bad effect on shared community interests. Do not know what property values will be for property tax.

It's important to have the proper amount of State funding to maintain the same level of service.

No. 2 is authorizing a fee for Community Corrections. Would like a Legislative authorization for a Community Corrections fee, helping to defray the program cost. A mutual interest with our inter local agreement for the jail and Community Corrections. Possibly generate income without raising taxes.

Eagan commented with No. 3 tried last year but didn't get out of committee. Provides more funding flexibility. Projects were limited to 10 years and since we will use most of our money for a jail with other future building needs, would be nice to pay for with our 5.2 cent levy.

A new priority is to investigate creation of the position of magistrate. Several Commissioners have witnessed a magistrate system which performs a wide variety of functions, such as reviewing search/arrest warrants, setting bail, etc.. In Virginia it is not a law trained position, but could possibly reduce the need to add Judges, or could decrease the jail population because of speeding up the process.

Eagan said other priorities are to reuse the bubble packs in jails, the medicine kits. Also, the transfer of noncontiguous residential development rights. Would give greater flexibility for preserving flood plains, sensitive areas. A tool to use and save money in combination through acquisitions. The last is tax stickers on mobile homes which is generating a little push back from the Sheriff, and others.

Eagan stated part of today's presentation was to start City and County discussion about shared legislative interests, and where we can work together. Spatz asked if any County discussion regarding the CIR? Eagan replied the Commission of Industrial Relations has been on the list for 5/6 years. Can never find a State Senator to sponsor. CIR legislation is the sum of public employees labor law. One paragraph states you pay employees comparably for comparable work.

Eagan stated Emergency Protective Custody (EPC) is when a person is a danger to themselves or others, they can be detained until they recover and released, or taken before the Mental Health Board to determine care. Counties are mandated to perform. Marvin asked if the State considers taking away funding with the reply being yes. Schorr stated extremely important for the police, the first contact. Etherton added funded since 1989, and do depend on the State to provide hospitalization if necessary long term for individuals who come to the Corrections Center. The initial contact funding of law enforcement into the Corrections Center is a huge burden on the county. Schorr asked if a 15 minute overview next meeting would be wanted? Marvin replied yes.

Svoboda said the CIR was discussed at the Lincoln and Omaha Councils joint meeting. Agreed to work with the League of Municipalities to try and put together a briefing seminar, to realize what the CIR really, how it functions, what rules. Assume the County Board would want to be invited. Workman asked if possible to present at a Commons Meeting? Svoboda replied if the League presents they would probably invite anyone interested in attending. We thought to have an open discussion/briefing to know what kind of legislative changes we may want.

Marvin made motion to adjourn meeting, seconded by Svoboda. Roll called, motion passed 10-0.

Meeting adjourned at 9:17 a.m.

Mary Meyer, Clerk

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City Attorney Filed Misdemeanors and The Public Defender's Caseload Standards.
November 4, 2008

- The Advisory Committee for the Public Defender's Office Caseload standards recommended that the City Council review the City Ordinances and the penalties provided to see if the penalties in some instances may be changed to eliminate jail as a possible sentence thereby eliminating the need for the appointment of counsel.
- Re-working the city misdemeanors should be seen as a long term, systemic change. By reducing the total number of cases which require the appointment of counsel, we will slow the rates of growth of the misdemeanor docket. This will save both the City (FY09 City contribution - \$162,667) and County money in the long run. Without a change here, additional funding will be necessary.
- Some ordinances such as Disorderly House, Disturbing the Peace, Shoplifting, Consuming Alcohol In Public, Minor In Possession of Alcohol, Trespass, and False Reporting, could be changed to make the first, second, and, in some instances, third offenses, "fine only" cases with an increasing fine for each subsequent conviction. Community service could also be added as part of the penalty. This would eliminate the need for appointment of counsel until later when a jail sentence is a real possibility. Since the last Common Meeting, the caseload study researcher has determined that these types of offenses comprise approximately 35% of the public defender's appointment.
- I understand that there is Supreme Court case law indicating that a city ordinance cannot be inconsistent with a state statute on the same subject. This is based upon the statute defining the powers of Cities of the Primary Class. I am not sure that I agree with the position that a lower penalty in a City Ordinance makes that ordinance inconsistent. But if that is an impediment, the Council should pursue legislative change so that lesser penalties in City Ordinance cases are not prohibited. This will take longer but will provide the systemic change that is needed.
- In the first two months of implementation of the caseload standards, the Public Defender's Office has withdrawn from 109 cases because of case overload. To their credit, the County Judges and City Prosecutors are making a second assessment at that time about whether or not jail is a real possibility in order to cut down on the number of cases where counsel will be needed. If private assigned counsel had to be appointed in everyone of those cases, it would cost \$21,800 (109 cases x \$200 per case).

*Interlocal Agreement
Personnel Department*

employees furnished by the city, in the same percentage as the total number of city employees bears to the total number of city and county employees; however, special personnel services shall be separately budgeted and paid for by the respective governmental subdivision requesting such service.

4. Termination. Subject to annual review, this agreement shall remain in full force and effect from year to year until amended or terminated. This agreement may be terminated by either party giving to the other no less than ninety (90) days advance written notice of termination. After said notice, this contract shall terminate without necessity of further action by either party. The written notice provisions of this paragraph may be shortened or lengthened by mutual written agreement of the parties.

5. Services to County. The joint department shall provide for the county's personnel related needs as described by and in accordance with LB 995, Laws of Nebraska, 1974 [now Neb. Rev. Stat. §23-2517 to §23-2533] and other personnel and labor-related services as needed by the county.

6. Services to City. The joint department shall provide for the city's personnel related needs as described by and in accordance with LB 995, Laws of Nebraska and the Charter of the city, particularly Article IX-A thereof and other personnel and labor-related services as needed by the city.

7. Appointment. The city-county personnel administrator shall be subject to appointment by the mayor and by the county board of commissioners. No appointment shall be final and valid until the city council shall have acted affirmatively thereon. The county shall appoint the city-county personnel administrator as the county personnel officer as prescribed in LB 995, Laws of Nebraska, 1974 [now Neb. Rev. Stat. § 23-2533]. The city shall appoint the city-county personnel administrator as the city personnel director as prescribed §2.58.100 of the Lincoln municipal code and other applicable statutes, ordinances and charter provisions.

8. Dismissal. The city-county personnel administrator shall be subject to dismissal by both the county and the city. The county may dismiss the city-county personnel administrator as the county personnel officer as prescribed by personnel rules and statutes. The city may dismiss the city-county personnel administrator as the city personnel director as prescribed by statute, ordinance, and charter. In the event that either the county or the city shall dismiss the city-county personnel administrator, the other party must also consider and formally concur or not concur with the dismissal. In the event that both parties do not concur in the dismissal, either party may terminate this agreement as provided in paragraph 4 hereof.

9. County Personnel Rules. All county personnel policy rules now in effect shall remain in effect and any amendments thereto shall be as prescribed by statute.

10. City Personnel Rules. All city personnel policy rules, ordinances, and regulations shall remain in effect and any amendments thereto shall be as prescribed by statute and/or ordinance.

11. County Legal Opinions. The county shall continue to provide written opinions concerning applicable laws of the State of Nebraska and rules and regulations propounded by the county personnel policy board and the county board of commissioners pertaining to the services herein provided to the county or other county personnel matters are requested or deemed necessary by the city-county personnel administrator.

 [LawsBills/ResolutionsCalendarHome](#)

Current Session Information

The legislature has adjourned sine die. The 101st legislative session will begin in January, 2009.

If you need assistance performing a QuickSearch, please contact the Nebraska Legislature's Help Desk at support@leg.ne.gov.

Section 23-2523 [Print Friendly Copy](#)

[Revised Statutes](#) [Chapter 23](#)

County personnel officer; appointment; qualifications.

The board of county commissioners shall appoint a county personnel officer who shall be a person experienced in the field of personnel administration and in known sympathy with the application of merit principles in public employment.

Source:

Laws 1974, LB 995, § 7.



Chapter 2.28

PERSONNEL DEPARTMENT

Sections:

- 2.28.010 Director; Appointment; Duties Generally.
- 2.28.020 Office; Custody of Documents.
- 2.28.030 Reports to Council.

2.28.010 Director; Appointment; Duties Generally.

The Mayor shall appoint, with approval of the City Council, the Personnel Director. The Personnel Director shall be the secretary of the Personnel Board and the administrative head of the Personnel Department. The Personnel Director shall be responsible for the proper conduct of all administrative affairs of the Personnel Department and for the execution of the personnel program prescribed in the charter and in the ordinances and resolutions consistent therewith. The Personnel Director shall be responsible for administrative supervision of all divisions of the executive branch assigned or attached to the Personnel Department.

The Personnel Director shall:

- (a) Maintain the classification plan so that it reflects the current duties, responsibilities, and nature of work of positions of the city service.
- (b) Administer the compensation plan in accordance with the provisions of the charter and these rules.
- (c) Develop and administer such recruiting and examination programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the city service.
- (d) Encourage and exercise leadership in the development of effective personnel administration within the several departments of the city government and make available the facilities of the Personnel Department to this end.
- (e) Foster and develop, in cooperation with department heads and others, programs for the improvement of employee effectiveness, including training, safety, health, counseling and welfare.
- (f) Provide for the establishment and maintenance of a roster of all employees in the city service.
- (g) Provide a system of checking payrolls, so as to determine that all persons in the city service have been appointed and are being paid in accordance with these rules.
- (h) Prepare and adopt such forms and procedures as may be necessary or desirable to carry out the city's personnel program.
- (i) Apply and carry out the provisions of the charter and the rules adopted thereunder.
- (j) Attend meetings of the Personnel Board and provide secretarial services for the Board and for the keeping of minutes of its meetings.
- (k) Investigate, from time to time, the operations and effects of the charter and rules adopted thereunder and report findings and recommendations to the Personnel Board.

(l) Perform any other lawful acts which may be necessary and desirable to carry out the purposes and provisions of the charter and these rules. (Ord. 15389 §1; January 8, 1990; P.C. §2.58.100; Ord. 8619 §7; December 21, 1964; prior Ord. 7208 §10; June 20, 1960).

2.28.020 Office; Custody of Documents.

The Personnel Director shall keep an office in the rooms provided by the City Council which shall be kept open to the public during usual business hours. The Personnel Director shall have charge and control of all the necessary public charts, graphs, plans, books, documents, and other records pertaining to the office which shall be carefully preserved in the director's office as the property of the city. (Ord. 15389 §2; January 8, 1990).

2.28.030 Reports to Council.

The Personnel Director shall furnish the City Council with such reports as it may from time to time request. (Ord. 15389 §3; January 8, 1990).

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2009 LANCASTER COUNTY LEGISLATIVE PRIORITIES

1. **Property Tax Relief through Appropriate State Funding for County Government**

Property tax growth cannot be controlled without a well-designed and reliable state aid program for counties. State funding should be directed where it is needed most, especially where it can increase the effectiveness of state and local cooperation. For Lancaster County, state funding is needed to help offset the cost of holding state prisoners, meet the increasing demand for roads, and cover the cost of new mandates in the area of juvenile court proceedings. Also, the community-based mental health system is a state responsibility which should not be funded with property tax. The County is a willing partner in providing mental health services, but adequate state funding must be provided for these programs, as well as the related function of emergency protective custody.

2. **Authorize a Fee for Community Corrections**

The Lancaster County Community Corrections Department is helping reduce jail overcrowding. However, the Department is operating at full capacity and must be expanded to meet demand for services. Imposition of a fee for participation in community corrections programs would provide some of the funding needed to expand services to accommodate existing and future needs, without raising taxes.

3. **Amend Neb. Rev. Stat. §23-120(3)(b) to Authorize Twenty (20) Year Projects**

Given the increase in construction costs, the annual 5.2¢ levy under §23-120(3)(b) is not adequate to finance construction of essential government buildings in ten (10) years.

4. **Investigate Creation of the Position of Magistrate**

The County supports a legislative study to examine creation of the position of magistrate. The principal function of the magistrate would be to provide an independent, unbiased, review of complaints brought to the office by law enforcement and citizens. A magistrate is specially trained to issue search warrants, subpoenas, arrest warrants, summonses, and set bail. The magistrate would be a state employee under the supervisory control of the judiciary. This position could reduce the need for adding judges and could help reduce the jail population by expediting the release prisoners when appropriate.

5. **Other Priorities**

- A. Allow reuse of bubble packs by jails
- B. Authorize transfer of noncontiguous residential development rights
- C. Require tax stickers on mobile homes