

COUNTY COMMISSIONERS' MINUTES
WEDNESDAY, FEBRUARY 17, 2016

The Board of County Commissioners met today in their weekly Commissioners' Meeting.

Present at today's meeting were:

Dennis P. Stuckey, Chairman
Joshua G. Parsons, Vice Chairman
Craig E. Lehman
BOARD OF COUNTY COMMISSIONERS

Lisa Johnson
ASSISTANT CHIEF CLERK

Also present were:

Matthew Acker, Deputy Treasurer and Director of Tax Claim Bureau
TREASURERS DEPARTMENT

Trisha Banker, Wellness Committee Member
HUMAN RESOURCES

John Bennawit, Records Specialist
INFORMATION TECHNOLOGY DEPARTMENT

Martin Dees, Member
LANCASTER CHAPTER OF THE NAACP

Charles Douts, Director
FACILITIES MANGEMENT

Barry Garman, Project Manager
FACILITIES MANGEMENT

Jeff Hawkes, Reporter
LANCASTER NEWS PAPER

Sue Martin, Executive Director
CENTRAL PARK TRAIL RIDES AND LANCASTER COUNTY SPCA

Arthur Morris, Resident
LANCASTER CITY

Marilyn Sachs, Fiscal Technician
PLANNING COMMISSION

Paul Weiss, Administrator
DEPARTMENT OF PARKS AND RECREATION

Misty Witmer, Deputy Director
INFORMATION TECHNOLOGY DEPARTMENT

Commissioner Stuckey called the meeting to order at 9:17 a.m. followed by the Pledge of Allegiance.

Commissioner Stuckey announced that the Board of Commissioners met in Executive Session on Tuesday, February 16, 2016 at 2:30 p.m. to discuss and review applicants for the Chief Clerk's position, no final decision has been made yet and that there will be more discussion and Executive Sessions will be announced as held.

Commissioner Stuckey postponed the approval of January 20, 2016 Commissioners' Meeting Minutes, January 27, 2016 Commissioners' Meeting Minutes and February 3, 2016 Commissioners' Meeting Minutes.

Commissioner Stuckey announced there will be no Work Sessions held on Tuesday, February 23, 2016 and Tuesday, March 15, 2016, and there will be no Commissioners' Meeting held on Wednesday, February 24, 2016.

Commissioner Stuckey announced an evening Commissioners' Meeting will be held on Wednesday, March 9, 2016 at 7:00 p.m. at Denver Borough Municipal Building, 501 Main Street, Denver, Pennsylvania. There will be no Commissioners' Meeting scheduled for Wednesday morning, March 9, 2016 at 9:15 a.m.

Presentation of Black History Month Proclamation

Martin Dees, Member, Lancaster Chapter of the NAACP

Presentation of "It Pays to be Fit!" Wellness Warriors Awards

Trisha Banker, Wellness Committee Member, Human Resources

Danna Baranowski, Wellness Committee Member, Information Technology/GIS

Janet Fitzgerald, Wellness Committee Member, Behavioral Health/Developmental Services

-Continued-

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Winners – Women Warriors:

- 1st Place: Paula Bingeman, Prison
- 2nd Place: Rebecca Sangrey, Behavioral Health/Developmental Services
- 3rd Place: Vivian Moyer, Office of MDJ Hamill

Winners – Men Warriors:

- 1st Place: Philip Pronick, Adult Probation and Parole
- 2nd Place: Daniel Burns, Adult Probation and Parole
- 3rd Place: Devin Orme, Adult Probation and Parole

RESOLUTION NO. 21 OF 2016

On motion of Commissioner Parsons, seconded by Commissioner Lehman;

BE IT RESOLVED, That the members of the Board of Commissioners of the County of Lancaster, Pennsylvania do hereby designate themselves as the officials to execute the Master Grant Agreement for the Unified Planning Work Program (UPWP) and subsequent work orders between the Commonwealth of Pennsylvania Department of Transportation and the County of Lancaster, Pennsylvania.

BE IT FURTHER RESOLVED, That the Board of Commissioners does hereby verify that Lisa L. Johnson serves as the Assistant Chief Clerk for the County of Lancaster, Pennsylvania.

WE, the Board of Commissioners of the County of Lancaster, Pennsylvania do hereby certify that the foregoing is a true and correct copy of a Resolution adopted and supported by a majority vote of the Board of Commissioners of Lancaster County at its regular meeting held Wednesday, February 17, 2016, and that said Resolution has been recorded in the minutes of the Lancaster County Commissioners' Meeting.

Motion passed unanimously.

RESOLUTION NO. 22 OF 2016

On motion of Commissioner Lehman, seconded by Commissioner Parsons;

BE IT RESOLVED By the Board of Commissioners of Lancaster County, Pennsylvania, acting on behalf of the Lancaster County Planning Commission, to authorize the approval and execution of Master Grant Agreement No. 521160 with the Commonwealth of Pennsylvania, Department of Transportation, Harrisburg, Pennsylvania, for the purpose of providing funding to perform services in the field of transportation planning and programming for the Lancaster Area Metropolitan Planning Organization, including coordination and cooperation to meet local, regional, state and federal goals and objectives known as the Unified Planning Work Program (UPWP). The total amount of the contract shall not exceed \$5,000,000.00 for the period July 1, 2016 through June 30, 2022 which includes 80% Federal funding; 10% State funding; and 10% local funding.

Motion passed unanimously.

On motion of Commissioner Parsons, seconded by Commissioner Lehman, it was agreed for the County of Lancaster, acting on behalf of the Facilities Management Department, to approve the following:

- 1. **Change Order No. 2 With:** I. B. Abel, Inc.
York, Pennsylvania
- For:** To provide additional electrical construction services for the Children and Youth Agency renovations at the Lancaster County Government Center as follows:

Commissioner Lehman withdrew his second to the motion to remain consistent with his prior vote opposing the relocation of Children and Youth employees from YIC to 150.

On motion of Commissioner Parsons, seconded by Commissioner Stuckey, it was agreed for the County of Lancaster, acting on behalf of the Facilities Management Department, to approve the following:

- 1. **Change Order No. 2 With:** I. B. Abel, Inc.
York, Pennsylvania
- For:** To provide additional electrical construction services for the Children and Youth Agency renovations at the Lancaster County Government Center as follows:

Installation of wireless access points.

Add \$21,783.51

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Additional security wiring and hardware for doors on the sixth and second floors.

Add \$7,135.48

Labor for cabling demolition at Children and Youth Agency Office at Youth Intervention Center.

Add \$1,240.04

Installation of double door mag lock.

Add \$3,080.26

Installation of printer receptacle and data location for re-located printer

Add \$1,364.05

Installation of temporary power for second floor furniture feeds.

Add \$2,207.09

Labor for demolition of Youth Intervention Center furniture power wiring.

Add \$2,429.32

Troubleshooting of fire alarm circuit 13.

Add \$1,537.36

Installation of one printer receptacle and three data locations.

Add \$3,314.22

Total Change Order:

Add \$44,091.33

Motion Passed.

Commissioner Stuckey – Yes
Commissioner Parsons – Yes
Commissioner Lehman – No

On motion of Commissioner Lehman, seconded by Commissioner Parsons, it was agreed for the County of Lancaster, acting on behalf of the Facilities Management Department, to approve the following:

Contract Extension With:

RETEW
Lancaster, Pennsylvania

Purpose:

To extend the term of the contract from March 3, 2016 through March 3, 2017 for the completion of Part 1 (Preliminary Design) for the replacement of the Pequea Lane Bridge, Pequea #5.

Note:

This contract extension does not impact the total contract amount which remains at \$575,128.52.

Motion passed unanimously.

On motion of Commissioner Parsons, seconded by Commissioner Lehman, it was agreed for the County of Lancaster, acting on behalf of the Department of Parks and Recreation, to approve the following:

Agreement With:

Central Park Trail Rides, LLC
Lancaster, Pennsylvania

Purpose:

To provide horses, equipment and staffing to provide guided horseback rides at the Lancaster County Central Park Equestrian Trail.

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Schedule: Fridays through Sundays from May 28, 2016 through September 5, 2016 and encompassing any holiday that falls on Monday within this time frame. Hourly rides will be conducted from 9:00 a.m. to 3:00 p.m. and half-hour rides will be conducted from 3:00 p.m. to 5:00 p.m.

Amount: Central Park Trail Rides will be responsible for full administration of the program with 25% of the net revenue being paid to the County of Lancaster and the remaining 75% being paid to the Lancaster County SPCA (\$40.00 per person per one hour ride and \$25.00 per person per 30 minute ride).

Motion passed unanimously.

On motion of Commissioner Lehman, seconded by Commissioner Parsons, it was agreed for the County of Lancaster to approve the appointment of Nikolaus & Hohenadel, LLP, Lancaster, Pennsylvania, as Solicitor for the Lancaster County Tax Claim Bureau to provide legal representation in any and all legal matters pertaining to the Lancaster County Tax Claim Bureau, at an hourly rate of \$110.00, retroactive to December 1, 2015.

The Board of Commissioners want the Solicitor for the Lancaster County Tax Claim Bureau to be evaluated every four years at the Commissioners' Organizational Meeting.

Motion passed unanimously.

On motion of Commissioner Parsons, seconded by Commissioner Lehman, it was agreed for the County of Lancaster to approve the appointment of D. Lynne Ferguson, Esquire, Mount Joy, Pennsylvania as Co-Solicitor for the Lancaster County Tax Claim Bureau to primarily handle bankruptcy cases and other legal matters, as required, pertaining to the Lancaster County Tax Claim Bureau, at an hourly rate of \$75.00, retroactive to December 1, 2015.

The Board of Commissioners want the Co-Solicitor for the Lancaster County Tax Claim Bureau to be evaluated every four years at the Commissioners' Organizational Meeting.

Motion passed unanimously.

On motion of Commissioner Lehman, seconded by Commissioner Parsons, it was agreed for the County of Lancaster, acting on behalf of the Information Technology Department, to approve the following:

Consultant Agreement With: LancasterHistory.org
Lancaster, Pennsylvania

Purpose: To protect and preserve historical documents for the County of Lancaster, including processing, indexing, preserving and accessing County records.

Amount/Term: Not to exceed \$140,875.00 for the period January 1, 2016 through December 31, 2016.

Commissioner Parsons felt that this price was fairly high but that he didn't know the business, but he did some research and talked to the director of IT and Budget Services and found out that the contract was negotiated down over the years to get some savings. Commissioner Parsons recognizes the benefit to the public to have over eighty percent of the documents scanned and available. Also Commissioner Parsons recognizes the value of the climate controlled facility and the care and personnel costs that it would take if this service was brought back in house. Commissioner Parsons thinks it's something to look at in the future to see if the price every year is truly justified. Additionally Commissioner Parsons understands that it's a lot of records, over 500,000, so he see the value but he feels that it's something that bears watching.

Motion passed unanimously.

Mr. Morris stated that through research, which included Right to Know Requests, he has learned that the County agreed to follow PennDOT's policy and procedure for consultant selection, which they used for selecting a County Engineer. A core part of that procedure was the appointment of a selection committee by the County, which Mr. Morris stated the County did. Mr. Morris stated that the selection committee was tasked to reviewing the qualification of the consultant through submitted statements of interest and response to an advertisement, which the County placed. Mr. Morris also stated that the selection committee, as a result of those statements of interest, interviewed nine consultants and using the ranking spreadsheet scored each consultant on a variety of measures. Based on the ranking spreadsheet the top four scoring engineering firms were invited to make a presentation on December 29, 2011 before the Board of Commissioners Mr. Morris stated. Mr. Morris stated that almost two weeks later on January 11, 2012 by Resolution 8 of 2012 at the continuation of the January 3 Organizational Meeting the Commissioners' appointed Rettew County Engineer. Mr. Morris also stated that there was no public deliberations or mentions of other firms at that meeting other than to say there were five firms interviewed. Mr. Morris discussed his Right to Know request that the County denied because the document was not subject to the Right to Know Law because it is a record that reflects the internal pre-decisional deliberations of the County. Mr. Morris gave examples of how he feels that the Sunshine Law was violated by the County Commissioners in regards to the selection of Rettew as County Engineer. Mr. Morris gave differences between the contracts with former County Engineer HRG and the current County Engineer Rettew. Mr. Morris added that during the term of the contract with Rettew the collective campaign committees of the previous three County Commissioners, two of whom continue to serve, have received over \$21,000 from the Rettew Political Action Committee.

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Commissioner Stuckey thanked Mr. Morris for his comments and stated that he had no comment at this time.

Commissioner Lehman thanked Mr. Morris for pointing out that he has always gotten the least amount of campaign contributions whenever Mr. Morris has raised this issue and Commissioner Lehman feels that is the case in this particular instance. Commissioner Lehman asked Mr. Morris if there was any differentiation that he could determine from the process to select HRG and the process to select Rettew. Commissioner Lehman stated that the County is about to go through the RFP process to select a new County Engineer and if Mr. Morris feels that there are deficiencies in terms of how the process was handled in the past that Commissioner Lehman was open to hearing them and if they are reasonable he is certainly willing to consider them.

Mr. Morris stated that he has offered them previously. Mr. Morris also stated that he thinks that when the Commissioners inject themselves into doing the interview process behind closed doors, they create a big issue because the Commissioners end up being in a controlling situation. Mr. Morris feels that if the Commissioners leave the entire thing up to staff, where the staff brings it to a meeting to recommend to the Board and then the Board discuss it, you will have open transparency and discussions. Mr. Morris read an affidavit signed by former Chief Clerk Andrea McCue that was part of a document submitted by the County to the State as part of his appeal of the denial of his Right to Know Request.

Commissioner Lehman commented that the only recommendation that he recalls Mr. Morris making was that Mr. Morris felt that the Commissioners should not receive campaign contributions and that Mr. Morris felt that there should be some routine process in terms of going out for RFP's for things like the County Engineer. Commissioner Lehman stated that he didn't recall Mr. Morris ever making specific recommendations in terms of how he feels the process can improve.

Mr. Morris stated that he feels that this is something that the County Commissioners should look at and make a public apology and say that they won't do this again. Mr. Morris believes that this behavior is against the intent of the law and that he is not looking for someone to come in and prosecute the Commissioners and he's not calling on the DA to come in at this point. According to Mr. Morris all he is asking for is a change in behavior.

Commissioner Lehman asked if Mr. Morris had recommendations about how to deal with things going forward and that Commissioner Lehman is more than open to them. Commissioner Lehman feels that Mr. Morris is a reasonable person and he thinks that Mr. Morris just wants what's right for the county as well as he does. Commissioner Lehman told Mr. Morris that if there is anything that he can do to work with Mr. Morris to help that happen that he is all in.

Mr. Morris stated that he will do what he can in response to that. The point that Mr. Morris wanted to make was that the Commissioners interviewed in private, picked someone in private and told the staff who to put in the resolution, and Mr. Morris feels that is the core of the comments. That is something Mr. Morris feels that the Commissioners need to change without Mr. Morris telling the Commissioners how to do that. Mr. Morris said that he will certainly offer comments on the selection process. Mr. Morris feels that when the Commissioners get into discussing a consultant or professional services contract and the Commissioners are in the selection of it, Mr. Morris feels that the Commissioners need to be transparent and discuss it at a public meeting, and cannot be deciding behind closed doors. Mr. Morris feel that that is a key element and that nothing else that he can suggest to the Commissioners can change that particular point.

Commissioner Lehman stated that from his perspective he wants to be as transparent as he can possibly be when making these decisions because it's better for the County, it's better for whoever is selected to do the work and quite frankly it's simply the right thing to do. Commissioner Lehman said that he doesn't have a problem with trying to improve the process going forward and Commissioner Lehman welcomes Mr. Morris' input on this matter. Commissioner Lehman wanted to comment on a conversation that he had with Mr. Morris before the meeting. Commissioner Lehman stated that he will be posting his campaign contributions online going forward. Also Commissioner Lehman stated that if staff has to agree to not taking lunches from campaign contributors that Commissioner Lehman would as well. Commissioner Lehman stated that he is in favor of the County moving forward with the RFP process for County Engineer this year. Commissioner Lehman stated that he feels it is inappropriate to receive campaign contributions once the RFP goes out and there is a deliberation process until after the engineer is finally selected. Commissioner Lehman stated that he is willing to go a little further than before, in that, regardless of who the candidates are for County Engineer he will not be accepting any campaign contributions from any of them as long as the selection and deliberation process is still active. Commissioner Lehman feels that taking this extra step will help mitigate a lot of the questions that may be raised about how the decision was made.

Commissioner Stuckey stated that he doesn't remember the whole process and he wants to review what the Commissioners did and how they did it. Commissioner Stuckey also stated that the Commissioners are certainly willing to make changes if necessary, but that he doesn't remember some of the steps that Mr. Morris brought up at the meeting and that Commissioner Stuckey would like to go back and look at what he has in his records on this whole issue.

Mr. Morris just asked and repeated again that all he is looking for is a public apology on the process that was followed. Mr. Morris welcomed the Commissioners to look into it closely and attempt to confirm what he is raising here. Mr. Morris stated that he doesn't want to get into a battle with the Commissioners on this but that if there is no apology than he will take it a step further. Mr. Morris stated that it's not a threat but what he feel needs to take place here in order to recognize what happened wasn't right and will change.

Mr. Hawkes stated that Mr. Morris is saying that during the selection process that Andrea McCue physically polled the Commissioners and asked if that was accurate.

Commissioner Lehman stated that he agreed with Commissioner Stuckey, that it was so long ago that he doesn't even remember, quite frankly, if she did or didn't. Commissioner Lehman stated that if Mr. Morris feels that the process beforehand was unsatisfactory and he thinks that there are things that the County can do to improve the transparency of going through an RFP process to select the County Engineer this year than Commissioner Lehman is open to all of that. Commissioner Lehman stated that if Mr. Morris has specific recommendations and if he thinks that there should be a screening committee to make a recommendation to the Board of Commissioners then Commissioner Lehman is open to all of that.

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Commissioner Stuckey said that he agrees with Commissioner Lehman and that the Board of Commissioners' can stand back and take a look at the process from a forward basis. Commissioner Stuckey also stated that the Commissioners' can improve it if the public perception of it needs to be improved.

Mr. Hawkes asked if the practice that happened the one time an outlier or was that a standard operating procedure of the Board at the time, or continues to be, where the county clerk is polling the Commissioners to get a sense of where they stand on a decision to be made.

Commissioner Stuckey answered that he will have to go back and look at the situation that they had because he doesn't remember on that particular situation what was done.

Mr. Hawkes asked "would that way of getting a sense of the Board have been standard operation procedure in other decisions?"

Commissioner Lehman answered that he never remembers Andrea ever walking up the hall asking what his vote is going to be on an issue. Commissioner Lehman stated that she, Andrea, may have had conversations with the Board to get a sense of where they are but he, Commissioner Lehman, does not remember Andrea ever asking him what his vote will be so that she could prepare an agenda for the next meeting.

Commissioner Stuckey agreed with Commissioner Lehman.

Mr. Hawkes asked if Andrea was ever directed to do that.

Commissioner Lehman stated that Andrea was never directed by him to ask his colleagues how they were going to vote on something.

Mr. Morris read item number five from an affidavit of Andrea that he received from his Right to Know Request appeal. Mr. Morris stated that the Commissioners' cannot be doing individual acknowledgements to her so that Andrea can make decisions for the Commissioners that it is Rettew and then have it put in a resolution.

Commissioner Lehman stated he doesn't remember because it was four years ago. Also Commissioner Lehman stated that if you asked him the question "Did Andrea make it a practice of going to my office and asking me how I'm going to vote on an issues so that she could prepare an agenda?", Commissioner Lehman stated that the answer would be no.

Mr. Morris stated this is a big issues for the Commissioners not to remember, and that this it's highly unfortunate because it's totally inappropriate. Mr. Morris stated that four years earlier the County Commissioners' were in an uproar over Conestoga View as a result of that Molly Henderson was badly hurt and Craig Lehman ran against her and won. Mr. Morris is not saying that this was the only problem alone but it was a significant core problem she had. Dick Shellenberger decided not to run again so Mr. Stuckey ran. Mr. Morris stated that when you see that massive issue in the community and see what happened with the Grand Jury report about commissioners walking around making decision, one should not be able to not remember appointing someone in this way for a contract that pays so much money.

Commissioner Lehman invited Mr. Morris to let the Commissioners' know how to do a better job going forward and that Commissioner Lehman thinks that reasonable.

Mr. Morris stated that that isn't the focus of his comments but that he would be happy to help out.

On motion of Commissioner Parsons, seconded by Commissioner Lehman, the meeting adjourned at 10:23 a.m.

Motion passed unanimously.

Respectfully submitted,

Sara E. Glatfelter, Executive Assistant
Commissioners' Office