

**MINUTES OF THE JOINT MEETING OF AREA LEGISLATORS, COUNTY  
ELECTED OFFICIALS, DEPARTMENT HEADS, AND JOHNSON COUNTY  
BOARD OF SUPERVISORS  
DECEMBER 15, 2011**

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Chairperson Harney called the joint meeting to order in the Johnson County Administration Building at 7:30 a.m. Members present were: Pat Harney, Terrence Neuzil, Janelle Rettig, Sally Stutsman, and Rod Sullivan. Legislators present were: Senator Joe Bolkcom, Senator Robert Dvorsky, Representative Dave Jacoby, and Representative Vicki Lensing. Staff present were Board of Supervisors Executive Assistant Andy Johnson and Auditor’s Office Recording Secretary Nancy Tomkovicz.

**INTRODUCTIONS**

Rettig reported that State Representative Mary Mascher is unable to attend due to a physical therapy appointment for her recent knee surgery. She said Mascher sends her regards.

County department heads and elected officials introduced themselves as follows: SEATS Director Tom Brase, Social Services Coordinator Lynette Jacoby, City Assessor Dennis Baldrige, Assistant Planning and Zoning Administrator R.J. Moore, County Assessor Bill Greazel, Ambulance Director Steve Spenler, Conservation Director Harry Graves, and Sheriff Lonny Pulkrabek.

**LEGISLATIVE PRIORITIES  
Priority #1: Property Tax Reform**

Senator Joe Bolkcom said the Iowa Legislature is focused on and believes commercial property tax is an issue they need to make progress on. The proposal the Iowa Senate passed with a vote of 46 to 4 is the proposal with the best chance and has the support of local governments. They fully pay for their plan which would provide more than a 40% reduction in commercial taxes to 83% of commercial property taxpayers.

Bolkcom said the Iowa Legislature disagrees on the issue of big, out-of-state

corporations and whether the State should give them millions of dollars in tax relief. The Iowa Senate does not believe Wal-Mart needs a \$7 million reduction statewide that Governor Terry Branstad's plan would give. Bolkcom said the Iowa Senate believes Wal-Mart should contribute to local schools and local government services. He said there is bipartisan support to do something. The Iowa Senate plan has passed and Branstad is interested in this, and he hopes they can agree on giving 83% of commercial property taxpayers an almost 45% reduction.

State Representative Dave Jacoby said the Iowa Senate bill is a good place to start. It provides relief for commercial property taxpayers. The challenge everyone has is that both proposals add 60 to 80 pages to the Iowa tax code. If they are going to simplify the tax code, they need to look at ways to make the Iowa Senate bill pass while simplifying the tax code. It does not lower the actual commercial property tax rate. Until the Iowa Legislature decouples residential and agricultural property taxes, there will not be a significant change in the property tax structure. The Iowa Senate bill is a much better version than the Iowa House version. The Iowa House version deeply affects schools and uses personal income tax to backfill 60% to 80% of the loss to counties and cities. Any time personal income tax is used to backfill property tax then all they are doing is a shift. He said the Iowa House proposal is truly only a shift.

Senator Robert Dvorsky said he has never served on the Iowa Legislature Ways and Means Committees, so he looks to Bolkcom and Jacoby for the lead on it. He said he thinks the bill the Iowa Senate passed is a good start. He noticed the tenure was not very good last year in all of the budget negotiations. In the last week of budget negotiations last year, the Iowa House announced they would start looking at the Iowa Senate's property tax bill. He said Branstad has also said he is willing to look into it. Dvorsky hopes everyone will compromise this time. He agrees with Jacoby about changing the property tax structure, they need to change the whole system. The productivity formula is starting to hurt agriculture a little bit and Dvorsky thinks maybe the Iowa Farm Bureau Federation will want to start talking about it, but that has not happened yet. There really is a discrepancy. According to some calculations, agriculture pays 40% less.

Sullivan said the legislators present today have previously served in local governments so they understand that there is an overall lack of understanding of county government within the Iowa Legislature. He thinks it's not only a lack of understanding, but a lack of respect. People do not use all the services and they take others for granted, such as the parks, the SEATS busses, and the condition of county roads. They do not see county government as playing a big part in their lives. He thinks that is wrong, and it is part of the Supervisors' job to educate them otherwise. Part of the problem comes from a lack of respect for what local government does. Sullivan appreciates that the legislators present today have been strong supporters of local government.

Neuzil said he and Sullivan are the lead Supervisors on the property tax issue. The Board has divided up the four legislative priorities so that there is a lead Supervisor for each issue. If there is going to be a hit to commercial property tax and as a result a reduction to the County's ability to raise revenue, he asked the legislators to help them

avoid capping some funds in addition to that. They saw some of the proposals from Branstad and the Iowa House that cut commercial property taxes 25% and put a cap on counties' general supplemental funds. That would have a devastating effect on County government. The Board saw calculations of up to a \$14 million cut to the County budget. A \$14 million cut would mean eliminating one-third of the departments.

Neuzil said he understands the Iowa House and Branstad's reasoning. If they cut commercial property taxes then the other things like homes and agriculture will shift, and if it shifts they will just cap general supplemental funds. If they cap, the County is in trouble. He asked the legislators to help the County avoid the caps. It would create quite a bit of a problem because they put so much money into the General Supplemental Fund.

Jacoby said the Iowa House bill was such a piecemeal bill, and he was very disappointed that the person that was running the bill at one point did not know the bill would affect school districts, that's elementary. He said even though the bill sought to cut county and city government services, it also meant to define what counties could and could not cut. Neuzil said he thinks the bill listed a few things they were allowed to tax for. He said it is a good thing to have level-headed Democratic legislators representing Johnson County.

Bolkcom said they are not looking at a comprehensive effort here. Agriculture is not on the table and is not going to be on the table. They are focused on the commercial piece. He said they ought to do more, but there is not the support to move ahead. He said he thinks it was really helpful to have input from the during the legislative session. He thinks Branstad still believes his proposal is the best proposal and is not very interested in the Iowa Senate proposal. He thanked Greazel for providing expertise in analyzing the impact of the various proposals.

Bolkcom said he thinks there might be some opportunity during the discussions about Tax Increment Financing (TIF) to look at other revenue options for local governments. He thinks more flexibility is needed, whether it is to not cap levies or to look at other possible revenue sources for local governments. The TIF discussion will open that door to looking at a diversity of revenues.

Bolkcom said a community discussion about TIF is scheduled for January 4, 2012 from 6:00 p.m. to 7:30 p.m. at the Coralville Public Library. Iowa Policy Project Research Director Peter Fisher will present his new report on TIF: A Case Study of Johnson County.

### **Priority #2: Mental Health/Disability Services Reorganization**

Harney said Stutsman is the Board's lead person on the Mental Health/Disability Services redesign. The County's concerns are losing services they provide, especially the services the County goes above and beyond to provide that may not be allowed in the future with the reorganization.

Stutsman said they know redesign is going to happen. They are beyond stopping it or trying to reframe it. Counties' main interest is the ability to still have the levy to provide the non-Medicaid services at a local level. Stutsman said she recently met with Iowa Department of Human Services (DHS) Director Charles Palmer and other county supervisors about MH/DS redesign. One of the core services not listed is medication. She said Palmer said medications are just assumed but that makes Stutsman nervous and thinks they need to delineate medication. It is really important for people with chronic mental illnesses. She said Bolkcom serves on the Interim Committee and has comprehensive knowledge of the issues.

Bolkcom said this is a really complicated issue. People are nervous about changes. The County has a good system and they do not want to do anything to undermine that. The MH/DS Interim Committee will meet for the third time on December 19th to examine the recommendations from the redesign workgroups. He said he has concerns about the State's commitment to ongoing funding. If they are going to change the system, most of the changes to improve it cost money whether it is to support medications or develop better services for people in crisis or who have brain injuries. Another concern is the need to provide strong technical assistance to counties. Supervisors have many questions related to how a region is going to work, who will be in charge, who will hire people, and to determine its governance.

Bolkcom said DHS has done a good job managing the process. This is going to be a big change which will require strong bipartisan support. He projected it will take about five years to move to a more robust system. The State has to guarantee a financial commitment and to providing technical assistance and support moving from where they are to a better system.

Bolkcom announced a public forum is scheduled for January 5, 2012 at the Health and Human Services Building at 5:00 p.m. to discuss these issues.

Neuzil said he hopes the legislators are listening to the providers. Human Services in Johnson County equates to economic development. Economic Development gets the attention of legislators more than Human Services. He thinks it is necessary to clarify and explain the changes that could take place that could have an impact on jobs within these communities.

Sullivan said it is interesting that Branstad and Iowa House Republicans are inconsistent. They talk about wanting mental health services provided throughout the state in every county, which is great in theory. Then they talk about regions, but Johnson County already has a de facto region. It has just happened naturally that everyone from Cedar County and Iowa County comes here anyway. They have a pretty good system in place already. They say they want it both ways, but Sullivan said he does not know if they can have it both ways. It seems inconsistent when they decide they do not need workforce development centers in every county, but they need other things in every county. If the State is going to decide they need certain services in every county, they should let counties do what they need to do to provide that. He said the County feels

hamstrung. Whatever the rule is, the County is not allowed to respond in a way they feel is best.

Stutsman said one of the big debates is whether they will allow each county to have one vote. There are a lot of concerns from larger counties that they will be dictated by people that do not have as much money involved. The Board is more supportive of a weighted, per capita vote. She said she hopes the Iowa Legislature will not be too prescriptive about governance boards and allow counties to create their own administration structure according to what works best. They all work well together and know what works.

Neuzil said Bolkcom suggested a taxation system similar to the Kirkwood Community College model. He said he does not want to have more than three counties in the region if there will be only one vote per region. Bigger counties would pay a little more because they have more people.

Senator Bolkcom left at 7:55 a.m.

Dvorsky said according to the U.S. Census, Johnson County is the fourth or fifth largest county in the state. Linn County is the second largest. Traditionally, Johnson County pairs up with Linn County on regional issues. He thinks having two populace counties together is not the best idea. Dealing with Iowa Workforce Development is a quagmire now because their system is set up based on regions and because Cedar Rapids is in the Johnson County region, Iowa Workforce Development is talking about closing the Iowa City office. That does not make sense. Johnson County is large enough and has enough resources to be a leader in this area and it is time to move forward this area.

Dvorsky said they are finally working with Kirkwood Community College to establish a Johnson County Center even though all the other counties have that already. The Sixth Judicial District Department of Correctional Services is a Linn County-centered operation. If Johnson County takes the lead on a number of things, it could possibly favorably impact Cedar, Iowa, and possibly Washington Counties. Neuzil said one of the requirements they discussed was having a certain population in each region. Stutsman said 200,000 is the minimum, but that is just a target population. Neuzil said as long as there is flexibility there it is less likely to join with Linn County. Dvorsky said the new Congressional districts will create new geographical boundaries.

Sullivan said they decided to hire a couple lobbyists to work on the counties behalf. Black Hawk, Linn, Scott, and Johnson Counties have formed the Urban County Coalition. This coalition will focus on the ten or so more populated counties. So far they learned that the four counties have very similar issues. Stutsman said case-in-point, commercial property taxes do not impact rural counties.

Rettig said the Urban County Coalition makes sense. It is a good collaboration because they are involved in a joint fleet management study with Scott County and have ongoing projects with Linn County. They have also been approached by other counties

who want to join this coalition and they decided to wait until the end of the legislative session. The four counties represent 20% of Iowa's population. Urban counties have a much larger MH/DS population than rural counties. This is partially due to the availability of services in these areas.

State Representative Vicki Lensing said this reminds her of when the Iowa Chamber Alliance was established. She clarified that the four counties identify priorities that they are all in agreement on and present them as such. She said as the Iowa Chamber Alliance grew they were not all in agreement; when the individual entities get too big, there are too many differences out there. Rettig said that already happened with the Urban County Coalition and they agreed that if they could not agree on an issue it would not appear on their lobbying list.

### **Priority #3: Road Use Tax Fund/Gas Tax**

Harney said Johnson County has problems securing adequate funding for bridges and roads. He said Branstad's task force made some excellent recommendations, but the Governor will still not support the recommendations because he did not like the outcome even though he put the task force together. The Board is encouraging Iowa Legislators to take a stand on this issue and help the County get funds for roads.

Rettig said Stutsman along with Linn County Supervisor Linda Langston organized an Urban County Caucus (Caucus). She said the Caucus has many concerns about the Road Use Tax Fund. Iowa has had the same gas tax rate, \$0.22 per gallon, since 1989. In 1989, a gallon of gas cost \$1.02 and \$0.21 of it went towards Iowa roads, which was 20.6% of the cost of the gallon of gas. At the time they prepared the Legislative Priorities handout, gas cost \$3.27 and \$0.21 still goes towards roads, which is 6.4%. In the meantime, the cost to build roads has skyrocketed.

Rettig said a number of years ago the State transferred a number of roads to the County along with a small amount of money for maintenance, but not enough money to upgrading one single mile. And that little bit of money expires in 2012. The County is now trying to rehabilitate these frequently traveled Transfer of Jurisdiction roads along with maintaining an additional 900 miles of other roads. Since the county doesn't have enough money to complete this maintenance, they are raising property taxes. This is the only option because the Road Use Tax Fund and Federal money is not keeping up with inflation. The Board is under tremendous pressure to improve roads and the only means is to raise property taxes. She said property taxes are not the best way to pay for roads.

Sullivan said the Urban County Collation is going to try very hard to convey that all they are concerned about is the size of the pie, and they will fight over the division of the pie later.

Neuzil said he thinks the \$0.10 increase recommendation from the committee would be too much of a shock to the system. This is not a good time to pass on a big tax increase with re-elections coming up. It makes more sense to phase in a tax increase of a

couple of cents per year for the next three or five years.

Neuzil said in reviewing Secondary Roads' budget for next year, he noted that the same amount of rock in 2012 will cost \$100,000 more than in 2011. The County froze operating expenses for every other department and Secondary Roads' budget has an increase of \$1 million just because the cost to maintain the same level of service has increased.

Jacoby said he is not in favor of the Road Use Tax formula, but that notwithstanding, Branstad was in favor of the gas tax before he was against it. He said 54 House Republicans have signed a no new tax pledge. He said he does not know how he feels about raising the gas tax, but it has not gone far enough for the Legislature to study it because Branstad has already taken it off the table. Originally the pledges had some merit but not anymore. He sees very little chance of the House supporting a new gas tax.

Rettig said she is not sure how much the gas tax should increase. She said Neuzil just proved to her that a \$0.10 increase would not change much at all because in the course of ten days, gas prices have fluctuated \$0.18. Of all the miles traveled on Iowa roads and highways, twenty percent are traveled by non-residents. There is an opportunity here, in fact the only opportunity, for those travelers on Interstate 80 and 380 to pay into the system. If more money isn't put into the Road Use Tax Fund, the County will raise property taxes and will start closing roads.

Sullivan said this is an economic development issue, even in Johnson County which is extremely urban compared to its neighbors. Agriculture is still a very big part of the local economy.

#### **Priority #4: Other**

Harney said other issues affecting Johnson County are listed in the back of the pamphlet, but are not the County's top priorities. He said the Board would like the Legislators to consider those issues.

#### **Comments from County Attorney Janet Lyness**

County Attorney Janet Lyness said she has three issues she would like the Legislators to look at this year. The first is Senate File 608. There is a study committee looking at it. It deals with the requirement that county attorneys be legal representative for the Department of Human Services (DHS) in CINA (Child in Need of Assistance) cases and stems from a Supreme Court decision that made reference to how county attorneys were the legal representatives of DHS. Prior to that decision, county attorneys had a separate say in terms of recommendations in CINA cases.

Lyness said the way this court case has been interpreted is that county attorneys are legal representatives for DHS and are no longer allowed to voice a separate opinion in CINA cases that might be contrary to what DHS is recommending. This creates an

extreme ethical problem for a county attorney. As an attorney, Lyness is required to zealously represent her client, DHS. As County Attorney though, she takes an oath to represent everyone in Johnson County and use her independent judgment to determine what is best for these children. Lyness said DHS recommendations are not always what county attorneys think is in the best interest of children. County attorneys think it is very important for them to be able to give their own recommendation.

For example, in Johnson County, the DHS had removed a child from the parent's home and the County Attorney's Office charged that parent with child endangerment. The pending CINA case and the child endangerment case were handled by separate county attorneys. As part of the criminal case, a no contact order prohibited the parent from contact with the child. In the CINA case, the DHS recommended returning that child to the parent. But, in the child endangerment case the County Attorney's Office would not drop the no contact order because they did not think that was in the best interest of the child. That presented a conflict within the County Attorney's Office.

Lyness said her law license is on the line because as County Attorney she must take two extreme positions. If she maintains the position the no contact order cannot be lifted in the criminal case, then she is not fulfilling her duty to represent DHS.

Lensing asked if this came up in 2010. Lyness said yes. She said a committee is reviewing this and a large number of the committee members are DHS appointees. She said the Governor is not interested and she does not think the Iowa Attorney General is necessarily on board, although he is listening to the county attorneys and understands the difficulties they have fulfilling different roles.

Lyness said she thinks there is a way to do it, like with the Department of Correctional Services, where in sentencing hearings, the Department of Correctional Services prepares a pre-sentence investigation and makes a recommendation to the court and the county attorney can make a recommendation to the court. While the County Attorney's Office often represents the Department of Correctional Services in different hearings, they do not always have to agree and can present different things to the court. She thinks it could be done the same way in CINA cases.

Lensing asked if the Iowa Senate passed the bill and sent it to the House. Lyness said no, it is still sitting in the Senate. She said the DHS said it will cost around \$14 million if they have to cover these. In most cases, the county attorneys work out solutions with DHS and there are very few cases where this actually comes up. When this came up in 2010, Lyness called the Iowa Attorney General's Office and said the County Attorney's Office has a conflict and cannot do it. The Iowa Attorney General's position was there is no conflict and that the County Attorney's Office can do both. She said her law license is on the line, her ethics and her obligation to the County as an elected official is on the line.

Lyness said the other two issues are what they call fixes for the decisions of the Iowa Supreme Court. One has to do with the Justin Marshall case where Marshall was held as a material witness and the majority opinion holds that the statute language means that if a

person is taken into custody as a material witness, the Court can hold them only until they are served a subpoena and then they have to be released. The problem with that is if someone needs to be arrested as a material witness, it's only because they do not think the witness will show up when given a subpoena. As of now, a material witness can be held until they have to give testimony either in a grand jury, a deposition, or a trial.

Lyness said the County Attorney's Office would like that changed to allow them to hold a material witnesses or set bond conditions the Court thinks are sufficient to get them to stay in the area until the trial.

Lyness said the other issue comes from the Anderson case where the Court ruled that people on probation get one day credit toward their suspended sentence for every day they have been on probation when the attorney files to revoke the probation. Lyness said after someone has been on probation any time over the number of suspended days in their sentence, there will be no consequence for violating probation. She said they have dealt with it to some extent by charging the defendant with contempt and six months is the maximum sentence for contempt. She said the County Attorney's Office feels very strongly that this needs to be corrected this year. She said this decision took everyone by surprise. Lensing asked if there are bills on this. Lyness said there will be. Dvorak said he thinks county attorneys have a bill.

### **Comments from County Auditor Tom Slockett**

County Auditor Tom Slockett said there have been several relatively recent changes in elections that are of concern. One is that in 2010, the State Court of Appeals overturned a long established practice in many counties that the next pending election for city elections not be included in the General Elections. It is important because the next pending election applies when there is a vacancy in an office and an appointment is made to fill the vacancy that appointed person goes on the ballot the next time there is an election of that jurisdiction.

Slockett said some small cities have elected park boards and in Johnson County there are 11 cities completely within the county and a 12th that goes over the county's borders. Eleven of those cities could have one or more candidates on the Presidential Election ballot, which is already packed full with issues the auditors have worked hard to have included on the ballot. The reason it is a problem is because two ballots or a longer ballot would be needed to accommodate all the candidates and the issues. While the elections equipment can technically handle a larger ballot, all the feedback from the equipment company is to avoid a longer ballot as those can cause technical problems. And there are big problems with two ballots: keeping track of the ballots, balancing them, and making sure someone does not walk off with one of the ballots.

Slockett said the second issue is the ballot issue which came up after the 2010 judicial election with the Iowa Supreme Court Justices who were voted out of office. The long standing practice is to consider the section of the ballot with judges to be a ballot within a ballot, so it is one ballot, instead of two. If this interpretation, and the next pending

election, continue it is possible that some counties would have to have two or three ballots.

Slockett said the third issue is about postmarking absentee ballots. The law states an absentee ballot must be postmarked the day before the election so that a person cannot know the outcome of the election before they vote. The ballot must also be received in the Auditor's Office before the canvass of votes as long as it is properly postmarked.

Slockett said the United States Postal Service (USPS) no longer postmarks ballots. He said the Auditor's Office spoke with the local postmaster who said most of the ballots should not have postmarks on them. Slockett said the USPS used to send all mail deposited in Iowa City mail boxes to Cedar Rapids for postmarking before delivering it in Iowa City. Now, the USPS gives locally mailed ballots directly to the local carriers for distribution without a postmark. Slockett said he inquired about hand cancelling the ballots and postal authorities said there is no way they would do that.

Slockett said he is the chair of the state's Election Standing Committee for Auditors as well as serves on a board advising Secretary of State Matt Schultz on election matters. Everyone is aware of the problem the lack of postmarks presents, especially in legal matters. Slockett said Schultz is trying to come up with legislation to address this and is talking to Attorney General Tom Miller.

Slockett said if they cannot get the post office to postmark the ballots, it is really frustrating because Iowa is the only state that pays the return postage on ballots so the USPS is making money on the ballots. The only other viable alternative is that an absentee ballot would have to be physically in the Auditor's Office by the time the polls close on Election Day. This is the practice for hand delivering a ballot now.

### **COMMENTS FROM THE BOARD**

Harney thanked the legislators for coming to this meeting.

Stutsman thanked the legislators for their service, for their attention to the issues, and for being accessible to constituents.

Rettig said the Supervisors intend to spend more time participating with the Legislature in Des Moines; she does not want them to feel they are taken for granted. She asked the legislators to communicate what meetings are important to get to and what committees to show up for, and speaking for the ten elected officials and 17 department heads, Rettig pledged to get more people to the Capital Building.

Neuzil said people always here the saying that this is the year that is going to decide the future. Johnson County is really lucky to be growing and he hopes Johnson County isn't lumped in with the smaller counties, not compared to them. He said he really appreciates the legislator's leadership and all they are doing. Without the Senate democrats blocking a piece of legislation last year, Johnson County would have had to

eliminate one-third of its departments. He thinks the Urban County Coalition will be a voice they will listen to.

Adjourned at 8:43 a.m.

Attest: Tom Slockett, Auditor  
Recorded by Nancy Tomkovicz