



## *Directors Meeting Agenda*

Monday, December 11<sup>th</sup>, 2023, 2:00 p.m.

555 S 10<sup>th</sup> Street Luxford Studio

- I. Approval of Directors Meeting Minutes from November 6<sup>th</sup>, 2023
- II. City Clerk Advisories
- III. Mayor's Advisories
- IV. Director's Advisories
- V. City Council: Commissions, Committees, and Event Updates
- VI. Post-Meeting Council Members Calls to City Directors
- VII. Adjournment – Next Directors Meeting – January 8<sup>th</sup>, 2024, 2:00 p.m.

### Correspondence – Online for Review

- I. Directorial Correspondence
  - i. BP231206 – 1 AA Weekly Approvals – Jennifer McDonald
  - ii. BPC231206 – 1 PC Action – Jennifer McDonald
  - iii. BPC231206 – 2 PC Final Action Notice – Jennifer McDonald
- II. Constituent Correspondence
  - i. Sheriff Wagner says he's not a constitutional sheriff...so what was the point of his oath? – Robert Borer
  - ii. the Legislature is responsible—a private vendor conducts our election vote-counts in secret – Robert Borer
  - iii. Lincoln Bold Skyscraper Vote – Connor Clark
  - iv. Woods Park Tennis Center Opposition – Elizabeth Mabie
  - v. FW: F Street Community Market Invitation – Elizabeth Switzer
  - vi. SD county election official does what no NE county election official or sheriff has the courage to do – Robert Borer
  - vii. Clinton Neighborhood Org. letter – Bob Reeves

The Directors Meeting Agendas and Minutes may be accessed online at:

<https://www.lincoln.ne.gov/City/City-Council/Directors-Minutes-Agendas>

# *Memorandum*

**Date:** December 6, 2023  
**To:** City Clerk  
**From:** Clara McCully, Planning Dept.  
**Re:** Administrative Approvals  
**cc:** Shelli Reid, Planning Dept.

This is a list of City administrative approvals by the Planning Director from November 28, 2023, through December 4, 2023:

Administrative Amendment 23067, to Special Permit 15021 was approved by the Planning Director on December 1, 2023, to convert future Outlot G into Lot 3, Block 2 and to convert Lot 6, Block 3 into Outlot M for future development, generally located at South 56<sup>th</sup> Street and Trinitate Parkway.

## **\*\*ACTION BY PLANNING COMMISSION\*\***

**NOTICE:** The Lincoln/Lancaster County Planning Commission will hold a public hearing on Wednesday, December 6, 2023, at 1:00 p.m. in Hearing Room 112 on the first floor of the County-City Building, 555 S. 10<sup>th</sup> St., Lincoln, Nebraska. For more information, call the Planning Department, (402) 441-7491.

**\*\*PLEASE NOTE:** The Planning Commission action is final action on any item with a notation of **\*FINAL ACTION\***. Any aggrieved person may appeal Final Action of the Planning Commission to the City Council or County Board by filing a Notice of Appeal with the City Clerk or County Clerk within 14 days following the action of the Planning Commission.

The Planning Commission action on all other items is a recommendation to the City Council or County Board.

### **AGENDA**

**WEDNESDAY, December 6, 2023**

**[Commissioners Ball, Feit, Joy and Ryman Yost absent]**

Approval of minutes of the regular meeting held November 15, 2023. **\*\*APPROVED: 5-0 (Ball, Feit, Joy and Ryman Yost absent)\*\***

#### **1. CONSENT AGENDA: (Public Hearing and Administrative Action)**

##### **COMPREHENSIVE PLAN CONFORMANCE:**

- 1.1 COMPREHENSIVE PLAN CONFORMANCE 23018, to review as to conformance with the 2050 Lincoln Lancaster County Comprehensive Plan, a request for a proposed conservation easement to preserve, protect and maintain garden space, on property generally located southwest of N 26th and U Street. **Staff recommendation: In Conformance with the Comprehensive Plan**  
**Staff Planner:** Benjamin Callahan, 402-441-6360, [bcallahan@lincoln.ne.gov](mailto:bcallahan@lincoln.ne.gov)  
**Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0 (Ball, Feit, Joy and Ryman Yost absent). Public hearing before the City Council is tentatively scheduled for Monday, January 8, 2024, 3:00 p.m.**

##### **PERMITS:**

- 1.2 SPECIAL PERMIT 23041, to allow for a garage to be reconstructed with setback waivers on property generally located at 527 N 31st Street. **FINAL ACTION\***  
**Staff recommendation: Conditional Approval**  
**Staff Planner:** George Wesselhoft, 402-441-6366, [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)  
**Planning Commission "final action": CONDITIONAL APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent), as set forth in the conditions of the staff report dated November 16, 2023. Resolution No. PC-01888.**

2. **REQUESTS FOR DEFERRAL: Item 4.2**
3. **ITEMS REMOVED FROM CONSENT AGENDA: None**  
**(Public Hearing and Administrative Action)**
4. **PUBLIC HEARING AND ADMINISTRATIVE ACTION**

**COMPREHENSIVE PLAN AMENDMENT AND ASSOCIATED ITEMS:**

- 4.1a COMPREHENSIVE PLAN AMENDMENT 23005, to amend the Lincoln-Lancaster County 2050 Comprehensive Plan to revise the Future Land Use Map from Industrial Use to Commercial Use, on property generally located at the northeast corner of NW 48th Street and Interstate 80.  
**Staff recommendation: Approval**  
**Staff Planner:** Emma Martin, 402-441-6369, [emartin@lincoln.ne.gov](mailto:emartin@lincoln.ne.gov)  
**Planning Commission recommendation: APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent). Public hearing before the City Council is tentatively scheduled for Monday, January 8, 2024, 3:00 p.m.**
- 4.1b COMPREHENSIVE PLAN CONFORMANCE 23019, to review as to conformance with the 2050 Lincoln-Lancaster County Comprehensive Plan, the NW 48th & W Vine Redevelopment Plan, and the Falcon Corner Redevelopment Project, to include a large retail building and accessory commercial uses, on property generally located at NW 48th Street and Interstate 80.  
**Staff recommendation: In Conformance with the Comprehensive Plan**  
**Staff Planner:** Andrew Thierolf, 402-441-6371, [athierolf@lincoln.ne.gov](mailto:athierolf@lincoln.ne.gov)  
**Planning Commission recommendation: FINDING OF CONFORMANCE: 5-0 (Ball, Feit, Joy and Ryman Yost absent). Public hearing before the City Council is tentatively scheduled for Monday, January 22, 2024, 3:00 p.m.**
- 4.1c ANNEXATION 23005, to annex property located at the northeast corner of NW 48th Street and Interstate 80 and southwest corner of NW 48<sup>th</sup> and W Vine St.  
**Staff recommendation: Conditional Approval**  
**Staff Planner:** Tom Cajka, 402-441-5662, [tcajka@lincoln.ne.gov](mailto:tcajka@lincoln.ne.gov)  
**Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent), as set forth in the conditions of the staff report dated November 22, 2023. Public hearing before the City Council is tentatively scheduled for Monday, January 8, 2024, 3:00 p.m.**
- 4.1d CHANGE OF ZONE 23019, from AG (Agricultural District) to H-4 (Highway Commercial District), on property generally located at the northeast corner of NW 48th Street and Interstate 80.  
**Staff recommendation: Conditional Approval**  
**Staff Planner:** Tom Cajka, 402-441-5662, [tcajka@lincoln.ne.gov](mailto:tcajka@lincoln.ne.gov)  
**Planning Commission recommendation: CONDITIONAL APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent), as set forth in the conditions of the staff report dated November 22, 2023. Public hearing before the City Council is tentatively scheduled for Monday, January 8, 2024, 3:00 p.m.**

- 4.1e PRELIMINARY PLAT 23001, for a new Preliminary Plat to show 5 commercial lots and 3 outlots located at the northeast corner of NW 48th Street and Interstate 80. **\*FINAL ACTION\***  
**Staff recommendation: Conditional Approval**  
**Staff Planner:** Tom Cajka, 402-441-5662, [tcajka@lincoln.ne.gov](mailto:tcajka@lincoln.ne.gov)  
**Planning Commission “final action”: CONDITIONAL APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent), with revision, as set forth in the conditions of the staff report dated November 21, 2023. Resolution No. PC-01889.**
- 4.2 COUNTY SPECIAL PERMIT 23042, for Personal Wireless Facilities to allow a 239' Self-support tower, on property generally located at 7459 W Roca Road.  
**\*FINAL ACTION\***  
**Staff recommendation: Conditional Approval**  
**Staff Planner:** Brian Will, 402-441-6362, [bwill@lincoln.ne.gov](mailto:bwill@lincoln.ne.gov)  
**Planning Commission granted the request on behalf of applicant and staff for a 2-week deferral with continued public hearing and action scheduled on December 20, 2023.**
- 4.3 MISCELLANEOUS 23007, revising the Funding Outlook to reflect partial recission of federal Coronavirus Response and Relief Act funds and add federal Carbon Reduction Program funds, revising the Fiscally Constrained Plan to update the cost for the Saltillo Road, 27th Street to 68th Street project under the Fiscally Constrained Rural Road & Bridge Capital Projects, add the Multimodal Transportation Center and Maintenance Facility projects under the Priority Transit Projects, add the B Street Bicycle Boulevard and Rock Island Trail Widening projects, include the Multimodal Transportation Center Active Transportation Enhancements under the Multimodal Transportation Center project, and update the cost for the Rock Island Trail Grade Separated Crossing at Old Cheney Road project.  
**Staff recommendation: Approval**  
**Staff Planner:** Rachel Christopher, 402-441-7603, [rchristopher@lincoln.ne.gov](mailto:rchristopher@lincoln.ne.gov)  
**Planning Commission recommendation: APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent). The Planning Commission recommendation will be forwarded to the Lincoln MPO for final action.**
- 4.4 COUNTY TEXT AMENDMENT 23012, to the Lancaster County Zoning Regulations and the Lancaster County Subdivision Regulations to require all new local streets in the county to be private roadways. This amendment also clarifies the required right-of-way width for major streets in the County along with several minor updates. This application is to amend Article 14 Community Unit Plan and Article 19 Board of Zoning Appeals of the Lancaster County Zoning Regulations. It also proposes to amend Chapter 2 Definitions, Chapter 4 Design Standards, Chapter 5 Minimum Improvements, and Chapter 7 Form of Preliminary Plat of the Lancaster County Subdivision Regulations.  
**Staff recommendation: Approval**  
**Staff Planner:** Stephen Henrichsen, 402-441-6374, [shenrichsen@lincoln.ne.gov](mailto:shenrichsen@lincoln.ne.gov)  
**Planning Commission recommendation: APPROVAL: 5-0 (Ball, Feit, Joy and Ryman Yost absent), as set forth in the revised memo dated December 5, 2023. Public hearing before County Board is currently pending.**

5. CONTINUED PUBLIC HEARING AND ADMINISTRATIVE ACTION: None

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AT THIS TIME, ANYONE WISHING TO SPEAK ON AN ITEM  
NOT ON THE AGENDA, MAY DO SO.

\* \* \* \* \*

Adjournment: 2:01 p.m.

## PLANNING COMMISSION FINAL ACTION NOTIFICATION

**TO:** Mayor Leirion Gaylor Baird  
Lincoln City Council

**FROM:** Shelli Reid, Planning

**DATE:** December 6, 2023

**RE:** Notice of final action by Planning Commission: December 6, 2023

Please be advised that on December 6, 2023, the Lincoln City-Lancaster County Planning Commission adopted the following resolutions:

**Resolution PC-01888**, approving SPECIAL PERMIT 23041, for the Tran Garage to allow for a garage to be reconstructed with setback waivers on property legally described as the South 67 feet of Lot 1, Block 17, Peck's Grove, Lincoln, Lancaster County, Nebraska, generally located at 527 N 31st Street; and

**Resolution PC-01889**, approving PRELIMINARY PERMIT 23001, for a new Preliminary Plat to show 5 commercial lots and 3 outlots located at the northeast corner of NW 48th Street and Interstate 80, on property legally described as a portion of Lot 68, I.T., Lots 52, 64, and 65, I.T., located in the E 1/2 of Section 19-10-6.

The Planning Commission action on these applications is final, unless appealed to the City Council by filing a notice of appeal with the Planning Department within 14 days of the action by the Planning Commission.

The Planning Commission Resolutions may be accessed on the internet at [www.lincoln.ne.gov](http://www.lincoln.ne.gov) (search for "PATS"). Click on "Planning Application Tracking Service (PATS)" at the top of the page, click "Selection Screen" under "PATS Tools" on the right side of the screen, type in the application number (i.e. SP23041, PP23001) click on "Search", then "Select", and go to "Related Documents".

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**From:** [Robert Borer](#)  
**To:** [sheriffs@ne.county.gov](mailto:sheriffs@ne.county.gov)  
**Subject:** Sheriff Wagner says he's not a constitutional sheriff...so what was the point of his oath?  
**Date:** Sunday, December 3, 2023 5:52:48 PM

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Dear Friends, County Sheriffs and other Members of local and state government—

Lancaster County (Nebraska) 28-year veteran Sheriff Terry Wagner wrote a paper in September of 2021 entitled [Sheriff Wagner opines on Constitutional Sheriffs](#). In that paper, he denies being a Constitutional Sheriff and provides his reasons for doing so. (Click on the colored text to see his paper.)

**The following is a fresh systematic rebuttal of that paper:**

### **Part 1**

#### **Wagner writes:**

A number of people have called and emailed me with the question of 'am I a Constitutional Sheriff'? When I was first asked that question I thought it meant, 'is the Office of the Sheriff in Nebraska established in our constitution?' I can tell you it is not. Nor, is the Office of Sheriff mentioned in the U.S. Constitution. The excerpts below show the Nebraska Constitution gives the authority to establish sheriff's offices to the Legislature. As a matter of fact, different bills have been introduced over the years to eliminate elected county officers, but have failed.

#### [Nebraska State Constitution Article IX-4:](#)

"The Legislature shall provide by law for the election of such county and township officers **as may be necessary** and for the consolidation of county offices for two or more counties; Provided, that each of the counties affected may disapprove such consolidation by a majority vote in each of such counties."

#### **Rebuttal:**

Wagner argues that the office of sheriff is not established in our Constitution. He is right, but not in the way he thinks.

The office of county sheriff didn't need to be established by our Constitution, or the U.S. Constitution, or our State Legislature, because the office of county sheriff in this country **predated** all three, and was established **by common law**.

Consider Nebraska's own history:

Nebraska's first Consitution was adopted in 1866.

Nebraska's statehood was declared in 1867.

However...

"In 1861, Louis J. Loder was appointed the first sheriff and county clerk of the county [Lancaster]. The first elected sheriff of the county was William Pemberton **in 1863**." (from Wagner's [own Lancaster County website](#).)  
Omaha elected their first sheriff in 1856.

The office of sheriff isn't a recent invention but rather a *convention*...an established way of doing things. The office of sheriff has been the established way of providing law enforcement for a very long time.

Law enforcement is a given in any community/county. People want someone to protect them from outsiders and themselves.

The People who lived in the Territory of Nebraska, before Nebraska became a state, didn't wait for a State to form and a Constitution to be written before they secured



the services of a sheriff.

Wagner references [Article IX-4](#). Contrary to his claim, [Article IX-4](#) did *not* give authority to the Legislature to **establish** county sheriff offices. It only gave the Legislature responsibility for standardizing **the election of** county officers, **as those officers may be needed**, which the Legislature did, starting in what is currently [Nebraska Revised Statute \(NRS\) 23-1701](#). (More on that statute in Part 2)

The office of sheriff had already been deemed "necessary." The election of *other* county officers "as may be necessary" depended/depends, at least in part, upon population size. The last part of [Article IX-4](#) speaks to population size when it refers to "consolidation."

## Part 2

### Wagner writes:

To accomplish the requirements in the Constitution, the Legislature enacted [Nebraska Revised Statute 32-520](#);

"A county sheriff shall be elected in each county at the statewide general election in 1990 and each four years thereafter. The term of the county sheriff shall be four years or until his or her successor is elected and qualified. The county sheriff shall meet the qualifications found in sections [23-1701](#) and 23-1701.01. The county sheriff shall be elected on the partisan ballot."

### Rebuttal:

Again, "the requirements in the Constitution" in [Article IX-4](#), didn't include delegating responsibility for establishing the office of sheriff. It only delegated responsibility for standardizing the election of county officers as they were needed.

The first part of [32-520](#) only standardizes the *election* of county sheriffs.

Establishing the **office** of county sheriff and **establishing a statewide standard for electing** county sheriffs are *two different things*. [32-520](#) does the latter, not the former.

The second part of [32-520](#) only standardizes the **qualifications** for the person who wishes to fill the office of sheriff. It is not creating or establishing the **office** itself. The office of county sheriff was established *long before* 32-520.

Again, the office predated our Constitution. And it is obvious that it had a law enforcement function.

With regard to the reference in [32-520](#) to [23-1701](#):

23-1701 doesn't create the office of sheriff. It presupposes it, and simply affirms and standardizes the common law and common sense basic duties thereof, *lest any sheriff shrinks from the dangerous duties thereof*:

In [23-1701.03](#), titled "**Sheriff; general powers and duties**," we read the following self-evident affirmation:

"The sheriff shall exercise the powers and perform the duties conferred and imposed upon him or her by other statutes **and by the common law**."

In [23-1701.02](#), titled "**Arrests; keeping the peace; duties**," we find the basic responsibility of the county sheriff, per common law *and common sense*:

"It shall be the duty of every sheriff **to apprehend . . . all felons and disturbers and violators** of the criminal laws of this state, **to suppress all riots, affrays, and unlawful assemblies** which may come to his or her knowledge, **and generally to keep the peace in his or her proper city**." (Wagner shrank from his duty when rioters showed up in Lincoln in 2020 to wreak havoc upon our community to the tune of \$20,000,000.)

### Part 3

#### Wagner writes:

All elected officials at the county level take the oath of office codified in [N.R.S. 11-101.01](#);

I, ....., do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or for purpose of evasion; and that I will faithfully and impartially perform the duties of the office of ..... according to law, and to the best of my ability....

I am sworn to support and defend the Constitution of the United States, and the laws and constitution of the state of Nebraska, not to interpret it. I take that oath of Office very seriously.

#### Rebuttal:

*"Not to interpret it"?*

How then does Wagner take his oath "very seriously"?

What then does "I take that oath of Office very seriously" even mean?

How can Wagner claim to "support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic...[and] bear true faith and allegiance to the same," when at the same time, he claims he can't "interpret it"—i.e., know and understand what those Constitutions say and mean?

What does he think he's swearing to if not to what these Constitutions say and mean??

He's speaking out of both sides of his mouth.

What these documents say and mean isn't hard to understand at all—*not as they pertain to the job of sheriff*.

Wagner's statement that he can't interpret our Constitutions as they pertain to his job is absurd. It's a complete *cop-out*. In essence, it's a denial of his oath.

There's another important point to be made here, but I'll wait for Part 4.

### Part 4

#### Wagner writes:

When I googled "constitutional sheriffs" the definition given means they enforce constitutional law over all else –it has nothing to do with the establishment of the Office of Sheriff in the Constitution or Statute. "constitutional sheriffs" believe that sheriffs are the highest governmental authority and that they have the power and duty to defy or disregard laws they deem unconstitutional. Those last three words should concern all of us. "they deem unconstitutional". Nowhere are Sheriffs given the legal authority to interpret the Constitution.

#### Rebuttal:

Utter nonsense.

I repeat, what does Wagner think the point of taking his oath was then, if not to "interpret"/**understand** and then defend our Constitutions??

It goes without saying that if you swear to "support and defend" a document, you must know and understand what that document contains and means.

The part of the document that applies to Wagner's law enforcement and rights-

protecting-responsibilities is very simple:

"[We, the people](#)" assert, in the [Preamble](#) and [Article I-1](#) that we "are by nature **free** and **independent**, and have certain **inherent** and **inalienable rights**."

We, the people assert that the responsibility of the government we elect is to protect that freedom and independence, and those rights, **from all enemies**, foreign and domestic.

What does Wagner think We the People hired him for? *...to protect our government from US...i.e., from [We the People](#)??*

If so, he has it all backward.

If so, he's in the wrong business, and he's been in the wrong business for a very long time.

NO. His job, in large part, is to protect the freedom and rights of WE THE PEOPLE from government infringement and overreach.

Quoting:

"...and such rights shall not be denied by the state or any subdivision thereof."  
([Article I-1](#))

How is this so hard for Wagner to understand?

This is all that is meant by "a constitutional sheriff"—i.e., protecting the God-given, inherent and inalienable rights of the People. *against all enemies*.

**Here is the irony in Wagner's claim** (that "important point" I mentioned above): He says he can't interpret the Constitution, but when he quoted [Article IX-4](#) above, he was assuming he knew what it meant.

In other words, he has blatantly contradicted himself. Such a blatant contradiction of oneself is not a sign of clear thinking.

It is completely beside the point that he *misinterpreted* the meaning of [Article IX-4](#).

The point is, he assumed an *interpretation*, when he said he had no legal authority to do so.

There is a remedy for such confusion of thought, and that is to take some basic logic classes.

But Wagner could have simply avoided the confusion and stuck with the [Preamble](#) and [Article I-1](#) of our Constitution. They make it *very clear* what his duties are;

[Preamble](#) and [Article I-1](#) of the Constitution OF We, the people of Nebraska:

*We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the Constitution of the State of Nebraska.*

*All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others, and for lawful common defense . . . and such rights shall not be denied or infringed by the state or any subdivision thereof. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.*

There really is no question about whether Wagner has it backward or not. Not when we take into consideration that he protected Lincoln's criminal Mayor and her property-destroying rioters in 2020—as well as the tyrannical, rights-denying-and-business-destroying Lancaster County "Health" Department over the last three years

—**over and against** the freedom, rights and property of law-abiding-We-the-People citizens.

When we take those facts into consideration, we *know* he has it all backward. We know it.

Not only did he not protect our freedom and rights from infringement and denial, he allowed his office to be used to enforce the tyrannical, freedom-and-rights-denying tyranny of Baird, Lopez...and Ricketts.

**Wagner needs to know** that if he won't defend our freedom and rights, We the People will do it ourselves.

Think *William Wallace*.

Think "*A well regulated Militia, being necessary to the security of a FREE state...*"

One would think Wagner would rather have the People on his side, but that can only happen when he is on our side and performing his constitutional duties per his oath.

Here are the facts.

As sheriff, Wagner was presumably elected by We the People of the whole County to serve in a county-wide law enforcement capacity, to protect the freedom and rights of all citizens of the county, against infringement and denial of our freedom and rights by rioters, criminals and any tyrannical political subdivision, of either the county or state.

That's right. Wagner's job is to protect us from "all enemies," including those outside the county and state.

"...and these rights shall not be denied by the state or any subdivision thereof" is very clear.

(I'll address the federal overreach issue momentarily.)

All of the above is basic law-enforcement stuff. Do unto others as you would have them do unto you. Protect the rights of others the same way you would want your own rights protected, were the roles reversed.

By the way, I said Wagner was "presumably elected" because we have no ability to verify his "election."

## **Part 5**

### **Wagner writes:**

I also find it interesting the Constitutional Sheriffs and Police Officers Association (CSPOA) pick and choose which issues they feel are unconstitutional. Immigration, Gun Control and federally controlled land within a state have been the CSPOA targeted areas in the past. Now, Directed Health Measures; mask mandates and vaccine mandates are the latest issues deemed unconstitutional by the group. The fact is, in Nebraska, Health Departments are codified in Statute. Directed Health Measures and the penalties for violating them are also in Statute. If you don't like how the COVID-19 pandemic is being handled, there are a number of ways to make your displeasure known. Not the least of which is asking your State Senator to introduce a bill to change the Statutes governing Health Departments.

### **Rebuttal:**

What??

Wagner finds it interesting that constitutional sheriffs "pick and choose which issues

they **feel** are unconstitutional"??

Ummm...NO. That is as far from the truth as you can get.

Constitutional sheriffs don't arbitrarily "pick and choose" which issues they feel are unconstitutional.

Constitutional sheriffs defend those rights and freedoms that are being violated, and do so at the time they are being violated, or as soon as humanly possible.

Constitutional sheriffs know what our God-given inherent and inalienable rights are, per our Constitutions, which are the supreme law of the Land.

They know what these supreme laws say and mean, in terms of the rights and freedoms of the People, because they actually read and study them (and the history behind them), because they know that it is their duty to competently support and defend them.

Constitutional sheriffs are the sheriffs who actually take that oath seriously (not sheriffs like Wagner).

All Wagner is doing by what he wrote above is admitting he doesn't have the heart, mind, spirit and body to do the job he was elected to do.

It's very sad.

## **Part 6**

### **Wagner writes:**

It would appear the patriot and the sovereign citizen movements have ideological similarities with the CSPOA and are prompting citizens to 'vet their Sheriff' to determine if they are a Constitutional Sheriff according to the guidelines of the CSPOA? So the bottom line is, since Sheriffs don't have the legal authority to judge a law as unconstitutional, that must mean I am not a Constitutional Sheriff, nor are there any Constitutional Sheriffs in Nebraska. Terry T. Wagner Lancaster County Sheriff

### **Rebuttal:**

Utterly ridiculous. More nonsense. Wagner is just wimping out. Again, he's not up to the job. It's too dangerous for him.

His oath to "support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic" and to "bear true faith and allegiance to the same" **presupposes** that he knows what our Constitutions say and what they mean, at least as far as they pertain to his supreme-law-and-rights-enforcing job.

Our Constitutions are Wagner's Employee Handbook from We the People. And if he hasn't read it, and he doesn't know what it means, and he doesn't care to find out, then he is in violation of his oath and there should be consequences. Serious consequences.

A constitutional sheriff is nothing more nor less than a sheriff who faithfully (and courageously) fulfills his/her oath, which is to "support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, *foreign and domestic*..."

Who are the "domestic" enemies our Constitution must be defended against?

Anyone stateside who is hostile to our Constitution and the "inherent and inalienable rights" it was designed to protect. This includes people (enemies) in both the public and private sector, i.e., both inside and outside of government.

*Our Declaration of Independence makes it very plain* that government itself can become destructive of the very ends/interests it was instituted to serve/protect, namely our "unalienable rights":

"...all Men are created equal...they are endowed by their Creator with certain unalienable Rights...among these are Life, Liberty, and the Pursuit of Happiness...to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, --That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government..."  
Declaration of Independence, 1776

*Our Constitution also makes it very plain* that government itself can be the problem, in Article I-1:

Statement of rights.

"All persons are by nature free and independent, and have certain inherent and inalienable rights; among these are life, liberty, the pursuit of happiness, and the right to keep and bear arms for security or defense of self, family, home, and others...and such rights shall not be denied or infringed by the state or any subdivision thereof. To secure these rights, and the protection of property, governments are instituted among people, deriving their just powers from the consent of the governed.

Clearly, our Constitution recognizes that "the state or any subdivision thereof" may become destructive of the "inherent and inalienable rights" of We the People.

Clearly, bad actors in the "state or any subdivision thereof" who seek to deny or infringe upon the inherent and inalienable rights of We the People are included in the "domestic" enemies that the sheriff took an oath to defend our Constitution and our rights against.

**IMPORTANT NOTE:** It is the sheriff him/herself and his/her office that DEFENDS the Constitution, by defending our rights. He/she doesn't leave it to some high-priced lawyer or corrupt judge, who won't allow a jury and/or won't defend our rights in a **timely manner**.

## **Part 7** **Closing**

It appears that Wagner didn't know what he signed up for. He is ignorant of our history, our form of government, our basic rights and his job responsibilities. Governments are instituted for the explicit purpose of securing our rights, especially sheriffs.

Our sheriffs are elected by the People for the purpose of law enforcement.

As such, they are members of the executive branch of government.

Being elected by the People, county-wide, makes them the highest executive/law enforcement officer in the county. (Not some dumb, tyrannical city mayor like Baird.) The sheriff's jurisdiction is the entire county.

Now then, the reason our frame of government is set up this way (with the sheriff as the highest elected officer) is so that We the People can hold our local and immediate chief law enforcement officer accountable for doing the job we hired him/her to do, which is to protect county sovereignty, local self-governance and local freedom.

It is beside the point that We the People are not currently, on the whole, doing our job of being Watchful citizens.

It would be dangerous to all oath breakers to assume that this lack of Watchfulness will continue to the degree it has.

There is a revival of Citizen Responsibility and Watchfulness going on.

We the People hold the ultimate police power (see [Article I-26](#)).

Decentralization of government is critical to self-governance.

Decentralization of elections is critical to self-government.

Elected officers have an obligation to the People, first and foremost, over other divisions of government.

Accountability is coming.

**The last thing I'll say**, before providing a list of examples of county sheriffs doing exactly what I describe above, is this:

Every branch and/or level of government, including the executive and legislative branches, is considered either "the state" or a "subdivision" thereof.

The God-given, inherent and inalienable rights of the People come first and cannot be denied or infringed by any act of the executive, or of the legislature, or the courts, or any political subdivision of the state.

Our Rights were enumerated first in our Constitution for a reason.

Our Constitution was written BY the People, FOR the People.

We the People are the sovereigns.

Preamble

Preamble. We, the people, grateful to Almighty God for our freedom, do ordain and establish the following declaration of rights and frame of government, as the Constitution of the State of Nebraska.

<https://nebraskalegislature.gov/laws/articles.php?article=Preamble>

**Here's the list of examples of sheriffs doing their job.** Constitutional sheriffs are loved by the People they serve. Oath-breaking sheriffs are despised by the People for not doing their job, and for taking big paychecks home from taxpayers on top of it.

Indiana Sheriff Defies FDA

[https://www.goshennews.com/news/middlebury-dairy-farmer-sheriff-stand-up-to-fda/article\\_b07a8430-9897-5504-9820-d943d60149f6.html](https://www.goshennews.com/news/middlebury-dairy-farmer-sheriff-stand-up-to-fda/article_b07a8430-9897-5504-9820-d943d60149f6.html)

[https://www.goshennews.com/news/local\\_news/ask-the-sheriff-sheriff-revisits-defending-raw-milk-provider/article\\_525bb00b-37f7-5d5b-beed-8aa0272935af.html](https://www.goshennews.com/news/local_news/ask-the-sheriff-sheriff-revisits-defending-raw-milk-provider/article_525bb00b-37f7-5d5b-beed-8aa0272935af.html)

New Mexico Sheriff Defies Governor

<https://www.pbs.org/newshour/politics/bernalillo-county-sheriff-in-new-mexico-rejects-governors-gun-ban-calling-it-unconstitutional>

<https://sonsoflibertymedia.com/this-is-how-americans-respond-sheriffs-the-people-say-no-to-tyrannical-governors-attack-on-2nd-amendment-impeachment-removal-on-the-horizon/>

<https://defytyrants.com/sheriffs-defy-governor-over-gun-ban/>

Illinois Sheriffs Defy Governor

<https://www.foxnews.com/us/dozens-illinois-sheriffs-offices-vow-defy-governors-assault-weapons-ban>

<https://sonsoflibertymedia.com/revolt-of-the-sheriffs-in-illinois/>

<https://defytyrants.com/revolt-of-the-sheriffs-in-illinois/>

Missouri Sheriff Defies FBI

<https://defytyrants.com/sheriff-defies-fbi-interposition-for-all-gun-owners-in-his->

[jurisdiction/](#)

Wisconsin Sheriffs Defy Governor

<https://defytyrants.com/sheriffs-line-up-to-defy-governor-in-wisconsin/>

Washington Sheriff Defies Governor over Stay at Home Order

<https://defytyrants.com/washington-sheriff-defies-governor-and-stay-at-home-order/>

Illinois County Defies Governor

<https://defytyrants.com/illinois-lesser-magistrates-1-tyrants-0/>

Arizona Sheriff sets up Citizen Posse

<https://sonsoflibertymedia.com/americas-sheriff-mark-lamb-joins-bradlee-dean-live/>

Robert J. Borer



**From:** [Robert Borer](#)  
**To:** [legislature.reponsible.for.our.election.mess@ne.gov](mailto:legislature.reponsible.for.our.election.mess@ne.gov)  
**Subject:** The Legislature is responsible—a private vendor conducts our election vote-counts in secret  
**Date:** Monday, December 4, 2023 9:48:20 AM

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To Whom It May Concern—

I filed a 'FOIA' request with the SoS office because of a serious discrepancy in the numbers in two precinct election audits after the 2020 election.

The SoS office couldn't reconcile the discrepancy. To the contrary, the data they provided in response only validated the discrepancy.

Here are the problematic facts:

The "Mandatory Manual Audit" for Precinct 1A (Lancaster Co) showed only 307 total hand-counted votes for the three presidential candidates whose names were on the ballot, while the Precinct Report shows 632 total votes cast for those names. **307 vs 632.**

...  
The Mandatory Manual Audit for Precinct 9F-10 (Lancaster Co) showed only 315 total hand-counted votes for the three presidential candidates whose names were on the ballot, while the Precinct Report shows 594 total votes cast for those names. **315 vs 594.**

These so-called Mandatory Manual Audits (hand counts) are supposed to be full precinct audits, not half precinct audits. They are allegedly supposed to prove that the machine counts are accurate.

They do no such thing. These "Mandatory Manual Audits" are a complete sham. Their only purpose is to gaslight voters into believing our elections are honest, even though the vote-counts are being conducted in complete secrecy by a private vendor of secret ownership. (The presence of secrecy is what we call a "clue.")

**In other words**, our county election offices DO NOT conduct our elections where it matters most—the vote-counts.

A **private vendor** conducts them.

In other words still, neither our SoS office nor our county election offices are *in control* of our elections. Our elections are being controlled by bad actors behind a vast, nationwide+ digital network. *All claims to the contrary by the SoS office, notwithstanding.* The SoS office can't prove ANY of its claims. They don't have the knowledge. They don't have the expertise. They are completely at the mercy of the **private vendor**. They only regurgitate **private vendor** talking points. The lack of transparency in the associations these "officials" and "private vendors" keep is also a "clue."

Quoting [Effective Use of Computing Technology in Vote-Tallying](#):

"There is a lack of expertise in computer technology available within the structure of many local election administrations. In jurisdictions without technological expertise, **vendors** are more likely to conduct a significant part of the election on the administration's behalf."

This is a very old document. Computers and computer networks are far more sophisticated today.

Our county elections are just like the county elections of every other county in the country, except for those that have moved to transparent hand-counting.

### **The Legislature**

The use of this vast digital network to hijack the critical infrastructure of our elections here in Nebraska and nationwide constitutes an "enemy attack" upon our counties, our state and our country. See [Article III-29](#).

According to our State Constitution, [Article III-29](#), the Legislature has the "the power and the immediate duty, notwithstanding any other provision to the contrary in this Constitution" to address this attack.

Do I expect the Legislature to actually do their job? No. They haven't done it yet. That takes courage.

This letter is just for the sake of future accountability purposes.

Accountability Day is coming. A long train of abuses and usurpations demands it.

And the People are waking up and finding out that it is their right to demand it.

All power resides with the People. This is our frame of government. Any power that government has is only delegated power.

Again, the People are waking up to these facts.

A revival of Citizen Responsibility and Watchfulness is happening now, behind the scenes.

Short and sweet.

Robert J. Borer

**From:** [Connor Clark](#)  
**To:** [Council Packet](#)  
**Subject:** Lincoln Bold Skyscraper Vote  
**Date:** Monday, December 4, 2023 12:42:58 PM

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Hello,

My name is Connor Clark and I am a current senior at the University of Nebraska I am working on a news radio story on the new skyscraper project in the Haymarket. I am reaching out wondering if I can get a phone interview with someone involved in the 4-2 city council approval vote and the thought process that went into that final decision. My contact information is listed below. Let me know when you can, thanks so much.

Connor Clark  
[connorclark227@gmail.com](mailto:connorclark227@gmail.com) | (847) 507-0833

**From:** [Elizabeth Mabie](#)  
**To:** [Parks Counter Registrations](#)  
**Subject:** Woods Park Tennis Center Opposition  
**Date:** Monday, December 4, 2023 3:26:04 PM

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Good afternoon!

I am writing as a concerned citizen to voice my opposition to the expansion of the Woods Tennis Center. My husband , children and I have been residents of the Witherbee Neighborhood for over 10 years, and the park is one that we use often - almost daily in the spring, summer and fall, and at least weekly during the winter. While we utilize many areas of the park, the tennis courts are the one thing that we've never used since they require payment to play.

Living down the street from such a large and beautiful green space was a major influence in our decision to move into this neighborhood, and I, along with many friends and neighbors, would hate to see even more of that green space decimated for tennis courts and parking lots. (I say "more" because we have lived since prior to the last expansion as well.) I would be incredibly disappointed in my city if we gave up so much green space that's utilized by our community every single day in favor of paid use space that would only be used to capacity a handful of times throughout the year.

Even if I am just walking around the green space and not directly using it, being able to look across the fields and trees of Woods Park gives a boost to my mental health and well being; surely there are others who feel the same. Please do everything in your power to keep Woods Park green!

Elizabeth Mabie

**From:** [Elizabeth G. Switzer](#)  
**To:** [Elizabeth G. Switzer](#); [Wynn S. Hjermstad](#)  
**Subject:** FW: F Street Community Market Invitation  
**Date:** Tuesday, December 5, 2023 9:25:11 AM  
**Attachments:** [December Market Call for Artists Social Media Post.png](#)  
[December Market Call for Artists Flyer \(digital\).png](#)  
[December Market Call for Artists Flyer \(print\).pdf](#)

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Hey y'all!

Mary and I are organizing a community market at F Street Community Center on Monday, December 11th, from 5 to 7 PM, and I'd love for you to share this opportunity with creatives you know in and around the Everett and Near South neighborhoods!

Here's some more information:

Apply for the F Street Community Market! In-person, Monday, December 11th, from 5 to 7 PM inside the gym at F Street Community Center, located at 1225 F St, Lincoln, NE!  
Applications will be accepted on an ongoing basis.

The F Street Community Market is FREE to participate in, however, we welcome makers to give back to the community by sharing your artistic skills through teaching workshops for kids and/or adults at the community center as you please! Whenever you have the inspiration to lead an art workshop or workshop series, let us know, and we will cover the material costs!

We want to highlight the work of folks creating original stuff: woodworkers, printmakers, jewelers, chefs, bakers, knitters, fiber artists, beaders, painters, ceramicists, and more! All forms of makers are welcome to apply! Folks who live in and around the Everett and Near South neighborhoods will be prioritized. Broader Lincolniters are welcome to apply but will be included on a limited basis.

Got questions? Email Mary Johnson at [MCJohnson@lincoln.ne.gov](mailto:MCJohnson@lincoln.ne.gov)

Best,  
Allie

--



**Allie Christianson**

Senior Community Organizer, Collective Impact Lincoln  
She | Her | Hers  
530 South 13th St., Suite 100 | Lincoln, NE 68508

Mobile: 402.312.2025 | [Donate](#)

*Creating a more modern and robust democracy for all Nebraskans.*



**CALL FOR ARTISTS:**

**F S T R E E T  
C O M M U N I T Y  
M A R K E T**

**DECEMBER 11, 5-7 PM**

Apply online at  
[bit.ly/fstmarket-1211](http://bit.ly/fstmarket-1211)

*Got questions? Email Mary Johnson at  
[MCJohnson@lincoln.ne.gov](mailto:MCJohnson@lincoln.ne.gov)*







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*Got questions? Email Mary Johnson at  
[MCJohnson@lincoln.ne.gov](mailto:MCJohnson@lincoln.ne.gov)*



**From:** [Robert Borer](#)  
**To:** [an.example.for.ne.election.officials@ne.counties.gov](mailto:an.example.for.ne.election.officials@ne.counties.gov)  
**Subject:** SD county election official does what no NE county election official or sheriff has the courage to do  
**Date:** Tuesday, December 5, 2023 11:59:01 AM

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Dear Friends and Members of Local and State Government—

Leah Anderson, [Minnehaha County](#) South Dakota's top election official stood up to the clowns at ES&S yesterday.

Not that Leah hasn't been standing up to ES&S since she took office earlier this year—she has, this is just the latest episode.

By standing up to ES&S, Leah is also standing up to the tyrannical clown in South Dakota's SoS office, [Monae Johnson](#), who betrayed voters after she was "elected" on a platform of election integrity.

Though Leah campaigned with Johnson, she couldn't go the betrayal route. She has too much integrity. She has stayed true to her election integrity platform, against much opposition.

All Leah wants to do is give the People who voted for her what they justly want and deserve—real, transparent, verifiable election results.

To that end, Leah simply wants herself and her staff to be **fully trained** on the ES&S equipment the SoS office says she has to use, or she will refuse to use it and move to hand counts.

More specifically, Leah wants herself and her staff to be fully trained on the alleged audit features of the machines. Something ES&S and Secretary Johnson are not at all happy about.

ES&S doesn't want to provide that training. They want Leah to simply trust that the machines are doing what they say they are doing, which is absurd.

That kind of expectation and behavior from ES&S reeks of fraud. They don't want to be transparent. There can only be one reason for that. They are hiding something. That something can only be election manipulation, aka election fraud.

This is going to be an interesting fight moving forward.

Leah is very bright. ES&S is not.

Leah has a servant's heart. ES&S does not.

And Leah has chosen a great angle in this fight. ES&S has not.

Leah's angle, one more time: "If I have to use these machines, you have to train me first on how to use them, *including their internal audit features*, so I can know without a doubt that I am doing the job voters have entrusted me with. If you refuse, I'm not using them."

Cheers to Leah.

Listen to the video below. ES&S personnel reek of insincerity.

The fact that so many had to make an appearance, and each one had to come out with their highfalutin title, says it all. They are scared, and they don't trust each other.

Honor among thieves only goes so far.

All Leah wanted to do in this meeting was ask a couple simple questions. That only required one or two people from ES&S.

Instead, they showed up en masse to try to buffalo her. Because that's what bullies do.

But Leah and Co weren't having it.

She invited a crowd of her own, unbeknownst to them, i.e., a crowd of citizens to sit in and witness the call.

By doing so, she was being transparent with her constituents.

ES&S wasn't interested in being transparent with her constituents, even though they kept trying to claim they were all about transparency. (All lies.)

When ES&S realized Leah had a crowd, they weren't happy. Again, they aren't very bright. Why wouldn't they anticipate that a bunch of citizens would be interested in what they had to say, or not say??

When a person's conscience condemns them, it's hard to think straight. Such is case with ES&S.

Here's the video: <https://rumble.com/v3zlx2p--sparks-fly-in-stand-off-with-es-and-s.html>

And here's the story as told by the South Dakota Canvassing Group (who has done a fantastic job of finding voter fraud in SD):

<https://southdakotac canvassinggroup.substack.com/p/sparks-fly-in-stand-off-with-es-and>

### **Closing**

The real-life story above only begs one important question: How did a person of such integrity like Leah get elected if our elections are so bad?

That's easy:

She's sweet.

She's unassuming, and therefore easy to under-estimate.

There was good citizen oversight during the election in the Minnehaha election office.

Leah campaigned with Johnson. They were supposed to fight for election integrity together.

Somewhere along the way, "they" got to Johnson.

They figured they could get to Leah and control her as well. (They were wrong.)

Last but not least, voters showed up en masse.

ES&S was either unaware of Leah's potential, or unprepared to cheat to the degree

required late in the game to keep her from being elected.

If they had been, it would be a different story.

Again, ES&S really isn't very smart. They are now drawing lots of attention to themselves. They overplayed their hand in 2020.

The chickens have come home to roost.

Thank you, Leah. You have set an example others can follow in good conscience. All they need is courage.

Robert J. Borer

**From:** [Bob Reeves](#)  
**To:** [Council Packet](#)  
**Subject:** Clinton Neighborhood Org. letter  
**Date:** Tuesday, December 5, 2023 4:16:51 PM

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To all members of the Lincoln City Council:

Clinton Neighborhood Organization (CNO) met this last Monday. Although not on the agenda, conversations developed about the proposal by Aaron Burd to amend the Hawley Corners CUP to include his proposed townhome development. We realize this is once again coming before you after it was tabled last month. A motion was brought forward and passed unanimously by the CNO board opposing this amendment.

We want to stand with our Hawley Hamlet neighbors against this developer's proposal. Hawley Corners CUP should be commended for what they are trying to achieve. It incorporates an "urban garden" concept that will be preserved using the conservation easement that is before the Planning Commission this week. The CUP will include two affordable homes, one market-priced home and a large area devoted to common garden space so that residents can grow their own vegetables. This plan is a model for what could be done across many of the older and lower-income areas of Lincoln. This developer is trying to profit from their hard work, with no investment of his own time or commitment to the neighborhood.

Clinton Neighborhood has dealt with this particular developer for years as he continues to tear out single dwelling, privately owned and even some rental properties and replacing them with more lucrative multi-dwellings with a large number of bedrooms per unit. These units throughout our neighborhood are mostly rented to college students, undermining the dorm system at UNL and slowly but surely changing our neighborhood from the vast variety of people, from traditional families to retirees that are still in their starter homes, to refugees finding their dream here in Clinton, and even to college students that rent a single home for a couple of years.

This developer has no commitment to our neighborhood, nor will he have to Hawley Corners CUP. Most of his dwellings are built then sold or transferred to an LLC that has no local contact information listed. He is contentious when he is forced by the city to talk to us before waivers are approved, he is defensive and rude and all about how this will "pay for his retirement" He uses threats of what he could put in there anyway and that we should be appreciative of what he is providing. These dwellings are built cheap and fast. What will they look like in 20 years, while his retirement funds roll in? They will never revert back to single family dwellings, permanently changing these historic neighborhoods.

It does not seem right that a developer who had nothing to do with creating a CUP or determining its philosophy and purpose, should be allowed to attach his own very different type of project, just to waive some zoning requirements. Perhaps the council needs to take a new look at the whole CUP process and make some changes.

Clinton welcomes redevelopment because we know it's how neighborhoods like ours and Hawley grow. But after years of trying to work with this developer and having our feedback and concerns

ignored, we don't view his developments as a positive. He has proven to not be a good neighbor, and we do not believe this new development is the right fit for the Hawley Corners CUP. His intentions do not align with the spirit of Hawley Hamlet and we encourage you to vote against this proposal.

Thank you for your consideration,

Clinton Neighborhood Organization  
Ian Edgington, president  
Gloria Eddins, president-elect  
Bob Reeves, secretary