

**NOTICE OF SPECIAL MEETING  
OF THE LEAGUE ASSOCIATION OF RISK MANAGEMENT  
BOARD OF DIRECTORS (ELECTED 3-21-18 & 9-19-18)  
ON FRIDAY, AUGUST 23, 2019, AT 11:30 A.M. CT**

PLEASE TAKE NOTICE that on **Friday, August 23, 2019, at 11:30 a.m. CT**, the League Association of Risk Management (LARM) will hold a Special Meeting of the LARM Board of Directors (Elected 3-21-18 & 9-19-18) in the Joe Hampton Conference Center in the League Building, 1335 L Street, Lincoln, Nebraska. An agenda of subjects known at this time is included with this notice, but the agenda shall be kept continually current and readily available for public inspection at the principal office of LARM during normal business hours at 1335 L Street, Lincoln, Nebraska. On August 21, 2019, notice of this Special Meeting with the agenda and other materials were sent to all LARM members and the LARM Board (Elected 3-21-18 & 9-19-18). Notice of this Special Meeting with the agenda and other materials are available for public inspection at 1335 L Street, in Lincoln, Nebraska, and also are posted on the League of Nebraska Municipalities' Facebook page and its website relating to LARM – <https://www.lonm.org/larm/>.



**AGENDA**  
**SPECIAL MEETING OF THE LEAGUE ASSOCIATION OF RISK  
MANAGEMENT BOARD OF DIRECTORS (ELECTED 3-21-18 & 9-19-18)**  
**Friday, August 23, 2019, 11:30 am CT**  
**Joe Hampton Conference Center in the League Building**  
**1335 L Street, Lincoln**

In accordance with the Open Meetings Act, Chapter 84, Article 14 of the Reissue Revised Statutes of the State of Nebraska 1943, as amended, one copy of all reproducible written materials to be discussed is available to the public at this meeting for examination and copying. The LARM Board may pass motions to go into closed session on agenda items pursuant to the requirements of the Open Meetings Act.

*Officials of LARM members and members of the public may call 1-605-472-5216 and enter access code 341924 to comment on agenda items or listen to the Board Meeting; however, if the Board votes to hold a closed session pursuant to the Open Meetings Act, officials of LARM members and members of the public may not comment or listen during that time.*

**1. Call Special Meeting to order:**

- a. 11:30 am CT – Hickman Mayor Doug Hanson, Chair of the LARM Board (Elected 3-21-18 & 9-19-18), will call the Special Meeting to order.
- b. Indicate that on August 21, 2019, notice of this Special Meeting with the agenda and other materials were sent to all LARM members and the LARM Board (Elected 3-21-18 & 9-19-18). Notice of this Special Meeting with the agenda and other materials were available for public inspection at 1335 L Street, in Lincoln, Nebraska, and also posted on the League of Nebraska Municipalities' Facebook page and its website relating to LARM – <https://www.lonm.org/larm/>.
- c. Inform the public about the location of the Open Meetings Act which is posted and accessible to members of the public along with at least one copy of all reproducible written material to be discussed at this meeting.
- d. Pledge of Allegiance to the Flag of the United States of America.
- e. Roll call.
- f. Public comment period on any agenda item(s): Pursuant to the Open Meetings Act, the LARM Board Chair reserves the right to limit comments on agenda items. In accordance with the Open Meetings Act, there is no time limit on comments made by members of the LARM Board of Directors (Elected 3-21-18 & 9-19-18).

**2. Consider approval of the minutes of the June 12, 2019, "Meeting of the LARM Board of Directors (Elected 3-21-18 & 9-19-18)."**

***Please see pages 1-4.***

3. **Andy Barry of Cline Williams Law Firm, the League's Outside Legal Counsel on LARM-related issues, will review the Order issued on August 15, 2019, by Judge Jodi L. Nelson, Lancaster County District Court, which: a) "immediately ousted, removed and excluded from office" the Directors of the Purported LARM Board; and b) ordered the Directors of the Purported LARM Board and those acting in concert with them "to deliver over all books, papers, and any other assets under the custody or control of the (Purported) LARM Board of Directors to the Administrator of LARM (L. Lynn Rex)."**  
***Please see pages 5-28: Case No. CI 18-1446: L. Lynn Rex, Village of Ansley, City of Hickman, and City of North Platte, (Relators) v. Gerald Solko, Lane Danielzuk, Kimberly Neiman, Shannon Stuchlik, David Hunter, Andrew Ward, Beth Bonderson, Vince Knight, and Michael Werner, (Respondents).***
4. **Update on pending litigation relating to LARM governance by Andy Barry of Cline Williams Law Firm, the League's Outside Legal Counsel on LARM-related issues.**
5. **Recommendation to the LARM Board (Elected 3-21-18 & 9-19-18) from L. Lynn Rex, Administrator of LARM and League Executive Director, to dismiss Michael Nolan, Executive Director of LARM, while awaiting the final decision by the LARM Board (Elected 3-21-18 & 9-19-18) to approve (or not approve) his dismissal; Michael Nolan has been placed on paid administrative leave, effective immediately, and has been given an opportunity to request a hearing.**  
***Please see page 29.***
6. **Consider authorizing L. Lynn Rex, as Administrator of LARM, to retain legal counsel to represent LARM in connection with the recommendation to dismiss Michael Nolan as Executive Director of LARM.**
7. **Recommendation to confirm that the location of LARM's office and place of business continues to be 1335 L Street, Lincoln, NE 68508.**
8. **Discussion of upcoming meeting dates of the LARM Board (Elected 3-21-18 & 9-19-18) and the 2019 Annual Meeting of Members on Sept. 18 at the Cornhusker Marriott Hotel in Lincoln.**
9. **Motion to Adjourn.**

**MINUTES**  
**MEETING OF THE LEAGUE ASSOCIATION OF RISK MANAGEMENT**  
**BOARD OF DIRECTORS (ELECTED 3-21-18 & 9-19-18)**

**Wednesday, June 12, 2019, 11 am CT**  
**Perkins Room, Graduate Hotel, 141 N 9<sup>th</sup> Street, Lincoln**

A Meeting of the League Association of Risk Management (LARM) Board of Directors (Elected 3-21-18 & 9-19-18) was held June 12, 2019, at 11 am CT in the Perkins Room at the Graduate Hotel in Lincoln, Nebraska.

On June 7, 2019, notice of this meeting with the agenda and other materials were sent to all LARM members and the LARM Board (Elected 3-21-18 & 9-19-18). Notice of this meeting with the agenda and other materials were available for public inspection at 1335 L Street in Lincoln, Nebraska, and also were posted on the League of Nebraska Municipalities' Facebook page and its website relating to LARM – <https://www.lonm.org/larm/>.

(AGENDA ITEM #1) **Call to Order.** At 11 am CT, **LARM Board Vice Chair Jim Hawks**, City Administrator of North Platte, called the meeting to order. He stated that in accordance with Chapter 84, Article 14 of the Reissue Revised Statutes of the State of Nebraska 1943, as amended, one copy of all reproducible written materials to be discussed was available to the public at this meeting for examination and copying. Vice Chair Jim Hawks informed the public about the location of the Open Meetings Act posted in the meeting room and stated that the LARM Board may pass motions to go into closed session on any agenda item pursuant to the requirements of the Open Meetings Act.

After the Pledge of Allegiance to the Flag of the United States of America, the roll call was read with the following Board Members present: **LeAnn Brown**, Clerk/Treasurer, City of Oshkosh; **Melissa Harrell**, Admin./Clerk/Treasurer, City of Wahoo; **Jim Hawks**, City Administrator, City of North Platte; **Nathan Johnson**, City Manager, City of Scottsbluff; **Tom Ourada**, City Administrator, City of Crete; **Sandra Schendt**, Clerk/Treasurer, City of Nelson; **Douglas Schultz**, Admin./Clerk/Treasurer, City of Curtis; **Mayor Deb VanMatre**, City of Gibbon; and ex-officio Board Member (non-voting member) **L. Lynn Rex**, League Executive Director and "Administrator" of LARM. *8 voting Board Members present; 7 absent (Teresa Bartlett, Clerk/Treasurer, City of Beaver City; Pam Buethe, Board Member, Sarpy County SID #29; Lanette Doane, Clerk/Treasurer, Village of Ansley; Mayor Scott Getzschman, City of Fremont; Mayor Doug Hanson, City of Hickman; Jo Leyland, Admin./Clerk/Treasurer, City of Imperial; Mayor Josh Moenning, City of Norfolk). Ex-officio Board Member (non-voting member) Mayor Dwight Livingston, City of North Platte and League President, was not present.*

(AGENDA ITEM #2) **Consider approval of the minutes of the Feb. 26, 2019, "Meeting of the LARM Board of Directors (Elected 3-21-18 & 9-19-18)."** Melissa Harrell moved, seconded by Sandra Schendt to approve the minutes of the Feb. 26, 2019, "Meeting of the LARM Board of Directors (Elected 3-21-18 & 9-19-18)". Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. **Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).**

Vice Chair Jim Hawks asked others in attendance to identify themselves, if they chose to do so: **Silas Clarke**, City Administrator/Economic Development Director, City of Hickman; **Doug Stack**, City Attorney, City of North Platte also the Attorney for the Village of Hershey and the Village of Mullen; **Jerry Wilcox**, Finance Director, City of Crete; **Andy Barry** of Cline Williams, the League's Outside Legal Counsel on LARM-Related Issues; and **John Zimmer** of Cline Williams. The following staff members of the League of Nebraska Municipalities also were in attendance: **Christy Abraham, Lash Chaffin, Brenda Henning and Shirley Riley.**

(AGENDA ITEM #3) **Review LB 573, introduced in the 2019 session, which would have changed LARM's Interlocal Agreement; LB 573 was introduced on Jan. 22, 2019, at the request of Mike Nolan, LARM Executive Director, and subsequently supported by the "Purported LARM Board" on Jan. 28, 2019; the Banking, Commerce & Insurance Committee unanimously voted to indefinitely postpone LB 573 immediately following the hearing on March 18, 2019.** Nathan Johnson moved, seconded by LeAnn Brown to accept the report. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

(AGENDA ITEM #4) **Review Agendas, Staff Memos and Minutes of "Purported LARM Board" Meetings Scheduled on March 18, 2019, March 28, 2019 and April 24, 2019.** Doug Schultz moved, seconded by Tom Ourada to accept the report. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

(AGENDA ITEM #5) **Review relevant sections for the "Attestation Report of the Village of the Pilger (Jan. 1, 2012-Dec. 31, 2018)" issued on March 20, 2019 by the Nebraska Auditor of Public Accounts.** Doug Schultz moved, seconded by Sandra Schendt to accept the report. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

(AGENDA ITEM #6) **Discussion of issues relating to the historic flooding in Nebraska in 2019.** Melissa Harrell moved, seconded by Sandra Schendt to request information regarding limits on flood coverage and how many claims have been filed to date. LARM reduced its flood coverage in FY 2018-19 from \$50 million to \$10 million according to the minutes of the "Purported LARM Board." Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).*** Nathan Johnson moved, seconded by Deb VanMatre to accept the report. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***



(AGENDA ITEM #7) **Litigation Update by Andy Barry of Cline Williams Law Firm, the League's Outside Legal Counsel on LARM-related issues.** At 12 pm, Sandra Schendt moved, seconded by Nathan Johnson to go into closed session to protect the public interest to discuss litigation and to include in closed session Andy Barry, John Zimmer, Lash Chaffin, Jerry Wilcox, Christy Abraham, Doug Stack, Shirley Riley, Brenda Henning and Silas Clarke. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).*** At 12 pm, Vice Chair Jim Hawks repeated the motion to go into closed session in its entirety immediately prior to the closed session.

At 12:49 p.m., Melissa Harrell moved, seconded by Deb VanMatre to come out of closed session. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

After returning to open session at 12:49 p.m., Vice Chair Jim Hawks emphasized that there was no action taken during the closed session and discussion was limited to the motion to go into closed session as stated.

(AGENDA ITEM #8) **Discussion of upcoming meeting dates of the LARM Board (Elected 3-21-18 & 9-19-18) and 2019 Annual Meeting of Members.** Sandra Schendt moved, seconded by Tom Ourada to schedule the "Members Meeting" and the Meeting of the LARM Board (Elected 3-21-18 & 9-19-18) on Wednesday, Sept. 18, at the Cornhusker Hotel in Lincoln (in conjunction with the League Annual Conference). Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

(AGENDA ITEM #9) **Motion to adjourn.** At 12:54 pm, Melissa Harrell moved, seconded by LeAnn Brown to adjourn. Vice Chair Jim Hawks asked if there was any discussion; there was none. Roll call vote. Ayes: Brown, Harrell, Hawks, Johnson, Ourada, Schendt, Schultz and VanMatre. Nays: None. Abstentions: None. ***Motion carried: 8 ayes, 0 nays, 0 abstentions and 7 absent (Bartlett, Buethe, Doane, Getzschman, Hanson, Leyland, and Moenning).***

Approved on: \_\_\_\_\_.

ATTEST:

---

**Brenda Henning**

Membership Services Assistant  
League of Nebraska Municipalities

---

**L. Lynn Rex**

Ex-Officio, Non-Voting, Board Member and "Administrator" of LARM  
Executive Director of the League of Nebraska Municipalities





**IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA**

**L. LYNN REX, VILLAGE OF ANSLEY,  
CITY OF HICKMAN, and CITY OF  
NORTH PLATTE,**

**Relators,**

**v.**

**GERALD SOLKO, LANE DANIELZUK,  
KIMBERLY NEIMAN, SHANNON  
STUCHLIK, DAVID HUNTER, ANDREW  
WARD, BETH BONDERSON, VINCE  
KNIGHT, and MICHAEL WERNER,**

**Respondents.**

**Case No. CI 18-1446**

**ORDER**

THIS MATTER CAME BEFORE THE COURT on the 1st Day of March, 2019 on the Relators' Motion for Summary Judgment. Andre R. Barry and John F. Zimmer, V appeared for the Relators. David A. Domina appeared for Respondents. Exhibits 2-62 were offered and all but Exhibit 60 were received. Objections to Exhibit 60 were taken under advisement and are now overruled. Exhibit 60 is also received. Having considered the evidence and being fully informed, the Court finds and orders as follows:

**Findings of Fact**

The Court makes the following factual findings, all of which are supported by the evidence, and all of which—with the exception of Finding No. 33—are undisputed by the parties:

**A. The Parties**

1. Relator L. Lynn Rex ("Rex") is a citizen of the United States whose residence is in the State of Nebraska and who is over eighteen years of age. Rex is also the Executive Director of the League of Nebraska Municipalities. Under LARM's

Interlocal Agreement, Rex is an ex officio, non-voting member of the board of directors of LARM and the Administrator of LARM. [Am. Inf. ¶ 2; Answer ¶ 2; Ex. 2 – Interlocal Agreement at p. 1 § 3.2; Ex. 34 – Affidavit of L. Lynn Rex (“Rex. Aff.”) ¶ 1.]

2. Relator the Village of Ansley (“Ansley”) is a municipal corporation located in Custer County, Nebraska. Ansley is a village under NEB. REV. STAT. § 17-201 and a member of LARM. [Am. Inf. ¶ 3; Answer ¶ 3.]

3. Relator the City of Hickman (“Hickman”) is a municipal corporation located in Lancaster County, Nebraska. Hickman is a city of the second class under NEB. REV. STAT. § 17-101 and a member of LARM. [Am. Inf. ¶ 4; Answer ¶ 4.]

4. Relator the City of North Platte (“North Platte”) is a municipal corporation located in Lincoln County, Nebraska. North Platte is a city of the first class under NEB. REV. STAT. § 16-101 and a member of LARM. [Am. Inf. ¶ 5; Answer ¶ 5.]

5. Under LARM’s Interlocal Agreement, Relators Hickman, North Platte, and Ansley are entitled to vote, along with the other members of LARM, in any election of directors to serve on LARM’s Board of Directors. [Am. Inf. ¶ 6; Answer ¶ 6.]

6. Respondents are individuals, each of whom purports to hold office lawfully on the LARM Board of Directors, or to have done so at the time this action was filed. [Am. Inf. ¶¶ 9–15; Answer ¶¶ 9–15.]

## **B. LARM**

7. LARM operates a risk management pool for the purpose of providing risk management services and insurance coverages to its members under NEB. REV.

STAT. § 44-4304. LARM was formed as an interlocal public agency under the Intergovernmental Risk Management Act, NEB. REV. STAT. § 44-4301 *et seq.* (“IRMA”), and the Interlocal Cooperation Act, NEB. REV. STAT. § 13-801 *et seq.* [Am. Inf. ¶ 19; Answer ¶ 19.]

8. The members of LARM have all executed an Interlocal Agreement which governs LARM, and which has been amended from time to time. [Am. Inf., Ex. A; Ex. 2 – Interlocal Agreement; Ex. 34 – Rex. Aff. ¶ 2.]

9. Exhibit 2 is a true and correct, unsigned copy of the current Interlocal Agreement. [Ex. 2 – Interlocal Agreement; Ex. 20 – Relators’ RFA No. 7; Ex. 21 – Ex. 29 – Respondents’ Response to RFA No. 7.]

10. The Village of Ansley executed the Interlocal Agreement on August 22, 2005, and the revised version of the Interlocal Agreement on December 3, 2014. [Ex. 3; Ex. 4.]

11. The City of Hickman executed the Interlocal Agreement on September 23, 2003 and the revised version of the Interlocal Agreement on December 9, 2014. [Ex. 5; Ex. 6.]

12. The City of North Platte executed the Interlocal Agreement on October 6, 2005, and the revised version of the Interlocal Agreement on December 16, 2014. [Ex. 7; Ex. 8.]

13. The members of LARM are all municipalities and other public agencies whose applications have been approved by the LARM Board of Directors and the League of Nebraska Municipalities and who have entered into the Interlocal Agreement. [Ex. 2 at pp. 2, 7, §§ 3.13, 8.9.4.]

### **C. LARM’S Interlocal Agreement**

14. Section 3.2 of the Interlocal Agreement defines the “Administrator” of LARM as “the Executive Director of the League of Nebraska Municipalities.” [Ex. 2 at p. 1, § 3.2.]

15. Section 8.1 of the Interlocal Agreement provides, in part, that the “governing authority of LARM shall be a Board of Directors consisting of elected or appointed officials or employees of participating members.” [Ex. 2 at p. 4, § 8.1.]

16. Section 8.1 of the Interlocal Agreement further provides, in part, that “[a] vacancy on the Board shall be filled by a majority vote of the Board upon recommendation made by the Administrator,” *and* that “[t]he person appointed to fill a vacancy shall serve for the remainder of the term of the vacating director.” [Ex. 2 at p. 4, § 8.1.]

17. Section 8.1.4 of the Interlocal Agreement sets forth the following “Board election procedures” that LARM is required to follow:

8.1.4.1. A nominating committee shall recommend candidates for the Board to the members. The nominating committee shall consist of the chairperson of the Board, an individual from a participating member selected by the Board and the Administrator. Additional nominations shall be requested from participating members at the meeting.

8.1.4.2. Each participating member may cast one vote for each of the open Board positions.

[Ex. 2 at p. 4, §§ 8.1.4.1, 8.1.4.2.]

18. Section 8.1.5 of the Interlocal Agreement provides that LARM directors “shall serve staggered terms of three years to promote stability and continuity.” [Ex. 2 at p. 4, § 8.1.5.]

19. Section 8.1.6 of the Interlocal Agreement provides that directors' terms "shall commence January 1st of the first year of the term and conclude on December 31st of the last year of the term." [Ex. 2 at p. 4, § 8.1.6.]

20. In 2014, a new section, 8.1.7, added term limits to the Interlocal Agreement: "The Board of Directors service shall be restricted to two consecutive three-year terms to assure that all LARM members have opportunity for representation as Board members." [Ex. 2 at p. 4, § 8.1.7.]

21. Section 8.18 of the Interlocal Agreement authorizes the LARM Board to adopt bylaws, but provides that no provisions of the bylaws shall be inconsistent with the Interlocal Agreement or the Intergovernmental Risk Management Act. [Ex. 2 at p. 5, § 8.18.]

22. Section 8.18 of the Interlocal Agreement similarly authorizes the LARM Board to adopt policies, rules and procedures, but provides that no provisions of the policies, rules or procedures shall be inconsistent with the Interlocal Agreement or the Intergovernmental Risk Management Act. [*Id.*]

#### **D. Invalidity of Respondents' Title to Office**

23. Respondents all admit that "there was never a vote of the entire membership of LARM at which I was elected as a director" and that they were "never elected as a director of LARM by a vote of the participating members of LARM at a meeting of LARM members." [Exs. 21–29 – Respondents' Responses to RFA Nos. 1, 2, 5, and 6.]

24. Respondents claim instead to be acting as "de facto members of a de facto board" based upon their alleged "service in fact" on the LARM Board of Directors. [Answer ¶¶ 42, 44.]

1. **Gerald Solko, Lane Danielzuk, and Kimberly Neiman were not elected by LARM members or reappointed to serve on the LARM Board.**

25. The minutes of LARM's April 30, 2013, Board of Directors meeting show that Solko, Neiman, and Danielzuk were all initially appointed to the LARM Board of Directors by LARM directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 9 – Minutes of April 30, 2013 LARM Board Meeting at pp. 1–2.]

26. Solko, Danielzuk, and Neiman all admit that they were appointed to the LARM Board of Directors—not elected by the members of LARM—on or about April 30, 2013. [Ex. 21 – Solko Resp. to RFA No. 3; Ex. 22 – Danielzuk Resp. to RFA No. 3, Ex. 23 – Neiman Resp. to RFA No. 3.]

27. Solko, Danielzuk, and Neiman all claim that they were reappointed to the LARM Board of Directors sometime in 2016. [Ex. 21 – Solko Resp. to RFA No. 4; Ex. 22 – Danielzuk Resp. to RFA No. 4; Ex. 23 – Neiman Resp. to RFA No. 4.]

28. Respondents have not identified or produced any meeting minutes or other records showing that Solko, Neiman, or Danielzuk were reappointed to the LARM Board of Directors at any time prior to December 31, 2017. [Ex. 34 – Rex. Aff. ¶ 29.]

2. **Shannon Stuchlik was not elected by LARM members or reelected or reappointed to serve on the LARM Board.**

29. The minutes of LARM's Board of Directors meeting of December 17, 2013, show that Stuchlik was initially appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 10 – Minutes of December 17, 2013 LARM Board Meeting at pp. 4–5.]

30. Stuchlik admits that he was appointed to the LARM Board of Directors—not elected by the members of LARM—on or about December 17, 2013. [Ex. 24 – Stuchlik Resp. to RFA No. 3.]

31. Stuchlik claims that he was reappointed to the LARM Board of Directors sometime in 2016. [Ex. 24 – Stuchlik Resp. to RFA No. 4.]

32. Respondents have not identified or produced any meeting minutes or other records showing that Stuchlik was reappointed to the LARM Board of Directors at any time prior to December 17, 2017. [Ex. 34 – Rex. Aff. ¶ 29.]

33. On or about July 1, 2018, Stuchlik’s term on the Board of Directors of the Northeast Nebraska Economic Development District (NENEDD) came to an end, and he is no longer an elected or appointed official of NENEDD within the meaning of IRMA. [Ex. 16 – Minutes of NENEDD at pp. 1, 3, 5, 8–9.]

**3. David Hunter and Andrew Ward were not elected by LARM members or reelected or reappointed to serve on the LARM Board.**

34. The minutes of LARM’s Board of Directors meeting of February 24, 2014, show that David Hunter and Andrew Ward were initially appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 11 – Minutes of February 24, 2014 LARM Board of Directors Meeting at p.1.]

35. Hunter and Ward both admit that they were appointed to the LARM Board of Directors—not elected by the members of LARM—on or about February 24, 2014. [Ex. 25 – Hunter Resp. to RFA No. 3; Ex. 26 – Ward Resp. to RFA No. 3.]

36. Hunter and Ward both admit that they were not reappointed to the LARM Board of Directors before December 31, 2016. [Ex. 25 – Hunter Resp. to RFA No. 4; Ex. 26 – Ward Resp. to RFA No. 4.]



37. Respondents have not identified or produced any meeting minutes or other records showing that Hunter or Ward were reappointed to the LARM Board of Directors prior to December 31, 2017. [Ex. 34 – Rex. Aff. ¶ 29.]

**4. Beth Bonderson was not elected by LARM members or reelected or reappointed to the LARM Board.**

38. The minutes of LARM’s Board of Directors meeting of February 24, 2015, show that Bonderson was initially appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 12 – Minutes of February 24, 2015 LARM Board of Directors Meeting at pp. 1–2.]

39. Bonderson admits she was appointed to the LARM Board of Directors—not elected by the members of LARM—on or about February 24, 2015. [Ex. 27 – Bonderson Resp. to RFA No. 3.]

40. Respondents have not identified or produced any meeting minutes or other records showing that Bonderson was reappointed to the LARM Board of Directors prior to December 31, 2017. [Ex. 34 – Rex. Aff. ¶ 29.]

**5. Vince Knight was not elected by LARM members or reelected or reappointed to the LARM Board.**

41. The minutes of LARM’s Board of Directors meeting of May 21, 2015, show that Vince Knight was appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 13 – Minutes of May 21, 2015 LARM Board of Directors Meeting at p. 1.]

42. Knight admits that he was appointed to the LARM Board of Directors—not elected by members—on or about May 21, 2015. [Ex. 28 – Knight Resp. to RFA No. 3.]

43. Knight admits that he was not reappointed to the LARM Board of Directors prior to December 31, 2017. [Ex. 28 – Knight Resp. to RFA No. 4.]

44. Respondents have not identified or produced any meeting minutes or other records showing that Knight was reappointed to the LARM Board of Directors prior to December 31, 2017. [Ex. 34 – Rex. Aff. ¶ 29.]

45. The minutes of the Board of Trustees of Stanton County S.I.D. No. 1 show that Knight was not an elected or appointed official of Stanton County S.I.D. No. 1 at the time he was allegedly appointed to the LARM Board of Directors and did not become a member of the Board of Trustees until July 17, 2017. [Ex. 17 – Minutes of the Board of Trustees of Stanton County S.I.D. No. 1 at pp. 2, 5.]

46. The minutes of the Board of Trustees of Stanton County S.I.D. No. 1 further show that Knight ceased to be a member of the Board of Trustees of Stanton County S.I.D. No. 1 on or before September 18, 2017. [*Id.* at p. 12.]

47. Knight resigned from the LARM Board of Directors effective October 8, 2018. [Ex. 18.]

**6. Michael Werner was appointed to fill a term which expired on December 31, 2017.**

48. The minutes of LARM's Board of Directors meeting of December 14, 2017, show that Michael Werner was appointed to the LARM Board of Directors by the purported LARM directors, not elected by the membership of LARM at a meeting of LARM members. [Ex. 15 – Minutes of December 14, 2017 LARM Board of Directors Meeting at pp. 2–3.]

49. Werner was appointed to fill a vacancy created when another director, KC Ortiz, resigned from the LARM Board of Directors on December 6, 2017. [Ex. 14 – Amended Agenda for December 14, 2017, LARM Board of Directors Meeting at p. 2, Item No. 5.]

50. Ortiz had been appointed, not elected, to the LARM Board of Directors on February 24, 2015, at the same meeting at which Bonderson was appointed. [Ex. 12 – Minutes of February 24, 2015 LARM Board of Directors Meeting at pp. 1–2.]

51. Werner submitted a letter of resignation from the LARM Board of Directors effective August 21, 2018. [Ex. 19 – Letter of Resignation signed by Michael Werner.]

**E. Notice to Respondents**

52. On January 12, 2018, Andre R. Barry, as attorney for the League of Nebraska Municipalities, wrote a letter to LARM's outside general counsel, Jerry Pigsley, explaining that none of Respondents was validly serving in office on the LARM Board of Directors. Respondents' counsel of record in this case, David Domina, also received a copy of that letter. [Ex. 30 – Letter from Andre R. Barry to Jerry Pigsley.]

**F. Notice to Attorney General and County Attorney**

53. On February 2, 2018, prior to the filing of this action, notice that Respondents were unlawfully holding office was also provided to the Attorney General of the State of Nebraska, and the County Attorney of Lancaster County, Nebraska. [Ex. 31 – Letter from Andre R. Barry to Attorney General.]

54. In a letter dated February 12, 2018, the Attorney General declined to file a quo warranto action. [Ex. 32 – Letter from Attorney General’s Office to Andre R. Barry.]

55. In a letter dated February 27, 2018, the County Attorney of Lancaster County also declined to file a quo warranto action, but stated that “if the county attorney of the proper county declines to pursue such an action, any elector of the proper county may file such information on her or his own upon the conditions stated in the statute.” [Ex. 33 – Letter from County Attorney’s Office to Andre R. Barry.]

**G. Affirmative Defenses**

Further, the Court finds the following facts, which are supported by the evidence and undisputed facts in this case:

56. The vote by the LARM Board of Directors on December 17, 2013 which Respondents claim amended LARM’s Bylaws to eliminate the annual meeting of LARM members was conducted without a quorum of duly elected members at the time, did not eliminate a meeting required by the Interlocal Agreement, and did not eliminate all references to the annual meeting in the Bylaws. [Ex. 10 at pp. 1, 4–5; Rex Dep. at 102:7-104:11.]

57. In any event, the vote of the LARM Board of Directors on December 17, 2013 was *not* to dispense with the Interlocal Agreement's requirement that the LARM Board of Directors be elected by members. [Ex. 10 at pp. 4–5; Doane Dep. at 21:10-16.]

58. Solko, Neiman, and Danielzuk were “appointed” to the LARM Board of Directors on April 30, 2013, months *before* the December 17, 2013 meeting [Ex. 9 at p. 1] and never reappointed thereafter.

59. No one from the Village of Ansley was on the LARM Board of Directors or even present when Solko, Neiman, and Danielzuk were “appointed” to the LARM Board of Directors. [Ex. 9 at p. 1.]

60. Stuchlik was “appointed” to the LARM Board of Directors at the December 17, 2013 meeting before the bylaws were allegedly amended by a Board of Directors [Ex. 10 at p. 4] and never reappointed thereafter.

61. No one from North Platte or Ansley was on the LARM Board of Directors or even present when Hunter and Ward were “appointed” to the LARM Board of Directors on February 24, 2014. [Ex. 11 at p. 1.]

62. No one from North Platte or Ansley was a member of the LARM Board of Directors, or even present at the meeting, when Bonderson was “appointed” to the LARM Board of Directors on February 24, 2015. [Ex. 12 at p. 1.]

63. While Hanson was present for the beginning of the meeting on February 24, 2015, he was no longer a member of the LARM Board of Directors at that time. He was present merely to accept an award for his years of service on the LARM Board and did not vote on the motion to appoint Bonderson. [Ex. 12 at p. 2.]

64. No one from Hickman, North Platte, or Ansley was a member of the LARM Board of Directors, and no one from Hickman or North Platte was even present at the meeting, when Knight was “appointed” to the LARM Board of Directors on May 21, 2015. [Ex. 13 at p.1.]

65. No one from Hickman or North Platte was on the LARM Board of Directors, and no one from Ansley was present at the meeting, when Michael Werner was “appointed” to the LARM Board of Directors on December 14, 2017. [Ex. 14 at p. 1.]

66. Hanson and Hawks served on the LARM Board of Directors as representatives of the members of LARM generally, not as representatives of their respective cities. [Hanson Dep. at 45:15-46:20; Hawks Dep. at 37:14–38:21.]

67. Rex serves on the LARM Board of Directors as an ex officio, non-voting member and thus had no power to block any “appointment” or other action by Respondents. [Ex. 2 Interlocal Agreement at p. 4 § 8.1.1.]

68. As soon as Rex learned that LARM’s Interlocal Agreement had not been changed to permit the appointment of individuals to the LARM Board of Directors, she immediately brought it to the attention of several people, including Solko, LARM’s Executive Director, and outside general counsel for LARM. [Rex Dep. at 102:7–104:11.]

69. There are no minutes of meetings or other records showing that any of Respondents was ever reappointed to the LARM Board of Directors, even though other individuals *were* reappointed during the same timeframe. [See, e.g., Ex. 10 (reappointment of Jim Glover and Randy Gates); Ex. 12 (reappointment of Jan Rise).]

### **Summary Judgment Standard**

Summary judgment is appropriate “if the pleadings and the evidence admitted at the hearing show that there is no genuine dispute as to any material fact and that the moving party is entitled to judgment as a matter of law.” NEB. REV. STAT. § 25-1332(1).

A party “makes a prima facie case for summary judgment by producing enough evidence to demonstrate that the movant is entitled to judgment if the evidence were uncontroverted at trial.” *Thomas v. Bd. of Trustees of Nebraska State Colleges*, 296 Neb. 726, 734, 895 N.W.2d 692, 699 (2017). “Once the moving party makes a prima facie case, the burden shifts to the party opposing the motion to produce admissible contradictory evidence showing the existence of a material issue of fact that prevents judgment as a matter of law.” *Id.*

### **Conclusions of Law**

#### **A. Respondents bear the burden of showing they are validly entitled to office in this quo warranto action.**

1. Relators have properly brought this quo warranto action under Nebraska law. Relators are electors within the meaning of the NEB. REV. STAT. § 25-21,122. Relators provided proper notice to the Attorney General and the County Attorney of the proper county in accordance with § 25-21,122. Both the Attorney General and County Attorney refused to initiate an action within ten days. Further, Relators filed with the clerk of the district court cash bond in an amount not less than five hundred dollars.

2. The Relators in this case, “having complied with the provisions of the statute, become substituted in interest with the county attorney and it follows that the same rules as to burden of proof and procedure apply as if the action were



brought by the Attorney General or the county attorney in the first instance.” *Stasch v. Weber*, 188 Neb. 710, 712, 199 N.W.2d 391, 393 (1972).

3. When a challenged official purports to hold office by virtue of an election, he must show that the election was held and that he was in fact elected. Holding a public office can rest on nothing less than such evidence, unless a satisfactory and convincing explanation is made as to the lack of an official record.” *Id.*, at 714, 199 N.W.2d at 394.

4. Respondents bear the initial burden of showing their entitlement to office in this quo warranto action. *Id.*

**B. Each of Respondents is, or was previously, unlawfully holding and exercising office on the LARM Board of Directors.**

5. As an Interlocal Agency formed pursuant to the Intergovernmental Risk Management Act, Nebraska law requires that LARM follow its Interlocal Agreement. *See* NEB. REV. STAT. §§ 13-804(6), 44-4306(2)(a).

6. LARM’s Interlocal Agreement sets forth “Board election procedures” which require LARM directors to be elected by the participating members of LARM, and that the election is to take place at a member meeting. [Ex. 2 at p. 4, §§ 8.1.4.1, 8.1.4.2.]

7. Under LARM’s Interlocal Agreement, appointments to the LARM Board may occur only in limited circumstances, to fill vacancies which arise (e.g., following the death or resignation of a board member). [*Id.* § 8.1.] A person appointed to fill a vacancy shall only “serve for the remainder of the term of the vacating director.” [*Id.*]

8. LARM’s Interlocal Agreement limits terms on the LARM Board to three years, with each term beginning January 1 of the first year of the term and ending

December 31 of the last year of the term. [*Id.* § 8.1.6.] To be eligible for Board membership, a person must be an elected or appointed official of a participating LARM member. [*Id.* § 8.1.] Due to term limits, directors may not serve more than two consecutive 3-year terms without an intervening 3-year period. [*Id.* § 8.1.7.]

9. None of the Respondents was elected by LARM members at a meeting of members, as required by LARM's Interlocal Agreement.

10. Each of the Respondents was purportedly appointed to full terms on the LARM Board. No such appointment is permitted by LARM's Interlocal Agreement.

11. Even if Respondents were properly appointed, each Respondent has served beyond an initial three-year term, without re-election or re-appointment.

12. None of Respondents are validly holding office on the LARM Board of Directors, or ever validly held office on the LARM Board of Directors.

13. Each of Respondents is, or was at the relevant time hereto, unlawfully holding and exercising public office as a Director of the LARM Board of Directors:

- Gerald Solko, Lane Danielzuk, and Kimberly Neiman were initially appointed to the LARM Board by LARM Directors, rather than being elected by LARM Members at a member meeting, in 2013. Even if Solko, Danielzuk, and Neiman had been appointed to full, 3-year terms as LARM directors in 2013, those terms would have expired December 31, 2015. Neither Solko, Danielzuk, nor Neiman were ever re-appointed or re-elected. Even if they had been re-appointed or re-elected, their second term would have expired at the latest, on December 31, 2018.

- Shannon Stuchlik was initially appointed to the LARM Board by LARM Directors, rather than being elected by LARM Members at a member meeting, in 2013. Even if Stuchlik had been appointed to a full, 3-year term as a LARM directors in 2013, those terms would have expired December 31, 2015. Neither Solko, Danielzuk, nor Neiman were ever re-appointed or re-elected. Even if they had been re-appointed or re-elected, their second term would have expired at the latest, on December 31, 2018. Stuchlik is further ineligible for LARM Board service, as he is no longer an elected or appointed official of NENEDD within the meaning of IRMA.
- David Hunter and Andrew Ward were initially appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members, in 2014. Even if Hunter and Ward had been appointed to full, 3-year terms as LARM directors in 2014, said terms would have expired at the latest December 31, 2016, and neither Hunter nor Ward were ever re-appointed or re-elected.
- Beth Bonderson was initially appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members, in 2015. Even if Bonderson had been appointed to a full, 3-year term as a LARM director, said term would have expired at the latest December 31, 2017. Bonderson was never re-appointed or re-elected.

- Vince Knight was appointed to the LARM Board of Directors by LARM directors and purported directors, not elected by the membership of LARM at a meeting of LARM members, in 2015. Even if Knight had been appointed to a full, 3-year term, said term would have expired at the latest December 31, 2017. Furthermore, Knight was not eligible for LARM Board service at the time of his initial appointment because he was not an elected or appointed official within the meaning of IRMA. Knight did not become a member of the Board of Trustees of the Stanton County S.I.D. No. 1 until July 17, 2017, and ceased to be a member of the Board of Trustees of Stanton County S.I.D. No. 1 on or before September 8, 2017. Knight was therefore disqualified from service on the LARM Board under IRMA and the Interlocal Agreement.
- Michael Werner was appointed to the LARM Board of Directors by the purported LARM directors, not elected by the membership of LARM at a meeting of LARM members, in 2017. Werner was appointed to fill the vacancy of KC Ortiz, who had been appointed to the LARM Board February 24, 2015. Werner's appointment to fill the remainder of Ortiz's term would have expired no later than December 31, 2017.

14. Respondents have failed to meet their burden to show they are entitled to office. Even if the burden were Relators', the undisputed evidence shows that Respondents are unlawfully holding and exercising office as LARM directors.

**C. Respondents' affirmative defenses to not prevent ouster.**

15. Invited error is a procedural concept that prevents an appellant from assigning an error for review which the appellant invited the trial court to commit.

*See, e.g., Norwest Bank Nebraska, N.A. v. Bowers*, 246 Neb. 83, 85, 516 N.W.2d 623, 625 (1994).

16. The question of legislative standing is whether legislators have standing to bring a claim—against an executive, for example—based upon an institutional injury. *See, e.g., Raines v. Byrd*, 521 U.S. 811, 821 (1997).

17. Neither the doctrine of invited error nor legislative standing provides a defense in this quo warranto action, and neither is supported by the evidence in this case.

18. Equitable estoppel requires, “as to the party estopped: (1) conduct which amounts to a false representation or concealment of material facts, or at least which is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (2) the intention, or at least the expectation, that such conduct shall be acted upon by, or influence, the other party or other persons; and (3) knowledge, actual or constructive, of the real facts.” *In re Estate of Fuchs*, 297 Neb. 667, 677, 900 N.W.2d 896, 904 (2017).

19. Even if equitable estoppel were to apply, Relators are not estopped from bringing this action, as there is no evidence of any “conduct which amounts to a false representation or concealment of material facts, or at least which is calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which” Relators subsequently attempt to assert. *Id.*

20. As to the party asserting the defense of equitable estoppel, “the elements are: (1) lack of knowledge and of the means of knowledge of the truth as to the facts in question; (2) reliance, in good faith, upon the conduct or statements of

the party to be estopped; and (3) action or inaction based thereon of such a character as to change the position or status of the party claiming the estoppel, to his or her injury, detriment, or prejudice.” *Id.* at 677–678, 900 N.W.2d at 904.

21. Even if equitable estoppel were to apply in this case, Respondents have not shown the necessary elements of equitable estoppel because they have not made any showing of injury, detriment, or prejudice.

22. Further, the evidence shows that each of Respondents had knowledge, actual or constructive, of the real facts in this case, and they are therefore prevented from asserting equitable estoppel.

23. In addition, equitable estoppel cannot be asserted against political subdivisions such as Relators Hickman, Ansley, and North Platte, absent compelling circumstances to prevent manifest injustice. *Jennings v. Dunning*, 232 Neb. 366, 371, 440 N.W.2d 671, 675 (1989). There is no such showing here.

24. “A private relator in statutory quo warranto contesting a public irrigation district election and participating or acquiescing with knowledge of an election irregularity may not be entitled to relief for that reason in certain circumstances.” *State ex rel. Genz v. Thomas*, 185 Neb. 637, 177 N.W.2d 607, 608 (1970). In such cases, the relator’s right to relief “may depend upon balancing his conduct against the following interests: (1) Nature of the office and degree of public interest in the result of the contest. (2) Desirability of protecting public officers from repeated attacks. (3) Desirability of reasonable limits upon judicial intervention. (4) Protection of voters from disenfranchisement. (5) Preservation of integrity of the electoral process.” *Id.*

25. This case is distinguishable from *Genz*, as Relators are not election contestants claiming office.

26. Beyond merely being present, acquiescence requires overt participation “with full and complete knowledge of the facts.” *Frasier v. Trans-W. Land Corp.*, 210 Neb. 681, 692, 316 N.W.2d 612, 618 (1982). There is no evidence of knowing acquiescence by any Relator.

27. In addition, one cannot acquiesce in conduct which he or she is powerless to prevent. See *Andrew v. Rivers*, 207 Iowa 343, 223 N.W. 102, 105 (1929). There is no evidence any Relators could have stopped the illegal appointments.

28. Even if Relators had knowingly acquiesced and participated in the challenged irregularity, the balance of public interest factors under *Genz* against Relators’ conduct weigh in favor of ouster in this case:

- **Nature of the office and degree of public interest in the result.** The only factor cited by Respondents—that LARM performs critical functions for its members [Resp. Br. at 17, ¶ 67]—underscores that this matter greatly concerns all of the members of LARM—not just Relators, and supports ouster. Relators and other public bodies which depend upon LARM for insurance coverage are entitled to expect that LARM will follow its Interlocal Agreement and that LARM remain subject to the control of its members—not the actions of a renegade staff and a renegade board.
- *Desirability of protecting public officers from repeated attacks.* This factor weighs in favor of ouster. If Respondents are not ousted, there



will be likely be more attacks by other members of LARM, particularly if the Court declines to order ouster based upon facts specific to these Relators. On the other hand, ouster will resolve these issues once and for all so that LARM can get on with serving its members.

- *Desirability of reasonable limits upon judicial intervention.* The decision in *Stasch* indicates that it is reasonable for a court to intervene when an entire board has been serving illegally. The reasonableness of court intervention is even greater here, where multiple Respondents are not eligible to serve for multiple reasons and are purporting even to serve beyond the term limits in the Interlocal Agreement.
- *Protection of voters from disenfranchisement.* The voters here are the members of LARM. They have been disenfranchised by Respondents' illegal appointments and refusal to vacate office. This factor weighs in favor of granting the relief sought by Relators.
- *Preservation of the integrity of the electoral process.* LARM has used, and Respondents are seeking to protect, an electoral process with no integrity and no basis in the Interlocal Agreement which LARM is required to follow by law. This factor weighs heavily in favor of ouster.

29. The de-facto officer doctrine "obviously has no application in a quo warranto proceeding where the officer cannot show that he was an incumbent who was rightfully in office in the first place." *Stasch*, 188 Neb. at 714, 199 N.W.2d at 395.

30. Respondents' argument that they should be permitted to hold over in office, notwithstanding the fact that they were not validly elected or appointed, is

likewise without merit and foreclosed by the Nebraska Supreme Court's decision in *Stasch. Stasch*, 188 Neb. at 714–15, 199 N.W.2d at 395.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** by the Court that:

1. There is no genuine dispute as to any of the foregoing material facts, such that Relators are entitled to summary judgment as a matter of law on their claim in this action; and

2. Each of the Respondents is, or was previously, unlawfully holding and exercising office as a member of the Board of Directors of the League Association of Risk Management and is therefore subject to immediate ouster from the same; and

3. Each of the Respondents is hereby immediately ousted, removed, and excluded from office on the Board of Directors of the League Association of Risk Management, and has no actual or apparent authority over the same; and

4. Pursuant to NEB. REV. STAT. § 25-21,129, Respondents and those acting in concert with them are hereby ordered to deliver over all books, papers, and any other assets under the custody or control of the LARM Board of Directors, to the Administrator of LARM.

**DATED:** August 15, 2019

**BY THE COURT**

  
\_\_\_\_\_  
**Honorable Jodi L. Nelson**  
**District Judge**

cc Andre R. Barry  
John F. Zimmer, V  
Attorneys for Relators  
[abarry@clnewilliams.com](mailto:abarry@clnewilliams.com)  
[jzimmer@clnewilliams.com](mailto:jzimmer@clnewilliams.com)

David A. Domina, Attorney for Respondents  
[ddomina@dominalaw.com](mailto:ddomina@dominalaw.com)

## LARM BOARD

Elected at Members  
Meetings 3/21/18 & 9/19/18

### Chair:

**Doug Hanson**

Mayor, Hickman

### Vice Chair:

**Jim Hawks**

City Administrator, North Platte

**LeAnn Brown**

Clerk/Treasurer, Oshkosh

**Pamela Buethe**

Board Member,  
Sarpy County SID #29

**Lanette Doane**

Clerk/Treasurer, Ansley

**Scott Getzschman**

Mayor, Fremont

**Melissa Harrell**

Administrator/Clerk/Treasurer,  
Wahoo

**Nathan Johnson**

City Manager, Scottsbluff

**Jo Leyland**

Administrator/Clerk/Treasurer,  
Imperial

**Josh Moenning**

Mayor, Norfolk

**Tom Ourada**

City Administrator, Crete

**Sandra Schendt**

Clerk/Treasurer, Nelson

**Douglas Schultz**

Administrator/Clerk/Treasurer,  
Curtis

**Deb VanMatre**

Mayor, Gibbon

**Teresa Youngquist**

Clerk/Treasurer, Beaver City

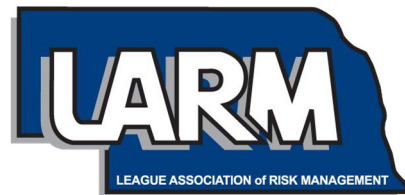
### Ex Officio Members:

**Dwight Livingston,**

President, League of  
Nebraska Municipalities;  
Mayor, North Platte

**L. Lynn Rex,** Executive Director,  
League of Nebraska  
Municipalities

*LARM – Providing coverage and risk  
management services to cities, villages  
and other governmental agencies.*



August 21, 2019

Michael Nolan

LARM Executive Director

1919 S 40<sup>th</sup> Street, Suite 212

Lincoln, NE 68506

Mike.Nolan@larmpool.org

Dear Mr. Nolan:

Pursuant to Section 3.2 of the Interlocal Agreement of the League Association of Risk Management ("LARM"), as the Executive Director of the League of Nebraska Municipalities, I am the Administrator of LARM. Pursuant to the Regulations of the Nebraska Department of Insurance, I am responsible for "carrying out the policies established by the pool's governing board and to provide day to day management of the pool." The League Executive Board and I have delegated significant responsibilities to you as LARM's Executive Director. Article I, Section 3.1 of LARM's Bylaws provides, in part: "The purpose of the office of LARM Executive Director is to provide for the centralization of the administrative responsibilities of all affairs of LARM that are under the direction of the League Executive Director and the LARM Board. The LARM Executive Director shall be appointed and dismissed by the League Executive Director, with the approval of the LARM Board of Directors."

I hereby give you notice that I will be recommending to the LARM Board of Directors (the "Board"), duly elected by LARM members at Members Meetings on March 21, 2018 and September 19, 2018 that your employment as Executive Director be terminated. I am making this recommendation to dismiss you because of unprofessional conduct toward officials of LARM members, League and LARM staff and others; numerous violations of the Open Meetings Act and Public Records Statutes; numerous violations of the Interlocal Agreement and Bylaws of LARM; your defiance of the Nebraska Department of Insurance; the expenditure of funds and other actions taken without the knowledge or approval of the Board (or even the Purported Board whose members were ousted by the Lancaster County District Court last week); and other actions detrimental to the best interest of LARM and its members which have been taken by you or by others at your encouragement and direction.

Pursuant to Article I, Section 3.1 of the LARM Bylaws, my recommendation to dismiss you is subject to approval by the Board. If you desire to do so, you may provide a letter to the Board as to why you believe your employment as Executive Director should be retained. You may also request a hearing. Any such request should be submitted within seven calendar days of the date of this letter. Please direct any communications to me as Administrator, and I will provide them to the Board.

While awaiting the final decision by the Board, you are being placed on paid administrative leave, effective upon the receipt of this letter sent by email. You are not to have access to the LARM or League Offices. You are to give no directives or discuss LARM business with LARM Staff, LARM's Agents, York (LARM's Third Party Administrator) or other LARM vendors. You are again instructed to provide me any keys, the combination to the keyboard access pad, all passwords related to your position with LARM, and your LARM credit card(s) and to cooperate in the transition of all LARM accounts and records. You also are instructed to leave and/or return all LARM computers, phones and electronic devices. Please cease the performance of your job duties, except those specifically directed to be performed by me or the Board.

Sincerely,

A handwritten signature in black ink, reading "L. Lynn Rex". The signature is fluid and cursive, with the first name "L." being small and the last name "Rex" being larger and more prominent.

L. Lynn Rex  
LARM Administrator  
Executive Director of the League of Nebraska Municipalities