

MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, APRIL 27, 1999
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.

Commissioners Present: Kathy Campbell, Chair
Bernie Heier
Bob Workman

Commissioners Absent: Larry Hudkins
Linda Steinman

Others Present: Norm Agena, County Assessor
Kerry Eagan, Chief Administrative Officer
Bruce Medcalf, County Clerk
Diane Staab, Deputy County Attorney
Gwen Thorpe, Deputy County Clerk

- 1) **MINUTES:** Approval of the minutes of the Board of Equalization meeting held on Tuesday, April 20, 1999. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)

MOTION: Workman moved and Heier seconded approval of the minutes of April 20, 1999. On call Campbell, Heier and Workman voted aye. Motion carried.

- 2) **ADDITIONS AND DEDUCTIONS:**

Approval of 19 additions and deductions to the tax assessment rolls per Exhibit A. (1999788) (1999784)

MOTION: Heier moved and Workman seconded approval. On call Heier, Campbell and Workman voted aye. Motion carried.

- 3) **APPROVAL OF MOTOR VEHICLE TAX EXEMPTIONS:**

Calvary United Methodist Church
Martin Luther Homes of Nebraska, Inc.

MOTION: Workman moved and Heier seconded approval of motor vehicle tax exemptions for Calvary United Methodist Church and Martin Luther Homes of Nebraska, Inc. On call Workman, Heier and Campbell voted aye. Motion carried.

The Chair recessed the Board of Equalization meeting at 1:33 p.m. and it was reconvened at 2:40 p.m.

4) **APPROVAL OF 1999 451A TAX EXEMPTION APPLICATIONS ON REAL PROPERTY PER EXHIBIT B:**

Campbell noted for the record that she sits on the Board of Directors for the Food Bank of Lincoln and is a member of Southern Heights Presbyterian Church.

Workman stated he is the auditor for the Bethlehem Covenant Church in Waverly.

MOTION: Workman moved and Heier seconded approval of the 1999 451A tax exemption applications on real property per Exhibit "B". On call Workman, Campbell and Heier voted aye. Motion carried.

5) **NOTICE OF VALUATION CHANGE FOR OMITTED OR UNDERVALUED PROPERTY:**

Michael S Dulaney

The Assessor recommended a value of \$93,800.

MOTION: Workman moved and Heier seconded to accept the Assessor's recommendation and set a value of \$93,800 for Michael S Dulaney. On call Workman, Heier and Campbell voted aye. Motion carried.

Foundation for Educational Funding Inc.

The following has been transcribed verbatim.

CAMPBELL: We'll go to the next action on the Foundation for Educational Funding and I want to remind my colleagues, and everyone, that the issue before us today is the Assessor's recommendation on a value for the proposed building. And I think with that we'll start . . . maybe with Norm. Do you want to give any background, Norm, and then we'll hear from the applicant?

AGENA: You'll notice we sent (inaudible) in there we went from a zero value on that to the proposed value of \$2,664,800. I'm not real sure what they're addressing. I thought we'd just let them make their presentation and then . . .

CAMPBELL: All right. Yes, sir.

MEDCALF: You do solemnly swear or affirm that the testimony you are about to give is the truth as you verily believe it to be?

PETER: I do. Madam Chair, members of the Board, my name is Paul Peter. I'm with the law firm of Keating, O'Gara, Davis and Nedved here in Lincoln. We act as general counsel for the company that owns the property, which is subject property of this particular proceeding at 13th and "O". The name of the company is actually Foundation for Educational Services, Inc. It's listed on the agenda and the other materials as Foundation for Educational Funding Inc., but that's because that's the name that the

company has been since 1989. It changed in April of 1998 and we'll do whatever is necessary to satisfy Mr. Agena and the Board as it relates to making sure that the record is clear. We have approached this proceeding today, not so much as a valuation matter, as it is an exempt property matter that we are indeed qualified as an exempt organization that there is no appropriate basis to impose any sort of a valuation or tax liability on it because of our tax exempt status. I have, regrettably, Commissioner Heier, I have a stack of documents that are greater than even the ones that you looked at earlier, and I would simply like to make that a part of the record, although I'll summarize my presentation. I want to make sure so that everyone understands, as we approach this today we don't have anything that suggests that the amounts that are reflected on what Mr. Agena has proposed are not accurate simply because we believe, as an exempt organization, that it has no relevance or application due to the tax exempt status of my client and therefore the use of the property. So with that I will, perhaps, formally offer my stack (Exhibits B through L) and I'll then summarize here, hopefully, briefly . . . I'll also provide copies to Mr. Agena and to Mike Thew as well. Here, do you want to hand that out. If I could also approach . . . I do have some other materials that maybe would be helpful as we provide our presentation.

CAMPBELL: Are these items that the Clerk has been given?

PETER: No. The additional items that I have handed you . . . one is what I'll call a flow chart that, hopefully, will give you a shortened version of what's happening over at the building that's at 13th and "O". The other one is entitled *Who's Who Over at 13th and "O" Street?* which is basically some materials that my client has put together just to provide to the public . . . understanding what's happening over there, who is at that building now. Of course, again, I will provide a summary of that, but, I guess, these are written by someone other than lawyers who, perhaps, they're easier to understand. In any event, the Foundation for Educational Service is formally known as Foundation for Educational Funding . . . is a non-profit 501C-3 corporation. It owns the building at 13th and "O" and has owned that since, approximately, 1989. This particular property has been entitled to tax exempt status since that time, based on an application that was made and approved by the Board of Equalization at that time. Now, many people equate that building with a . . . one of the affiliated companies within it by the name of NEBHELP and so, many times, again, people understand that NEBHELP is the anchor tenant there, certainly is, was an entity there, but is actually owned by what I'll call a parent company . . . Foundation for Educational Services (FES) the (inaudible) trust for the benefit of the other non-profit entities within the company. FES also provides personnel and benefit administration . . . common pay master opportunities . . . develop certain economies for scale . . . the other companies within the building. What are those companies, as I eluded to earlier? One was NEBHELP. That has changed which I'll describe here in a moment. The other is . . . the other principal tenant is a company by the name of Nebraska Student Loan Program, also known

as NSLP, the acronym. Both of those companies are involved in the student loan industry and if you look at the materials here, the first flow chart you'll see is what I have identified, creatively, as "old structure", but the "F" being the parent company, now FES. We have NSLP, NEBHELP, NEBHELP Capital Services. NSLP is what we call a guarantee agency. A guarantee agency that has been authorized under the Higher Education Act, literally, to guarantee student loans. In the event a borrower or a student loan goes into default, NSLP becomes involved to collect on that, to rehabilitate it, to work with the borrower . . . whatever's necessary to collect that particular obligation, ultimately, for the benefit of the United States. NSLP also does a number of other administrative things. We elude to them in the affidavit of Nancy Wiederspan, who is the president of that organization. It's important for you to understand here today, NSLP is a non-profit organization . . . is, has been. It's role has not changed since 1989 except for . . . it has increased in size, increased in volume. It's become a larger presence within Nebraska. It is designated as the guarantee agency for the benefit of the State by the Department of Education. We have a number of materials in the package that, basically, show that and confirm that. The other entity that I eluded to earlier is NEBHELP. NEBHELP is what we call a secondary market. It literally is there to purchase student loans from lenders. Perhaps you're familiar with the secondary market in the context of mortgages where your local lender will set up a mortgage for you and then sell that paper to a secondary market. That's basically, in a nutshell, what NEBHELP does . . . other myriad of things, of course, it's involved in, but for purposes of our presentation that's why NEBHELP is there and what its about. Likewise, a non-profit 503C-3 corporation. The third one is NEBHELP Capital Services. I simply have that there so that you understand that that has a presence in the building or they had a presence. It was created for a unique set of student loans called (inaudible) loans which were for health industry. As a practical matter, for purposes of our discussion and presentation, it doesn't have a presence in the sense of effecting the tax exempt status. Nonetheless, it is a corporation non-profit 501C-3 corporation. As I eluded to earlier FEF, now FES, as the parent company has enjoyed tax exempt property tax status since 1989. That status is a bit different than what, perhaps, you're use to seeing, for example, the (inaudible) applications, many which were listed on Exhibit A and B on the agenda items today. It's what I call a qualified perpetual exemption and it's provided to companies under Nebraska law under what I'll call the government actor exemption. What that allows for . . . you're probably familiar with government agencies, government enterprises are generally exempt from property taxation. Both state and federal entities. Nebraska law, through the taxing authority in conjunction with the Non-profit Act, allows for non-profit entities who are acting in the capacity, such as doing government activities, to enjoy the benefit of that particular treatment. Both NEBHELP and NSLP, as state designated agencies within the State of Nebraska, have basically stepped in the shoes of government to do those

activities. If NSLP and NEBHELP were not around, then, in all likelihood there will be a state agency that would have to be involved in that. They would then have to assume the administrative cost, as well as the liabilities associated with running a program like that. Once again, this is the scenario as it existed in 1989 when the exemption was granted. We tried to provide you a short chronology as well. In 1990-1991 the Attorney General's office issued an opinion as it relates to these sorts of enterprises that provided that in order for the exemption to be available the articles of incorporation or the charter or what have you had to provide for certain provisions in the event of a dissolution of the organization. Mike Thew and his office kindly advised us at that time that our articles did not contain that as did most non-profit entities (inaudible) similarly situated. So, we went ahead and changed those articles to comport with what was required or (inaudible) by the Attorney General. In essence, that was that in the event of a dissolution our assets would have to go to that particular instrumentality that was doing those sort of agency activities or, ultimately, to the State of Nebraska. We, in fact, changed the articles of incorporation of FES as it sits now and those particular components within the articles continue to be in place. Now, in 1993, and I'm shifting gears a little bit to the national federal level. In 1993 the Clinton administration made a concerted effort to implement a new guarantee loan program. It's generally known as direct lending. Direct lending is basically a cradle to grave student loan program managed, operated, sustained by the U.S. government. In other words, it is different than the current system using the NEBHELPS and the NSLPs of the world. That was ultimately placed into law with the idea that it would, in all likelihood, eliminate those sorts of programs such as NSLP/NEBHELP. That has, in fact, not occurred and in the last year's reauthorization of the Higher Education Act the Congress specifically recognized that both programs could and should co-exist. The viability of these entities continues in place. What we discovered though . . . what Congress discovered was that in order to do that certain of these particular companies needed to continue to be viable and it was becoming a very competitive environment. There needed to be an even playing field, particularly for secondary markets. For example, in the current non-profit environment secondary markets cannot originate loans . . . that is actually issue it. They can only purchase it. In 1996, Congress changed the law that allowed the opportunity for secondary markets to convert to for-profit status. Since that law was enacted, a number of secondary markets . . . Massachusetts, Ohio, South Dakota . . . I believe there may be a few others have, in fact, exercised that conversion right. So it has gone from a non-profit environment to a for-profit environment. The Board of Directors of NEBHELP examined that conversion statute and decided that it would be in the best of interest of NEBHELP to likewise exercise the rights afforded under that legislation. Through a process that included providing information to the Attorney General's office, to other regulatory agencies, including the Internal Revenue Services, Securities Exchange

Commission, Department of Education, NEBHELP ultimately exercised its rights to convert to a for-profit environment and, in fact, formally exercised that right on April 1, 1998. I'm going to ask you to look on page three of this little flow chart that perhaps gives you a bit of a summary . . . It's an incredibly complex transaction . . . but trying to bring it down to a level that I can even understand . . . you see at the top box there . . . this is entitled Conversion Election. You'll see FEF, formerly NEBHELP. (Inaudible) part of the confusion may be NEBHELP, which I've been describing . . . when this conversion process occurred changed its name and took the name of Foundation for Educational Funding, which was the name of the parent company before, now being Foundation for Educational Services. That may be some of the confusion through all of this as well, but in any event, it's important to point out that NEBHELP, the secondary market which converted to a for-profit environment changed its name to FEF. It created a for-profit subsidiary creatively called NEBHELP Inc. by the lawyers. From there all of the assets of the former secondary market, now FEF, were transferred down to this for-profit corporation. You see I have it a limited purpose secondary market . . . it's also . . . it's called bankruptcy remote which means that there's certain . . . there are a lot of limitations on what things can do. So, as a result of that, you're going to see the little extension entity called NHELP. NHELP is a separate entity that provides management services to NEBHELP Inc. I bring that up because it's . . . the question was raised about who is NHELP? We've seen that in the a paper. Who is NHELP? NHELP is just the management that manages those assets of the secondary market. The common (inaudible) stock of that newly created for-profit entity went back up to the old entity, now FEF, and it held that stock for approximately six months which was then sold to a third party investor . . . totally unrelated to FES or any of the other family companies . . . the cash from the sale of that stock was then placed into FEF. I think that's all very interesting history, but not all that relevant until we get to this point as it relates to this particular proceeding. And that is this . . . NEBHELP Inc. is the for-profit entity that took those assets. Because of certain regulatory requirements, including which we acknowledged were the restrictions on for-profit activities to occur in that building . . . those for-profit activities were moved out of the building. There were done (inaudible) us with the election in April, as well as the employees. Approximately 45 to 50 employees physically left the building at that time and moved over to . . . basically, catty-corner in the Lincoln Square building, and that's where it operates. Again, I can't emphasize enough the significance, importance of the fact that those particular for-profit activities moved out of the building. I guess, where we are now then, as we sit here in April of 1999, . . . who is in that building as it exists and with that I would ask that you look at the second page . . . where you see "New Structure" . . . You have FES which is the Foundation for Educational Services. That's the parent entity. It's the same entity that has been there since the mid-80's. It's the same entity doing the same functions

for non-profit entities since the original application was approved. NSLP . . . same government actor . . . activities on behalf of the Department of Education for the benefit for students and lenders and schools in the State of Nebraska and the Midwest. Foundation for Education Planning and Development . . . that's the new name change for the NCS that I eluded to earlier . . . continuing a rather dormant role for purposes of our discussions and (inaudible) up to do some other non-profit activities. It does have a board, but it isn't a former . . . formal tenant in the building nor does it pay rent or anything like that. So in the middle we have FEF which is the former NEBHELP. FEF is now a fully funded non-profit charity. Under the conversion statute it's obligated to do charitable activities with the proceeds of the conversion and sale of the stock. The Board of Directors has resolved that those will be for higher education, in fact in January of this year, even though it had only been fully funded for several months, the charity FEF issued over \$500,000 in proceeds to scholarships to post-secondary schools in the State of Nebraska, both public and private. We anticipate that that sort of thing will continue. The best way to describe it is it does charitable foundational things very similar to, perhaps what you would see with the University of Nebraska Foundation or what you would see with the Lincoln Community Foundation. Once again, underscoring the fact that it is a true charitable foundation, 501C-3 non-profit activities within the building. At the end of the day if you were to compare page one and two you would see that the structure really hasn't changed. The flow chart looks nearly identical with the exception of some name changes and with FEF, now former NEBHELP, doing something else, but nonetheless still a qualified charity doing charitable things similar to the entities that were shown on the exhibits in your prior proceeding as it relates to the exemptions. We're a bit perplexed, although we understand Mr. Agena's duty to police the activities. There has been, I think, a lot of information . . . perhaps some misinformation on really what has happened at 13th and "O" Street which is precisely why we have put this together and precisely why we do appreciate the opportunity for you to allow us to explain what's happening over there as it relates to the property tax exemption. In our view, nothing has changed. The government actor exemption continues to be valid. NSLP is there. It is truly the flagship entity. It pays rent. The rent for purposes of use of the building is determined by a cost accounting process so basically FES is just to make sure that the economies (inaudible) not to realize a material profit. There are, of course, expenses that are associated with the management of that and that all goes into a formula. FEF's activities . . . I guess, in my presentation to you, are rather (inaudible). It currently has five employees. That's the charity's's four officers and the accounting person. It uses a relatively small area of the building. Quite frankly there's a lot of empty space right now. When you have 50 employees move out that does create a void. We are developing a strategic plan mission to start to build that up for use for non-profit activities, but nonetheless, we've been very, very cognizant of the benefits

that accrue with the non-profit treatment of the building and we certainly don't want to do anything that would jeopardize that. I can tell you that with the funding of the charity, the (inaudible) has changed a bit. We are developing a real interest in doing community minded things. An example would be that the recent BID's that are being done at the City level. We had made a commitment to the Downtown Lincoln Association that we will voluntarily contribute to the BID which is basically for the betterment of improvement of the areas around the building where we're located.

CAMPBELL: I think it might be helpful if we stopped and had any questions . . .

PETER: Sure. I'm wrapping up so I'm . . . be happy to entertain questions now.

CAMPBELL: Bernie? Mike or Norm? I'm sorry, Bob?

WORKMAN: Mr. Peter's, when NEBHELP became a for-profit organization they were in the building and as a result of that they sold stock to FES?

PETER: A for-profit entity was created. We literally went and filed articles of incorporation with the Secretary of State's office. When that occurred and when election was made all of those employees left . . . I want to make sure that I'm clear explaining to you that there weren't any for-profit activities . . .

WORKMAN: So they did not occupy the building while they were a for-profit organization?

PETER: No. Not at all. Not at all.

WORKMAN: And when the stock was sold the sale of the stock occurred and the cash was given to FEF? Is that how . . .

PETER: What happened was we create this for-profit entity. The non-profit entity holds the stock of it, then it's sold to an investor. The investor pays the cash. The cash comes up to the charity (inaudible). The charity (inaudible) funded entity available to do charitable activities.

CAMPBELL: Bernie?

HEIER: I don't so much have any questions for this gentleman as I do for our legal counsel. This is as clear as mud to me. I understand what they did, but, legally, what did they do? Or do you need some time to study this?

THEW: Well, I think everybody's probably going to want to take some time to look at what we have. The first question is, what is the issue? My understanding, the issue that was being presented here today was whether or not the property was in still entitled to exempt status. I don't think you get to the issue of value until you get past that issue. The property has been exempt under §7-202.03, I think. The Board and the Assessor both have the authority at any time, for any year, to review the exempt status of a property that's not on the tax rolls. What brought all of this to issue was an article that appeared in the newspaper some time back indicating that the property had been sold or transferred or something and there was quite a bit of commentary about the creation a for-profit organization. The Assessor's office called and said, "What's going on? We thought this was supposed to be a non-profit held for State purposes property and now we find out there's for-profit involved.". So the Assessor called our office. We, having worked with Paul's firm previously, called over there. He was kind enough to come over to the

Assessor's office and kind of sit down with us. It was my understanding that this was put on the Board's agenda pursuant to the authority in §77-202.03 (inaudible) exempt status. What Paul told you was accurate. There is a statute in the Corporation Statutes that specifically states that corporations in Nebraska may be created for the express purpose of holding property for governmental entities, developing property for governmental entities, etc. And the corporations that are created for those purposes are entitled to all of the same exemptions as the governmental subdivisions for whom they are created to work. Essentially, back in 1978 when this all first came about that's exactly what happened. That was the Attorney General's office opinion that Paul was eluding to . . . was that the Attorney General's office said, "In order to get this exemption under the corporation statute you have to actually have in your articles of incorporation a provision that if this corporation is dissolved then the property goes to the governmental subdivision for which you're holding it." In looking through the materials Paul handed out, I noted that in the articles of incorporation for the Foundation for Educational Services, Inc. there is an amendment to those articles which specifically says, "that upon dissolution the property will go to either another agency or instrumentality of the State. We will hold for the same purpose that it's now presently being used for. If there is no such instrumentality then it will go to the State General.". Now, involved in this is some federal legislation that requires the State to designate an agency to accept (inaudible) from the federal government to fund higher education. Rather than create a state agency to do that, Nebraska opted to assign or to designate this not-for-profit corporation to perform that function in lieu of creating a state agency to do it. That's where we're it and I think, probably, Norm and I both will probably want to sit down and sort through this a little bit, but I think the one thing that we would really want in the record at this point is the deed to the property to establish who, in fact, is the owner of record. If it is in fact Foundation for Educational Services then I think that these articles of incorporation that are already in the record would establish that the property's being held for that exempt purpose. But again, until we've had some opportunity to go through this rather large pack of materials you probably wouldn't want to take action.

CAMPBELL: Bob?

WORKMAN: Well, I honestly wouldn't mind making a motion contingent upon Mr. Thew's approval. I understand what went on here and it was almost a federal mandate that some of this came about. The other thing that impresses me is they did empty out the building when they went to this for-profit status. I mean, when you move 50 people out of a building, you're pretty serious about keeping it non-profit. Now, maybe this would be out of line to make a motion contingent on Mr. Thew's perusal information . . .

CAMPBELL: I'm going to step in here as a point of order in the sense that in most of the cases with the Board of Equalization, you have allowed . . . the Board

of Equalization has allowed its attorney and the Assessor to review all materials and make a recommendation to you before . . .

WORKMAN: Okay.

CAMPBELL: . . . you make any finding. You don't really have . . . you want them to explore the record of fact and provide that recommendation on a finding of fact before we give any recommendation.

WORKMAN: Okay.

CAMPBELL: So, I'm going to step in here, Bob, just because the Board of Equalization works differently than the regular County Board in the sense that all of this work is really very specific as to statute. So you do need to have the attorney review this.

WORKMAN: Okay.

THEW: One other issue . . . just so that you're aware of it . . . that is floating around out there so to speak is there is a bill over at the legislature that might have some bearing on this. That being the bill that even governmental property that is used for commercial purposes would be subject to tax. Now, we've not . . . we didn't get into this with Paul in our earlier discussions, but if, in fact, the rents that are being charged to the subsidiary organizations are market rents then there is some case law out there that would indicate that that use is a commercial rather than a charitable or educational use. As the law stands right now, that makes no difference because they're entitled to the state's exemptions which exempt in name, but if this legislation passes and puts that use element into it then we'd have a different situation. So we may want to wait and see. I checked on it this morning and apparently the bill's been held up for at least a year, but we may want to wait and see how that comes out before we take formal action.

CAMPBELL: (Inaudible) put the item on . . . bring it back . . . leave it on our agenda to a date specific that you and Norm will want to give it. Do you want two weeks or three weeks and then it'll come back on the Board of Equalization agenda as Old Business. I'm sure, at this point, Paul's given all the information so the time to review it . . .

THEW: I would like to leave the record open so we can get that deed as part of the record.

HEIER: Do you need a motion for that or do you just continue it?

AGENA: The thing I'd like to deal is . . . I guess (inaudible) back up a little bit about putting the value on the property. We put values on a lot of exempt properties. All I'm looking at here, as of this very moment, . . . you're exemption stays in place. We're exempting \$2,664,800. Setting that value on there has absolutely nothing to do with what we're doing as far as your exemption is concerned on there. I guess I'm asking that we deal with that because right now it is exempt until such time as (inaudible) determine that it's not. We put values on lots of exempt properties.

WORKMAN: You're not actually asking that it be made non-exempt today.

AGENA: I'm not. No. All I'm saying is we sent them a notice saying that they went from zero value to \$2,664,000. That's all I'm saying.

WORKMAN: And you're saying that \$2,473,000 is an exempt amount?

AGENA: It's the value that as of this very moment if you adopt that value that's what we're exempting . . . as of this very moment. That's all.

WORKMAN: Okay.

AGENA: So we get that issue out of the way and then we'll deal with . . .

WORKMAN: I would just like to say at this point in time that from the information that's been presented to me I feel that it is an exempt property. I'm open to argument. I mean if Mr. Agena comes up with a good reason or Mr. Thew that it shouldn't then that's fine, but it seems like that we haven't really crossed that bridge yet.

PETER: I'm sorry. If I could respond to just a couple of things. I would like to have the record open to comply with Mike's request. We'll certainly do that. I apologize, perhaps, not really understanding the issue as Mr. Agena has just really described it. If the issue is the valuation, but if it's a dollar or a hundred million dollars, we're not going to worry about that now because the exemption goes in place. Everything I have here really isn't responsive to that and what I may need would be to respectfully request an opportunity to provide evidence that really responds to what Mr. Agena's proposing. I don't know if two weeks would do that for us, if that's really the issue.

CAMPBELL: Mike, help us out here.

THEW: Apparently, I need to talk to Norm because I really don't understand that position. Are we talking for tax year 1999?

AGENA: For 1999. That's correct. Excuse me, for 1998. They went back to 1998 . . .

THEW: I assume this is an undervalued.

AGENA: For 1998. That is correct.

THEW: In that case, we're in no hurry, but for 1999, obviously, they would have the opportunity to go through the protest process. But again, I didn't see the notice you sent out. My understanding was that what triggered all this was §77-202.03. (Inaudible) notice for undervalued or omitted . . .

AGENA: That was the notice we sent out.

THEW: Okay. I guess I was unaware of that. I don't think . . . I'd have to sit down and think through this, but I don't think you send out an omitted or undervalued notice on a piece of property that was exempt. So I think it's kind of the exemption question that has to be answered first. (Inaudible)

CAMPBELL: And Mr. Peter has asked for time to also bring to deal with the value. Unless you gentlemen disagree, would it be acceptable to put this over until three weeks from now? Would that be better?

PETER: In three weeks I will be out of town, so I would probably ask for four weeks.

CAMPBELL: Four weeks? Because at this point, I think the question is to review and hold both the value and the exemption question until both the attorneys. . . because those are both issues that they will bring back.

AGENA: If you want to do it the first week of June that would be no problem either.

CAMPBELL: I don't have a calendar.

PETER: I'm looking either at the 25th of May which is a Tuesday or the following

Tuesday which is May 1st. I'm sorry June 1st.

THEW: May 25th would work best for me.

CAMPBELL: Would that work for you Paul?

PETER: Yes.

CAMPBELL: By direction of the Chair, we will hold the record open in terms of providing any additional information for the record and at such time on May 25th we will hear a report from the County Attorney's office on the exemption and Mr. Peter will provide information on the value. Thank you gentlemen. Is there any other business to bring before the Board of Equalization? By direction of the Chair, we will adjourn the Board of Equalization.

Bruce Medcalf
County Clerk

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, APRIL 27, 1999
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.

Commissioners Present: Kathy Campbell, Chair
Bernie Heier
Bob Workman

Commissioners Absent: Larry Hudkins
Linda Steinman

Others Present: Kerry Eagan, Chief Administrative Officer
Bruce Medcalf, County Clerk
Diane Staab, Deputy County Attorney
Gwen Thorpe, Deputy County Clerk

- 1) **MINUTES:** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, April 20, 1999 and approval of the minutes of a joint public hearing with the City Council and the County Board held on Monday, March 29, 1999. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)

MOTION: Workman moved and Heier seconded approval of the minutes of April 20, 1999 and March 29, 1999. On call Campbell, Heier and Workman voted aye. Motion carried.
- 2) **CLAIMS:** Approval of all claims processed through Tuesday, April 27, 1999.

MOTION: Workman moved and Heier seconded approval. On call Heier, Campbell and Workman voted aye. Motion carried.
- 3) **SPECIAL PRESENTATIONS:**

The County-City Volunteer of the Month Award was presented to Bernard P Rempe for his services at Lancaster Manor.

10) **OTHER BUSINESS:**

Kerry Eagan, Chief Administrative Officer, recognized representatives from the United States Hispanic Leadership Institute and explained six years ago the Institute, in conjunction with all of the elected officials and directors, embarked on a program which brought together members of the Hispanic community and county government. The U.S. Hispanic Leadership Institute has requested that the program be conducted again due to its overwhelming success. Eagan noted that Nancy Martinez, Eduardo Garza, Midwest Field Director of the Leadership Institute, and Lori Lopez Urdiales, Coordinator, were in attendance.

Eduardo Martinez, Midwest Field Director of the Leadership Institute, appeared and stated they would like to implement the Leadership Program again due to misconceptions regarding government. He stated he feels the program is a mutual enhancement because individuals learn about county government and Hispanic needs and concerns are addressed. Martinez added that the tentative date for the kick off of the program is May 19.

Eagan asked for a written request from the United States Hispanic Leadership Institute regarding the program after which he would proceed with coordination and scheduling.

4) **PUBLIC HEARINGS:**

A. A Corporate Manager License for Andrew D Reetz in connection with a Class H (Non-profit Corporation) liquor license for Hillcrest Country Club located at 8901 "O" Street in Lancaster County, Nebraska. (1999683) (1999695) (1999813)

The Chair opened the public hearing and asked if anyone wished to testify in favor of the application.

Andrew Reetz, applicant, appeared and stated he had completed his first year of management at Hillcrest Country Club.

Campbell asked Reetz if he participates in the Responsible Hospitality program.

Reetz stated he does not participate in the Responsible Hospitality organization, however, he does participate in Country Club Managers Association of America (CCMAA). He explained they promote food handling and beverage responsibility.

Workman asked Reetz if alcohol is allowed on the golf course or if it is restricted to the clubhouse.

Reetz responded that alcohol is allowed on the course throughout the week.

The Clerk administered the oath to Andrew Reetz.

The Chair noted that action would be taken on Tuesday, May 4, 1999.

- B. County Change of Zone 185, from AG Agricultural to B Business, requested by Mary and Eugene Benes, on property located one-quarter mile west of the corner of Northwest 70th Street and Agnew Road, west of the unincorporated town of Agnew in Lancaster County, Nebraska. (1999575)**

This item was inadvertently placed on the agenda. The correct date for public hearing is May 4, 1999 at 1:30 p.m.

5) **OLD BUSINESS:**

County Change of Zone 183 from "AG" Agricultural to "B" Business, requested by Eugene Benes, on property located south and west of the corner of Northwest 70th Street and Agnew Road, south of the unincorporated town of Agnew. (1999371)

This item was inadvertently placed on the agenda; the correct date is Tuesday, May 4, 1999.

6) **NEW BUSINESS:**

- A. An application for a Special Events Permit from the Golden Arrow Archery Club to hold an archery tournament on Friday, May 7 through Sunday, May 9, 1999, beginning at 7 a.m. and ending at 6 p.m each day, on Raymond Road, south of Branched Oak State Recreation Area, from Area 14 to Northwest 126th Street. (1999660) (1999760) (1999777) (1999817)**

Bill Lewis, representative of the Golden Arrow Archery Club, appeared and explained they are concerned with the fees for the deputy sheriff services in relation to traffic control/safety because the club doesn't have enough money in their budget to cover those charges. He added he has been working with the Lincoln Convention/Visitors Bureau, Nebraska Department of Tourism, Cabella's and Nebraska Game and Parks.

Terry Wagner, County Sheriff, stated that the north side of Branched Oak Lake, especially on weekends, is very busy. With 700 individuals in attendance, he said, there are bound to be traffic problems on West Raymond Road and there needs to be official traffic control present to alleviate those problems.

In response to a question asked by Workman, Wagner said the fee for off-duty deputies is \$20 per hour.

Lewis stated that the Douglas County Engineering Department has provided him with three pedestrian crossing signs, three 25 mile per hour speed limits and twelve traffic cones.

The Clerk administered the oath to Bill Lewis, Sheriff Wagner and Dave Kinnammon.

Dave Kinnammon, Nebraska Game and Parks and Superintendent at Branched Oak Lake, appeared and indicated they can provide personnel to monitor traffic.

Wagner stated he had no objection to Game and Parks providing personnel to monitor traffic.

MOTION: Workman moved and Heier seconded approval of the Special Events Permit contingent on the requirements of the County Sheriff with the exception that Nebraska Game and Parks will provide personnel to monitor traffic instead of off-duty deputies in the Sheriff's office.

Lewis requested assistance from the County Engineer in placing traffic signs in the appropriate locations.

Don Thomas, County Engineer, indicated they would help the applicant with correct placement of the signage.

ROLL CALL: Workman, Heier and Campbell voted aye. Motion carried.

B. An application for a Special Designated License from P.O. Pears to serve burgers and beer and to provide entertainment in connection with a hockey tournament on Friday, April 30th, Saturday, May 1st, Sunday, May 2nd, Tuesday, May 4th and Wednesday, May 5th, 1999 at the Depot Beer Garden located in State Fair Park. (1999804) (1999805)

The Clerk administered the oath to Bob Jergensen.

Bob Jergensen, owner of P.O. Pears, appeared and distributed documentation regarding their policies pertaining to identification checking and over-consumption (Exhibit "A"). He stated the event is for individuals who are 21 and older.

He added, for the record, that he is the President of the Responsible Hospitality Council.

Workman expressed concern that some individuals in attendance of the hockey games may continue beer consumption at the beer garden after the game.

In response to a question asked by Workman, Jergensen stated they would be serving from 4 p.m. to 12 a.m.

Workman stated he could not support the application because of his feelings toward alcohol at hockey games.

MOTION: Heier moved and Campbell seconded approval of the Special Designated Permit. On call Campbell and Heier voted aye. Workman voted no. Motion carried.

Campbell suggested that Bob Jergensen, along with the Sheriff, attend the May 13th staff meeting for a follow-up report.

C. Applications for Special Designated Licenses from the Nebraska State Board of Agriculture to hold the following:

1. **A spring rally banquet, dance and social event at Ag Hall, located at 1800 State Fair Park, for the Frontier Harley Owners Club on Saturday, May 8, 1999 from 3 p.m. to 1 a.m. (1999740) (1999770)**
2. **The Hartman Llamas of Tecumseh show and auction on Saturday, May 15, 1999, beginning at Noon and ending at Midnight, at the Youth Complex Mall, located at 1800 State Fair Park. (1999678) (1999694) (1999779) (1999814)**

The Clerk administered the oath to Sharon Schrock.

Sharon Schrock, Nebraska State Board of Agriculture, appeared and explained that the spring rally for Frontier Harley was also held last year with approximately 200 people in attendance. The Special Designated License is needed to extend the beer garden into a grassy area next to the licensed building.

Schrock stated the llama show and auction is an annual event with less than 200 persons in attendance. She added that the Special Designated License is needed because the event is being held in an area of the grounds which doesn't have a liquor license.

MOTION: Workman moved and Heier seconded approval of two Special Designated Licenses from the Nebraska State Board of Agriculture. On call Campbell, Workman and Heier voted aye. Motion carried.

D. Applications for Special Designated Licenses from Gerald L Fisher to hold golf tournaments at Crooked Creek Golf Course located at 134th and "O" Streets on the following dates: (1999567-1999572) (1999693) (1999816)

- * May 23, 1999
- * June 6, 1999
- * June 13, 1999
- * July 25, 1999
- * August 22, 1999
- * September 19, 1999

MOTION: Workman moved and Heier seconded approval of the applications for Special Designated Licenses from Gerald L Fisher. On call Heier, Workman and Campbell voted aye. Motion carried.

- E. An agreement with the Village of Sprague to improve Buell Street with an asphalt overlay, at a cost to the County of \$6,300. (1999793)**

Don Thomas, County Engineer, stated the County Engineer's office uses Buell Street to exit their shop and access the Sprague road. He noted damage to the road is mostly caused by their department.

MOTION: Workman moved and Heier seconded approval. On call Heier, Workman and Campbell voted aye. Motion carried.

- F. A supplemental agreement with the State of Nebraska, Department of Roads for road construction inspection on Southwest 58th Street and West Panama Road. (Project STPE-BR-3260(1)) (1999806)**

MOTION: Workman moved and Heier seconded approval. On call Workman, Campbell and Heier voted aye. Motion carried.

- G. An agreement with River Oaks Communications Corporation for consulting services in developing a County Telecommunications and Personal Wireless Services Ordinance, at an approximate cost to the County of \$29,150, including expenses. (1999808)**

MOTION: Workman moved and Heier seconded approval. On call Workman, Heier and Campbell voted aye. Motion carried.

- H. A contract with Pavers, Inc for asphaltic concrete resurfacing and paving, in the amount of \$1,519,624.97, at various locations within the County. (1999807)**

MOTION: Heier moved and Workman seconded approval. On call Campbell, Heier and Workman voted aye. Motion carried.

- I. Authorization of the installation of the following traffic signs in Lancaster County: (1999792)**

Signage

Location

A driveway warning sign

On South 162nd Street south of Yankee Hill Road for northbound traffic

"No Jake Brakes" signs

On North 141st Street north of Old Field Street for southbound traffic and on North 148th Street south of Amberly Road for northbound traffic

Don Thomas, County Engineer, explained that the jake brake signage was requested by Waverly.

MOTION: Heier moved and Workman seconded approval of Resolution 99-792. On call Campbell, Heier and Workman voted aye. Motion carried.

J. Authorization of the installation of temporary four-way stop signs at the intersection of North 1st Street and McKelvie Road in Lancaster County, Nebraska. (1999809)

Jan Culver, 200 West Bluff Road, appeared and stated she feels the four-way stop signs are a start, however, they don't accomplish the end result that they requested. She cautioned that stop signs are only as good as the people who stop for them. By reducing the hill individuals would be able to see oncoming cars. She also noted that the morning sun makes it very difficult to see at the intersection and urged the Board to pursue other avenues.

In response to a question from Culver, Diane Staab, Deputy County Attorney, stated that the resolution does reflect the installation of a side road warning sign with a caution plate mounted below on McKelvie Road, west of North 7th Street for eastbound traffic.

MOTION: Workman moved and Heier seconded approval of Resolution 99-809, including signage at 7th and McKelvie Road. On call Campbell, Heier and Workman voted aye. Motion carried.

K. Recommendation from the Purchasing Agent and the County Engineer's office to award a bid for corrugated culvert pipe to Contech Construction Products, Inc, in the amount of \$17,693.85. (1999810)

MOTION: Workman moved and Heier seconded approval. On call Heier, Campbell and Workman voted aye. Motion carried.

L. A disbursement from the Lancaster County Leasing Corporation Renewal and Replacement Fund to Adams Concrete Construction Inc., in the amount of \$29,337.93, for courtyard and sidewalk concrete work and to the City of Lincoln (Information Services), in the amount of \$9,093.73, for computers for Lancaster Manor. (1999771)

MOTION: Workman moved and Heier seconded approval. On call Workman, Heier and Campbell voted aye. Motion carried.

M. A disbursement from the Lancaster County Leasing Corporation Renewal and Replacement Fund to Medline Industries Inc, in the amount of \$2,639.56, for four linen carts and covers for Lancaster Manor. (1999783)

MOTION: Workman moved and Heier seconded approval. On call Workman, Campbell and Heier voted aye. Motion carried.

- 7) **CONSENT ITEMS:** These are items of business that are routine and which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:
- A. Setting of public hearings for Tuesday, May 11, 1999 at 1:30 p.m. in the County Commissioners Chambers, Room 112, on the first floor of the County-City Building regarding the following:**
1. County Final Plat 98045, Coupe DeVille Heights, requested by Brian Carstens on behalf of Richard Coupe, consisting of four residential lots, on property located north and west of the intersection of Northwest 84th Street and West Bluff Road. (1999769)
 2. County Final Plat 98038, Yankee Lake Acres, requested by Jack Tuma of ESP on behalf of Pendel, Inc., consisting of 15 residential lots, on property located south and west of the intersection of Southwest 56th Street and West Denton Road in Lancaster County, Nebraska. (1999811)
- B. A lease agreement with Alternative Business Systems for a high speed digital copier for the Cooperative Extension office, at a rate of .0198 per copy with a monthly minimum of 51,000 copies per month. (1999794)**
- C. Contracts relating to road improvements with the following:**
- * John Sullivan on Southwest 70th Street near West Denton Road, in the amount of \$10. (1999795)
 - * Darlene A Piening and Donald W Fagan on Fletcher Avenue at North 98th Street, in the amount of \$510. (1999796)
 - * Timothy J and Jill A Morrow on West Yankee Hill Road near Southwest 70th Street. This is a land donation. (1999797)
 - * George B and J Joanne Brockley on West Yankee Hill Road near Southwest 70th Street. This is a land donation. (1999801)
 - * Phyllis L and Harry C Johnson on West Mill Road near Northwest 126th Street, in the amount of \$285. (1999798)
 - * Robert L and Audrey B Busboom on West Pioneers Boulevard near Southwest 84th Street, in the amount of \$213. (1999799)
 - * Michael A and Mark D Leavitt on Martell Road near South 190th Street. This is a land donation. (1999800)
 - * Raymond E and Dorothy A Etmund on Wittstruck Road near South 54th Street. This is a land donation. (1999802)
 - * James L and Phyllis G Chambers on Wittstruck Road near South 54th Street. This is a land donation. (1999803)

MOTION: Heier moved and Workman seconded approval of the Consent Items. On call Workman, Heier and Campbell voted aye. Motion carried.

8) **ADJOURNMENT:**

By direction of the Chair, the Board of Commissioners meeting was adjourned.

Bruce Medcalf
County Clerk