

**MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, MAY 24, 2011
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.**

Commissioners present: Deb Schorr, Chair
Bernie Heier, Vice Chair
Larry Hudkins
Jane Raybould
Brent Smoyer

Others present: Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Brittany Behrens, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 9:30 a.m.

1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday, May 17, 2011.**

MOTION: Heier moved and Smoyer seconded approval of the minutes. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

2) **CLAIMS: Approval of all claims processed through Tuesday, May 24, 2011.**

MOTION: Hudkins moved and Smoyer seconded approval of the claims. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

3) **SPECIAL PRESENTATION:**

A. **Recognition of County Employees' Service Anniversaries.**

The County Board recognized employees who celebrated 10, 15, 20, 25, 30 and 35-year service anniversaries.

4) **PUBLIC HEARING:**

A. **A corporate manager application for Matthew Ganow in connection with a Class C liquor license from Jasper's, 13940 O Street, Lincoln, Lancaster County, Nebraska.**

The Chair opened the public hearing. Matthew Ganow was administered the oath. He gave an overview of his 20 years in the food service business. Ganow explained that two of his partners left the business and he is applying to be the new corporate manager on the liquor license. He stated he would attend hospitality training.

4) **PUBLIC HEARING CONTINUED:**

The Chair announced the public hearing would be held open one week and told the applicant it would not be necessary for him to attend next week.

5) **OLD BUSINESS:**

- A. **A grant contract with YWCA to provide funds in the amount of \$10,000 to support capacity building. Term of the grant contract is July 1, 2010, to June 30, 2011. (C-11-0300)**

MOTION: Heier moved and Raybould seconded approval of the contract. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

6) **NEW BUSINESS:**

- A. **A special designated license application from WunderRosa Winery for an event at 2361 Wittstruck Road, Roca, Lancaster County, Nebraska, on Saturday, June 11, 2011.**

Linda Wunderlich, WunderRosa Winery, said she would be holding the annual Clare Fest celebration. Since she planned to serve beer, she would need a special designated license. Heier asked if she was aware of the recommendations from the County Sheriff and the County Engineer. Wunderlich said she was agreeable to the recommendations.

MOTION: Heier moved and Smoyer seconded approval of the special designated license. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- B. **A special events permit application from Tiger Coaching & Personal Training for a triathlon featuring a bike course around Branched Oak Lake on Sunday, September 18, 2011.**

Gary Bredehoft gave an overview of his work with triathlons. He said he would have officers at the required intersections and would work with the director of Nebraska Game and Parks to use a camping area for parking. Raybould asked if participants were exclusively from this area. Bredehoft said participants come from surrounding states as well. Schorr noted it is a fundraiser for the YMCA Strong Kids program. Hudkins said these types of events have been well managed in the past.

MOTION: Heier moved and Smoyer seconded approval of the special events permit. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- C. **Appointment of Jeff Fraack to the Board of Zoning Appeals to fulfill the unexpired term of Leland Volker which ends April 2014.**

Jeff Fraack gave an overview of his background. Heier and Hudkins expressed their appreciation for Fraack's willingness to serve.

MOTION: Heier moved and Smoyer seconded approval of the appointment. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

6) **NEW BUSINESS CONTINUED:**

- D. **A recommendation from the Purchasing Agent and the County Treasurer to award a bid at an estimated cost of \$32,407 to Peregrine Services for the printing and mailing of DMV and real estate statements. (B-11-0025)**

Andy Stebbing, County Treasurer, said his office was moving from a postcard system to a letter system for license fee notification. He said a better bar code would be used and more information would be provided. Stebbing felt it would encourage more people to use the mail or on-line system for renewal. He said the State Department of Motor Vehicles asked his office to pilot the program and is interested in using the new system throughout the state.

MOTION: Hudkins moved and Smoyer seconded approval of the recommendation. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

- E. **A resolution authorizing the installation and removal of traffic signs at the following locations in Lancaster County: on Pella road approximately 2200 feet east of S. 68th Street, removing the existing "Driveway right" warning sign (W2-2 mod) for eastbound traffic; on Pella Road approximately 2900 feet east of S. 68th Street, installing a "Driveway Left" warning sign (W2-2 mod) for westbound traffic. (R-11-0034)**

MOTION: Raybould moved and Hudkins seconded approval of the resolution. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- F. **An agreement with Tyler Technologies, Inc., in the amount of \$78,558.46, for license fees and the support and software upgrade of the Orion Appraisal and Assessment software used by the County Assessor/Register of Deeds Office. Term of the agreement is January 1, 2011, to December 31, 2011. (C-11-0279)**

Rob Ogden, Deputy County Assessor/Register of Deeds, said this is an annual agreement for the software used by his office.

MOTION: Heier moved and Raybould seconded approval of the agreement. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- G. **A service provider agreement between Certified Payments No. 1, Ltd., and Lancaster County to establish a credit card and pin-less debit card processing system for the Lancaster County Treasurer. There is no cost to the County. Term of the agreement is one year from the date of execution by both parties. (C-11-0280)**

Andy Stebbing said this company handles credit card transactions for several other counties and states. He said he contacted other counties who gave good reviews on the system. Stebbing said the contract would be on a month-to-month basis and would allow the public to use their Visa, American Express, Discover, MasterCard or debit card to pay license and title fees. Terry Adams, Deputy County Treasurer, said there is no cost to the County, but consumers will pay 2.49%. He said the payment system is available over the internet, but this would allow transactions over the counter.

Schorr asked about Item 6H. Brittany Behrens explained that two separate agreements are required: one for the credit card processing and one for pin-less debit and credit cards.

6) **NEW BUSINESS CONTINUED:**

MOTION: Smoyer moved and Hudkins seconded approval of the agreement. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

- H. **An Automated Clearing House processing services agreement between Certified Payments No. 1, Ltd., and Lancaster County, to establish a processing system for electronic debit and credit transactions for the Lancaster County Treasurer. There is no cost to the County. Term of the agreement is one year from the date of execution by both parties. (C-11-0281)**

MOTION: Hudkins moved and Smoyer seconded approval of the agreement. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

- I. **An annual telephone technical support contract with Jantek Electronics, Inc., in the amount of \$750, for the Youth Services Center time clock system. The service contract includes unlimited technical support via telephone, fax, internet and e-mail. Term of the contract is May 19, 2011, to May 18, 2012. (C-11-0282)**

MOTION: Raybould moved and Heier seconded approval of the contract. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- J. **An agreement with Havelock Physical Therapy to provide specialized medical care and assistance to Lancaster County General Assistance clients who have pending claims with the Social Security Administration and may be eligible for retroactive Medicaid benefits. The agreement sets forth a reimbursement arrangement in which the County will provide payment for the medical care and Havelock Physical Therapy will reimburse the County if/when the General Assistance client is later determined eligible for Medicaid reimbursement. The agreement is effective upon execution of both parties and contains a 30-day termination provision. (C-11-0283)**

MOTION: Hudkins moved and Smoyer seconded approval of the agreement. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- K. **An amendment to County Contract No. C-09-0635 with Friendship Home to provide funding to enhance the County's coordinated community response to domestic violence, dating violence, sexual assault and stalking. The amendment extends the end date of the contract to June 30, 2011. (C-11-0284)**

MOTION: Raybould moved and Hudkins seconded approval of the amendment. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

- L. **An amendment to County Contract No. C-09-0354 with Remington Arms Company, Inc., for the annual supply of ammunition. The amendment renews the agreement for an additional one-year term from June 1, 2011, to May 31, 2012. (C-11-0285)**

MOTION: Hudkins moved and Smoyer seconded approval of the amendment. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

6) **NEW BUSINESS CONTINUED:**

- M. **An amendment to County Contract No. C-09-0355 with Hornady Manufacturing Company for the annual supply of ammunition. The amendment renews the agreement for an additional one-year term from June 1, 2011, to May 31, 2012, and revises pricing in accordance with Attachment A. (C-11-0286)**

MOTION: Heier moved and Smoyer seconded approval of the amendment. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- N. **An amendment to County Contract No. C-09-0415 with Stock Auction Company for surplus auction services. The amendment renews the agreement for an additional one-year term from July 1, 2011, to June 30, 2012. (C-11-0287)**

MOTION: Raybould moved and Heier seconded approval of the amendment. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- O. **An amendment to County Contract No. C-0-0331 with Murphy Tractor & Equipment Co., Inc., for the annual requirements of construction/landfill equipment repair. The amendment renews the agreement for an additional one-year term from June 1, 2011, to May 31, 2012. (C-11-0288)**

MOTION: Hudkins moved and Smoyer seconded approval of the amendment. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

- P. **An amendment to County Contract No. C-10-0332 with NMC, Inc., for the annual requirements of construction/landfill equipment repair. The amendment renews the agreement for an additional one-year term from July 6, 2011, to July 5, 2012. (C-11-0289)**

MOTION: Hudkins moved and Heier seconded approval of the amendment. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

- Q. **An amendment to County Contract No. C-08-0452 between John Henry's Plumbing, Heating and Air Conditioning, Lancaster County, the City of Lincoln and the Lincoln-Lancaster County Public Building Commission for miscellaneous plumbing services for pipe less than two inches. The amendment renews the contract for a one-year term from July 1, 2011, to June 30, 2012, and verifies compliance with the Employee Classification Act. (C-11-0290)**

MOTION: Raybould moved and Smoyer seconded approval of the amendment. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- R. **An amendment to County Contract No. C-08-0382 between Bob and Don's Plumbing, Lancaster County, the City of Lincoln and the Lincoln-Lancaster County Public Building Commission for miscellaneous plumbing services for pipe less than two inches. The amendment renews the contract for a one-year term from July 1, 2011, to June 30, 2012, and verifies compliance with the Employee Classification Act. (C-11-0291)**

6) **NEW BUSINESS CONTINUED:**

MOTION: Heier moved and Raybould seconded approval of the amendment. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- S. **An amendment to County Contract No. C-08-0314 between John Henry's Plumbing, Heating and Air Conditioning, Lancaster County, the City of Lincoln and the Lincoln-Lancaster County Public Building Commission for miscellaneous plumbing services for pipe larger than two inches. The amendment renews the contract for a one-year term from July 1, 2011, to June 30, 2012, and verifies compliance with the Employee Classification Act. (C-11-0292)**

MOTION: Raybould moved and Hudkins seconded approval of the amendment. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

- T. **An amendment to County Contract No. C-08-0313 between Bob and Don's Plumbing, Lancaster County, the City of Lincoln and the Lincoln-Lancaster County Public Building Commission for miscellaneous plumbing services for pipe larger than two inches. The amendment renews the contract for a one-year term from July 1, 2011, to June 30, 2012, and verifies compliance with the Employee Classification Act. (C-11-0293)**

MOTION: Smoyer moved and Hudkins seconded approval of the amendment. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

- U. **An amendment to County Contract No. C-11-0143 between Garcia-Chicoine Enterprises, Inc., Lancaster County and the City of Lincoln for maintenance and repair of guardrails. The amendment renews the agreement for a one-year term from June 1, 2011, to May 31, 2012. (C-11-0294)**

MOTION: Smoyer moved and Heier seconded approval of the amendment. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- 7) **CONSENT ITEMS:** *These are routine business items that 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. **Right-of-way contracts between the County Engineer and the following:**
1. **Duane and Myrlen Shrader, in the amount of \$2,964, located at S. 54th Street and Roca Road; Project No. C55-S-405(3). (C-11-0295) (C-11-0296)**
 2. **Douglas Gana, in the amount of \$9, located at S. 54th Street and Olive Creek Road; Project No. CP-X-239. (C-11-0297)**
 3. **Ronald and Karen Essink, in the amount of \$1,128, located at S. 134th Street and Panama Road; Project No. CP-Y-58. (C-11-0298)**
 4. **Randal Braunsroth, in the amount of \$56.88, located at 33rd Street and W. Denton Road; Project No. STPE-3305(9). (C-11-0299)**

7) **CONSENT ITEMS CONTINUED:**

- B. Receive and place on file the County Engineer's quarterly report for January to March, 2011.

MOTION: Raybould moved and Hudkins seconded approval of the consent items. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

8) **PUBLIC COMMENT:**

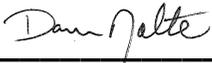
Jane Svoboda appeared.

9) **ANNOUNCEMENTS:**

- A. The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, May 26, 2011, at 8:30 a.m., in Room 113 on the first floor of the County-City Building.
- B. The Lancaster County Board of Commissioners will hold their next regular meeting on Tuesday, May 31, 2011, at 9:30 a.m., in Room 112 on the first floor of the County-City Building, with the Board of Equalization meeting immediately following.
- C. The Lancaster County Board of Commissioners meeting is broadcast live. It is rebroadcast on Tuesday at 1:30 and 6:30 p.m. and on Saturday afternoon on 5 City-TV, Cable Channel 5. In addition, the meeting may be viewed on Nebraska On Demand Time Warner Channel 411 and on the internet at www.lancaster.ne.gov. Click on 5 City-TV Video on Demand.
- D. The County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.

10) **ADJOURNMENT**

MOTION: Heier moved and Raybould seconded to adjourn the Board of Commissioners meeting at 10:08 a.m. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.



Dan Nolte
Lancaster County Clerk



**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, MAY 24, 2011
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY
BOARD OF COMMISSIONERS MEETING**

Commissioners present: Deb Schorr, Chair
Bernie Heier, Vice Chair
Larry Hudkins
Jane Raybould
Brent Smoyer

Others present: Norm Agena, County Assessor/Register of Deeds
Scott Gaines, Deputy County Assessor/Register of Deeds
Kerry Eagan, Chief Administrative Officer
Gwen Thorpe, Deputy Chief Administrative Officer
Brittany Behrens, Deputy County Attorney
Dan Nolte, County Clerk
Cori Beattie, Deputy County Clerk
Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 10:08 a.m.

1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, May 17, 2011.**

MOTION: Hudkins moved and Smoyer seconded approval of the minutes. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

2) **ADDITIONS AND DEDUCTIONS: Approval of seven additions and deductions to the tax assessment rolls per Attachments "A" and "B".**

MOTION: Heier moved and Hudkins seconded approval of the additions and deductions. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

3) **MOTOR VEHICLE TAX EXEMPTION APPLICATIONS:**

First Slavic Baptist Church

MOTION: Smoyer moved and Raybould seconded approval of the motor vehicle tax exemption applications. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

4) **NOTICE OF PROPOSED CHANGE IN EXEMPTION STATUS:**

**Catholic Bishop of Lincoln
Lincoln Lodge #175 Loyal Order
Nebraska Annual Conference of United Methodist Church**

Scott Gaines, Deputy County Assessor/Register of Deeds, said these properties previously had exemption status. The properties have now been sold to new entities, and a notice should be sent to show the exemption status has been removed. Gaines noted that four of the five properties involved have sold to other exempt entities, so the Board can expect to see new exemption applications in the future.

MOTION: Smoyer moved and Raybould seconded approval of the change in exemption status. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

5) **451 TAX EXEMPTION APPLICATIONS:**

**Autism Society of Nebraska
Catholic Social Services
CenterPointe, Inc.
Charlie M. Wilson Replacement Care Home, Inc.
Community Action of Nebraska, Inc.
The Dressage Foundation
HUB - Central Access Point for Young Adults
Indian Hills Community Church
Meadowlark Music Festival
Nebraska District Church of the Nazarene
Nebraska Family Council
Nebraska United Methodist Foundation
The Pearle Francis Finigan Foundation
Planned Parenthood of the Heartland, Inc.
Priestly Fraternity of St. Peter
Redeemer PCA
Tabitha, Inc.
Temple Baptist Church
VFW Phantom II Post 9875
Vital Services, Inc.
Word of Life Lutheran Church, Inc.**

MOTION: Heier moved and Hudkins seconded approval of the 451 tax exemption applications.

Gaines stated he would present his office's recommendations to the Board so they could make a final decision on the exemption status.

The motion was withdrawn.

5) **451 TAX EXEMPTION APPLICATIONS CONTINUED:**

Gaines recommended approval on Autism Society of Nebraska, Catholic Social Services (partial exemption, CenterPointe, Inc., Community Action of Nebraska, Inc., HUB - Central Access Point for Young Adults, Indian Hills Community Church, Nebraska District Church of the Nazarene, Nebraska United Methodist Foundation, Redeemer PCA, Tabitha, Inc., Temple Baptist Church, VFW Phantom II Post 9875 and Vital Services, Inc.

MOTION: Heier moved and Hudkins seconded approval of the 451 tax exemption applications recommended for approval by the County Assessor. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

Gaines said the Charlie M. Wilson Replacement Care Home, Inc., has applied several times in the past and always been denied. Their case was reviewed by the Tax Equalization Review Commission (TERC) in 2008 and the denial was upheld. The 2010 denial is pending review with TERC; if the decision were reversed, then reversing 2011 would be recommended.

Hudkins asked the reason for denial. Gaines said the facility does not meet the definition of a charitable organization as to being a benefit for an indefinite number of persons. He said they consulted with the County Attorney's Office on the case who agreed with the denial.

MOTION: Heier moved and Raybould seconded denial of the 451 tax exemption application for Charlie M. Wilson Replacement Care Home, Inc. based on the recommendation of the County Assessor's Office. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

Gaines said The Dressage Foundation is a nonprofit organization that benefits a small minority of the population. In consultation with the County Attorney's office, they recommend denial as it does not rise to the level of the specific charitable definitions in statute.

Andrew Willis, legal counsel for The Dressage Foundation, said the organization is a nonprofit 501(c)(3) corporation with the mission to provide financial and educational support for the advancement of dressage, an equestrian sport. It is operated for the social and physical benefit of the public for an indefinite number of persons and there is no requirement for belonging to the organization. He gave examples of the education and training provided.

Hudkins asked under which basis the foundation applied. Willis said they applied as a charitable organization since they accept donations to fund different programs. Hudkins asked how many scholarships have been provided and who received them. Willis said there is no membership requirement and scholarships have been given to both amateurs and professionals. Jenny Johnson, The Dressage Foundation Administrative Director, said in 2010 approximately 79 scholarships were given to individuals and groups which impacted around 1200 people directly. Hudkins asked how long the organization has had their 501(c)(3) standing. Johnson said the foundation started in 1989 in Lincoln and has always been a 501(c)(3) organization.

Raybould asked Gaines if this type of exemption has been provided to any other sports organizations. He said there are similar groups, but the distinction is the scope as well as the element of charity. He said a lot of organizations that are 501(c)(3) do not fit into the narrow exemption listed in statute.

5) **451 TAX EXEMPTION APPLICATIONS CONTINUED:**

Schorr asked how long the organization has had property tax exemption. Willis said the foundation just moved the headquarters into a condominium so this is their first application. He said it is a tax increment financing project (TIF); the foundation has a payment in lieu of taxes with the City who is covering taxes during the TIF period.

Hudkins asked if the organization had to be located in Lincoln. Willis said it did not need to be located here and there is nothing in statute that talks about the charitable focus being local.

Schorr asked where the headquarters was located before. Johnson said the foundation used to rent an office in the Wells Fargo Building. She said donations were given to help purchase the condo which has relieved them of paying rent.

Heier questioned Gaines on his basis of denial and asked if it was discussed with the County Attorney's Office. Gaines said the foundation does not meet the definition of charitable organization, which is an organization operated exclusively for the purpose of the mental, social or physical benefit of the public or an indefinite number of persons. He said it was discussed with the County Attorney's Office. Hudkins noted the organization does not limit activity to a specific number of people and scholarships are open to everyone. Gaines said the use of the condo is for an administrative headquarters that in the judgment of the County Assessor's Office and the County Attorney's Office does not fit that definition. He said the standard laid out by the legislature is high and the burden of proof is on the applicant. Hudkins questioned if the case was ever brought before TERC. It was clarified that this was a new application.

MOTION: Heier moved and Smoyer seconded denial of the 451 tax exemption application for The Dressage Foundation based on the recommendation of the County Assessor's Office.

Hudkins stated that he felt the organization had merit and he did not think anything was presented to prevent them from being eligible for exemption.

Smoyer said he could see the argument for their eligibility, but he felt he should follow the recommendation of the County Assessor and the County Attorney.

Schorr asked Gaines to review the appeal process. Gaines said the next step is to appeal to TERC, which is a \$25 filing fee.

ROLL CALL: Smoyer, Heier and Schorr voted aye. Hudkins and Raybould voted nay. Motion carried 3-2.

Gaines said Meadowlark Music Festival has two applications for personal property under educational. He said the educational requirement is stated specifically for systematic instruction in academic, vocational or technical subjects and this application does not fit the definition.

MOTION: Heier moved and Hudkins seconded denial of the 451 tax exemption application for Meadowlark Music Festival based on the recommendation of the County Assessor's Office. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

5) **451 TAX EXEMPTION APPLICATIONS CONTINUED:**

Gaines said Nebraska Family Council applied as an educational group. The organization states, "The vision is to mobilize, educate and equip Nebraskans to be engaged in the transformation of their communities. NFC offices and radio programs produced in 1106 E". Since they do not offer systematic instruction in academic, vocational or technical subjects, the recommendation is for denial.

MOTION: Heier moved and Smoyer seconded denial of the 451 tax exemption application for Nebraska Family Council based on the recommendation of the County Assessor's Office. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

Gaines said The Pearle Francis Finigan Foundation application is for multiple parcels of real estate. He said the farm ground is leased and the proceeds from rent are dedicated to charitable causes. Gaines said denial is recommended because the actual property use is agricultural and it must be used exclusively for education, charitable or religious purposes.

Liana Sandin, President of The Pearle Francis Finigan Foundation, said all proceeds from the cash rent go to the foundation, which gives to charitable causes, mostly religious organizations in the City and County.

Schorr asked if this was a new application. Sandin said it was because previously Mr. Finigan had owned the land and farmed it himself. Now the land has transferred to the foundation.

Hudkins asked if it would be any different from other foundations that own farmland. Gaines said agricultural ground is not a charitable use in itself, so he did not think it was done that way for other organizations. He explained there is a five part statutory test: property must be owned by an educational, charitable or religious organization; property must be used exclusively used for education, charitable or religious purposes; property cannot be used for profit of the owner or user; it cannot be discriminatory; and alcohol is limited. Hudkins said this is not a typical farm lease; it is leased for cash rent so the tenant would not benefit from production on the ground.

Brittany Behrens said it is use of the property that conflicts with the statute, not use of the funds. Hudkins asked if any other churches that owned land would be treated the same. She said if they did not pass the statute requirements, it would be the same.

MOTION: Heier moved and Smoyer seconded denial of the 451 tax exemption application for The Pearle Francis Finigan Foundation based on the recommendation of the County Assessor's Office. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

Gaines said Planned Parenthood of the Heartland, Inc., has a vacant lot which is not functioning for a charitable purpose. Gaines said Planned Parenthood is in the process of selling and falls under medical services which have a very broad interpretation under statutes. The general core of the business has been exempted previously, but this lot appears to be idle property. Raybould questioned if vacant lots owned by charitable organizations are normally considered taxable. Gaines said it would be if it were truly vacant. He said the applicant has to prove its use is for the organization's main purpose and incorporate it in the overall operation.

MOTION: Smoyer moved and Heier seconded denial of the 451 tax exemption application for Planned Parenthood based on the recommendation of the County Assessor's Office.

5) **451 TAX EXEMPTION APPLICATIONS CONTINUED:**

Raybould asked if it was the first exemption application for the parcel. Gaines said it was as the ownership had recently changed. Raybould asked if it was specified how it was included in the operations of their medical clinic. He said the only comment was that it was included in the operations.

Hudkins asked if it was a new acquisition. Gaines was not sure, but he thought the transfer of ownership took place in 2010 and it may have been involved in the reorganization.

Raybould asked if there was a fence around the parcel. Gaines thought there was a fence along the west side.

Hudkins questioned the use of the property. Gaines said the organization only stated, "This property is included in the operations of our medical clinic located at 3705 South Street". He said the burden of proof is on the organization to prove it qualifies for exemption. Norm Agena, County Assessor/Register of Deeds, said it is the same concept as excess land owned by churches. There is no charitable use established.

Smoyer said if the actual function is not directly related to providing services it would not qualify for exemption.

ROLL CALL: Heier, Smoyer and Schorr voted aye. Raybould and Hudkins voted nay. Motion carried 3-2.

Gaines said Priestly Fraternity of St. Peter owns three parcels. The main building sits on one parcel, and the parcel in question is 20 acres of grassland not used exclusively for religious purpose. He noted the application had been made and denied in the past.

Raybould questioned the parcel being part of the property and being used by the seminarians. Gaines said that is a question of ownership versus use. He said the exclusive use for religious purpose is needed for exemption.

MOTION: Heier moved and Hudkins seconded denial of the 451 tax exemption application for Priestly Fraternity of St. Peter based on the recommendation of the County Assessor's Office. Heier, Smoyer, Hudkins and Schorr voted aye. Raybould voted nay. Motion carried 4-1.

Gaines said the Word of Life Lutheran Church, Inc., purchased ground for a future building site. Initially they planned to start construction in the spring of 2011, but that has been delayed until 2012. The recommendation is for denial since no work has been started and no building permits have been issued. He explained that historically the Board has based their approval on work and permits being initiated.

MOTION: Smoyer moved and Heier seconded denial of the 451 tax exemption application for Word of Life Lutheran Church, Inc., based on the recommendation of the County Assessor's Office. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

6) **ADJOURNMENT**

MOTION: Heier moved and Smoyer seconded to adjourn the Board of Equalization meeting at 11:01 a.m. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

Dan Nolte

Dan Nolte
Lancaster County Clerk

