

**MINUTES**  
**LANCASTER COUNTY BOARD OF COMMISSIONERS**  
**TUESDAY, AUGUST 9, 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, August 2, 2011.**

**MOTION:** Heier moved and Raybould 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, August 9, 2011.**

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

3) **NEW BUSINESS:**

A. **A special designated license application from Kramer Bar & Grill to provide liquor beverage service for an event at 11366 Kramer Street, Kramer, on Saturday, August 20, 2011.**

Mike Roth, Kramer Bar & Grill, said a poker run is being held as a fundraiser. He did not think his business could accommodate the large crowd expected, so he is applying for a license to serve alcohol at Kramer Hall across the street. Heier verified Roth had read the County Sheriff's recommendations. Hudkins commended Roth for using a location that could more adequately hold the event.

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

3) **NEW BUSINESS CONTINUED:**

**B. A resolution in the matter of expressing the County's appreciation for the dedicated services of Mike DeKalb. (R-11-0051)**

Mike DeKalb, Planning Department, introduced his wife and acknowledged his coworkers. Schorr read some statistics and listed some of DeKalb's job duties during his time with the Planning Department. The Clerk read the resolution for the record. Schorr presented a signed copy of the resolution to DeKalb who expressed his appreciation to the Board.

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

**C. A recommendation from the Purchasing Agent and the County Engineer to award a contract to NCS Equipment, Inc., in the amount of \$40,990 for culvert pipe. (B-11-0030)**

**MOTION:** Hudkins moved and Heier seconded approval of the recommendation.

Bob Walla, Assistant Purchasing Agent, said there was an error in the agenda wording. He clarified that the recommendation is for a lowboy trailer, not culvert pipe, and verified the amount was correct.

Hudkins withdrew the motion. Heier concurred.

Hudkins asked Don Thomas, County Engineer, to explain the need for a new trailer. Thomas said the old trailer was broken and no longer usable. Raybould asked about trade-in value. Thomas said most likely, there would be none. Hudkins asked if the old trailer would be sold at the City-County auction. Thomas confirmed it would be.

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

**D. Utility Permit No. 1041 for Black Hills Energy to install approximately two miles of new natural gas main along Arbor Road from N. 27<sup>th</sup> Street to N. 56<sup>th</sup> Street. There is no cost to the County. (C-11-0456)**

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

**E. A contract with Lyman-Richey Corporation for the production of limestone rock, gravel surface coarse material and ice control material on an as needed basis for the County Engineer. The County will pay for products according to Line Items 3 and 4 of the contractor's proposal. Term of the contract is July 1, 2011, to July 1, 2012. (C-11-0457)**

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

3) **NEW BUSINESS CONTINUED:**

- F. **A contract with Bluff Gravel Company for the annual supply of limestone rock, gravel surface coarse material and ice control material on an as needed basis for the County Engineer. The County will pay for products listed in Line Item 3 of the contractor's proposal. Term of the contract is July 1, 2011, to July 1, 2012. (C-11-0458)**

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

- G. **A contract with Kerford Limestone Company for the annual supply of limestone rock, gravel surface coarse material and ice control material on an as needed basis for the County Engineer. The County will pay for products listed in Line Items 1 and 2 of the contractor's proposal. Term of the contract is July 1, 2011, to July 1, 2012. (C-11-0459)**

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

- H. **A contract with Western Sand & Gravel Company for the annual supply of limestone rock, gravel surface coarse material and ice control material on an as needed basis for the County Engineer. The County will pay for products listed in Line Items 3 and 4 of the contractor's proposal. Term of the contract is July 1, 2011, to July 1, 2012. (C-11-0460)**

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

- I. **An amendment to County Contract No. C-08-0665 between Recycling Enterprises of Nebraska, Inc., Lancaster County, the City of Lincoln and the Lincoln-Lancaster County Public Building Commission for recycling services. The amendment renews the agreement for an additional one-year term from August 1, 2011, to July 31, 2012. (C-11-0461)**

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

- J. **An amendment to County Contract No. C-10-0317 with Correctional Healthcare Management for medical service for the Youth Service Center. Correctional Healthcare Management has merged with other subsidiaries to form Correctional Healthcare Companies and the parties wish to amend the agreement to reflect such change. (C-11-0462)**

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

3) **NEW BUSINESS CONTINUED:**

- K. **A subgrant agreement with the Nebraska Department of Health and Human Services to provide the State, through the Clerk of the District Court, with necessary documentation regarding child support collections due, court orders and other necessary information for the collection of child support. The County shall be reimbursed for these services based upon a percentage of time allocated to the Title IV-D program. Term of the agreement is July 1, 2011, to June 30, 2012. (C-11-0463)**

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

- L. **A political subdivision tort claim filed against Lancaster County by Dave & Holly Kamprath for damage to a water softener system in the amount of \$656.82.**

**MOTION:** Hudkins moved and Heier seconded denial of the tort claim. Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

- M. **A political subdivision tort claim filed against Lancaster County, the Lancaster County Public Defender's Office and Lancaster County Corrections by Dukhan Mumin for failure to provide a probable cause hearing.**

Brittany Behrens, Deputy County Attorney, submitted an order of probable cause signed by County Court Judge Lovell on June 7, 2011, which was within 48 hours of providing the hearing (Exhibit A).

**MOTION:** Heier moved and Smoyer seconded denial of the tort claim based on the testimony of the County Attorney. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

- N. **A political subdivision tort claim filed against Lancaster County Corrections by Samuel Craigie for an alleged assault in an amount of \$56,000.**

Brittany Behrens submitted an investigative report prepared by Corrections (Exhibit B).

**MOTION:** Heier moved and Smoyer seconded denial of the tort claim. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

- O. **A political subdivision tort claim filed against Lancaster County Corrections by Samuel Craigie for alleged pain, suffering and mental anguish as a result of inadequate medical care in an amount of \$10,000.**

Brittany Behrens submitted an investigative report prepared by Corrections (Exhibit C).

**MOTION:** Heier moved and Smoyer seconded denial of the tort claim. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

- P. **Labor Negotiations (Executive Session).**

The Chair announced the item would be held until the end of the meeting.

4) **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. **Receive and place on file the monthly reports for July 2011:**

1. **County Clerk.**
2. **County Assessor/Register of Deeds.**
3. **County Records & Information Management.**

B. **Setting of public hearings for Tuesday, August 30, 2011, at 9:30 a.m., in Room 112 on the first floor of the County-City Building regarding the following:**

1. **An amusement license application for Christian Heritage Children's Home to hold an event at 14880 Old Cheney Road, Walton, on Thursday, September 15, 2011.**
2. **Amendment of Sections VI and XV of County Resolution No. 03-0007, Regulations for the Operation of Body Art and Piercing Establishments in Lancaster County, Nebraska, by increasing various fees (on file with County Clerk's Office).**
3. **Amendment of Section XIII of County Resolution No. 02-30, Procedures for the Regulation of On-Site Wastewater Treatment Systems in Lancaster County, Nebraska, by increasing various fees (on file with County Clerk's Office).**
4. **Amendment of Section X of County Resolution No. 06-0005, Procedures for the Inspection of On-site Water Supply Systems and On-site Wastewater Treatment Systems Prior to the Sale, Transfer, or Conveyance of Property in Lancaster County, Nebraska, by increasing various fees (on file with County Clerk's Office).**
5. **Amendment of Resolution No. 5069, the Lancaster County Air Pollution Control Resolution, to increase the fee for open burning permits charged to business and industry (on file with County Clerk's Office).**
6. **Amendment of the Lincoln-Lancaster County Air Pollution Regulations and Standards, to increase the fee for asbestos project notifications and consolidate all fees into a single section for clarity (on file with County Clerk's Office).**

Cori Beattie, Deputy County Clerk, pointed out the Budget Public Hearing is tentatively scheduled for the evening of August 30 and asked the Board if they wanted to hold two separate meetings on that date. The Board discussed their options.

**MOTION:** Smoyer moved and Hudkins seconded to hold the regular meeting at 9:30 a.m. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

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

5) **PUBLIC COMMENT:** Those wishing to speak on items relating to County business not on the agenda may do so at this time.

John Austin discussed a variety of topics, including bus service to the County Fair and taxes.

6) **ANNOUNCEMENTS:**

- A. The Lancaster County Board of Equalization will review 2011 property valuation protest appeals on Tuesday, August 9, 2011, beginning at 11:00 a.m. in Room 112 on the first floor of the County-City Building.
- B. The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, August 11, 2011, at 8:30 a.m., in Room 113 on the first floor of the County-City Building.
- C. The Lancaster County Board of Commissioners will hold their next regular meeting on Tuesday, August 16, 2011, at 5:00 p.m., in Room 112 on the first floor of the County-City Building, with the Board of Equalization meeting immediately following.
- D. The Lancaster County Board of Commissioners meeting is broadcast live. It is rebroadcast on Tuesday at 1:30 and 6:00 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](http://www.lancaster.ne.gov). Click on 5 City-TV Video on Demand.
- E. The County Commissioners can be reached at 402-441-7447 or [commish@lancaster.ne.gov](mailto:commish@lancaster.ne.gov).

The Chair recessed the meeting at 10:03 a.m.

The Chair reconvened the meeting at 10:10 a.m.

**MOTION:** Smoyer moved and Hudkins seconded to enter executive session for the purpose of labor negotiations and to protect the public interest at 10:10 a.m.

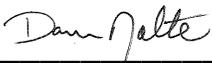
The Chair restated the motion for the record.

**ROLL CALL:** Raybould, Heier, Smoyer, Hudkins and Schorr voted aye. Motion carried 5-0.

**MOTION:** Smoyer moved and Heier seconded to exit the executive session at 10:33 a.m. Heier, Smoyer, Hudkins, Raybould and Schorr voted aye. Motion carried 5-0.

7) **ADJOURNMENT**

**MOTION:** Heier moved and Raybould seconded to adjourn the Board of Commissioners meeting at 10:33 a.m. Hudkins, Raybould, Heier, Smoyer and Schorr voted aye. Motion carried 5-0.

  
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**Dan Nolte**  
**Lancaster County Clerk**



**MINUTES**  
**LANCASTER COUNTY BOARD OF EQUALIZATION**  
**TUESDAY, AUGUST 9, 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 10:03 a.m.

1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, August 2, 2011.**

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

2) **ADDITIONS AND DEDUCTIONS: Approval of 41 additions and deductions to the tax assessment rolls per Attachments "A" and "B".**

**MOTION:** Heier moved and Smoyer 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:**

**BryanLGH Medical Center**  
**Capitol City Christian Church**

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

4) **451 TAX EXEMPTION APPLICATIONS:**

**Foundation for Lincoln Public Schools  
The Smith Collection**

Scott Gaines, Deputy County Assessor/Register of Deeds, recommended approval of the two applications from the Foundation for Lincoln Public Schools.

**MOTION:** Heier moved and Raybould seconded approval of the tax exemption application from the Foundation for Lincoln Public Schools. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

Mike Rierden appeared on behalf of The Smith Collection and said the exemption application was being withdrawn. He mentioned they would likely refile before the end of the year.

5) **2011 LATE HOMESTEAD APPLICATIONS:**

<b>Fred &amp; Wilma Helmers</b>	<b>Jason Lamphere</b>
<b>Clyde &amp; Eleanor Peters</b>	<b>Robert &amp; Mary Auman</b>
<b>Carol Hauschild</b>	<b>Alfred &amp; Geraldine Campbell</b>
<b>Leonard Rogers</b>	<b>Norval &amp; Helen Jacobs</b>
<b>Peter Salter</b>	<b>Gail Frohman</b>
<b>Stephen &amp; Dianna May</b>	<b>Thomas &amp; Margarita Santillan</b>
<b>Loretta Metcalf</b>	<b>Steven &amp; Judith Flanders</b>
<b>Margaret Sommer</b>	<b>Jack Roberts</b>
<b>Roger Mauntford</b>	<b>Patricia Rustad</b>
<b>Monty Reed</b>	<b>Allen McClurg</b>
<b>Diana Davis</b>	<b>Michael &amp; Debra Marlar</b>
<b>Virginia &amp; Albert French</b>	

Scott Gaines said statutes allow anyone who misses the June 30 Homestead Exemption deadline to file by July 20, provided that a written request is submitted and a late filing is not done two years in a row. He recommended approval of the applications.

**MOTION:** Smoyer moved and Hudkins seconded approval of the homestead applications based on the County Assessor's recommendation. Smoyer, Hudkins, Raybould, Heier and Schorr voted aye. Motion carried 5-0.

6) **APPEALS ON 2011 HOMESTEAD EXEMPTION REJECTION:**

**Scott Schwaninger  
Terri Hagel**

Scott Gaines said in both cases the doctors' certifications showed the applicants did not meet the type of disability required to receive Homestead Exemption. He said the statute specifically lists the type of disability which qualifies for benefits. Gaines recommended denial of the appeals.

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

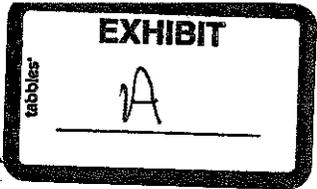
7) **ADJOURNMENT**

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

*Dan Nolte*

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**Dan Nolte**  
**Lancaster County Clerk**





IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

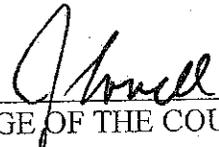
IN THE MATTER OF THE DETENTION  
OF

ORDER OF PROBABLE CAUSE

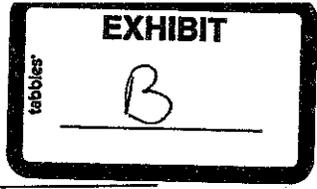
DUKHAN MUMIN

This matter case on for hearing upon the Affidavit of Officer Maho, #902119, a peace officer as defined by the laws of the State of Nebraska. The court, being fully advised, finds and orders as follows: That probable cause does exist to believe that the crime of Possession w/ Intent to Deliver Crack Cocaine was committed by Dukhan Mumin, and that said person may be detained for further proceedings.

Dated this 17 day of June, 2011.

  
\_\_\_\_\_  
JUDGE OF THE COUNTY COURT

TORT CLAIM RECOMMENDATION FORM



NAME OF PERSON FILING TORT CLAIM: Samuel Craigie

CONTROL NUMBER ASSIGNED: JT11-08

INVESTIGATIVE FINDINGS: I recommend this tort claim be denied.

Inmate Craigie's request for PC was not ignored. It was reviewed by a Lieutenant and CSI. Both reasoned it was not necessary at the time.

There is no evidence that an officer showed Inmate Craigie's charges, on the computer, to any inmate.

Records show Inmate Craigie has been seen by medical several times and no evidence of the injuries he is complaining of has been found.

DATE: 03-30-11 SIGNATURE: [Signature]

DIRECTOR'S FINDINGS: Staff's reports and investigation into Inmate Craigie's claim is not founded. I recommend the Board disapprove this claim.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DIRECTOR'S RECOMMENDATION: \_\_\_\_\_  
(CHECK ONE) X

APPROVED FOR \$ \_\_\_\_\_  
DISAPPROVED  
CLAIM WITHDRAWN

DATE: 03-30-11 SIGNATURE: Michael Thumber

DATE SUBMITTED TO COUNTY ATTORNEY'S OFFICE: 03-30-11

DISTRIBUTION: COUNTY CLERK (ORIGINAL)  
PERMANENT TORT FILE (DOC)  
JAIL ADMINISTRATORS

# LANCASTER COUNTY CORRECTIONS DEPARTMENT

605 SOUTH TENTH STREET  
LINCOLN, NE 68508  
(402) 441-7530  
FAX: 441-8946

MICHAEL THURBER, DIRECTOR

TO: Terry Weber, Superintendent  
FROM: Lt. Barry Heinbigner   
DATE: March 15, 2011  
RE: Tort Claim #JT11-08  
(Samuel Craigie CFN 397976)

## Complaint

In this tort claim, I/M Samuel Craigie CFN 397976 alleges that the Corrections Department is at fault for an assault on him which occurred in C-pod on December 24, 2010, because:

1. Staff did not place him in protective custody when he requested it, and
2. A corrections officer showed his charges on the computer to other pod inmates, which inflamed other inmates against him. He attaches a statement from another inmate in support of this.

Craigie further claims that the assault resulted in physical injuries, some of which are not being treated.

## Findings

1. I/M Craigie did request PC in a kite dated Sept. 14, 2010. His request was not ignored. Protective custody is a classification decision, and the obligation of the Department is to consider all the facts in a careful and deliberate manner, and make a good faith determination of the best placement for the inmate. That process was followed in this case.
2. Evidence shows that the allegation that a CO showed Craigie's charges to other inmates is untrue.
3. Craigie's claim that he received injuries, some of which are not being treated, is not supported by the record. He has been seen on numerous occasions, and Department's medical staff have not found any evidence of the injuries about which Craigie is complaining.

## Investigation

1. A Corrections Lieutenant personally interviewed I/M Craigie regarding his PC request. The Lieutenant considered the reasons for the inmate's request and his history of adjustment in general

population. He also determined that some of Craigie's concerns were not valid. Taking all these factors into account, the Lieutenant determined that PC was not warranted.

A Corrections Specialist performed a formal classification review. She took into consideration Craigie's reasons for the request and his prior adjustment to general population, as well as things Craigie told her during their interview. Taking all the factors into consideration, she determined that PC was not warranted in this case.

3. I interviewed the inmate who submitted the affidavit alleging an officer showed him and some other inmates I/M Craigie's charges on the computer. He claimed this occurred just before deadlock about 10:30 p.m. He volunteered the statement that it didn't matter, because everyone knew Craigie's charges. He stated I/M Craigie's roommate had looked at I/M Craigie's papers. (I note that on pg 3 of the tort claim, I/M Craigie also relates that his cell mate had looked his legal papers.)

The inmate provided a very accurate description of the officer demonstrating he is familiar with her; however, she was not on duty the nights in question, which leads me to conclude the inmate's statement is a fabrication.

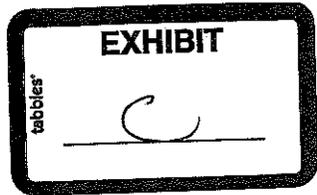
4. On Nov. 13, 2010, a verbal altercation occurred between I/M Craigie and another inmate. Craigie alludes to it in his tort claim, inferring that it was the result of that inmate knowing his (Craigie's) charges.

I asked that inmate why he was so mad at Craigie. He said that the argument was over the TV. He denied that the argument had anything to do with Craigie's charges.

That inmate was also one of those specifically named in the affidavit as looking at Craigie's charges on the computer. I asked him if an officer had shown him mugshots and/or Craigie's charges, and he said "no."

5. I/M Craigie alleges that, as a result of the Dec. 24 assault, he injuries which are not being addressed by the Corrections Department. A review of his medical chart however, reveals that he has been seen numerous times by both nursing staff and the APRN regarding these complaints. There is no evidence of a broken nose or injured shoulder, and tape was provided for an allegedly broken toe.

TORT CLAIM RECOMMENDATION FORM



NAME OF PERSON FILING TORT CLAIM: Samuel Craigie  
CONTROL NUMBER ASSIGNED: JT11-12

INVESTIGATIVE FINDINGS: I recommend this tort claim be denied. Inmate Samuel Craigie received appropriate and timely medical care.

DATE: 05/24/11 SIGNATURE: [Handwritten Signature]

DIRECTOR'S FINDINGS: I concur with our staff's findings. Inmate Craigie received timely medical care. I recommend the Board disapprove this claim.

DIRECTOR'S RECOMMENDATION: \_\_\_\_\_ APPROVED FOR \$ \_\_\_\_\_  
(CHECK ONE) X DISAPPROVED  
CLAIM WITHDRAWN

DATE: 05/24/11 SIGNATURE: Michael Huber

DATE SUBMITTED TO COUNTY ATTORNEY'S OFFICE: 05/25/11  
DISTRIBUTION: COUNTY CLERK (ORIGINAL)  
PERMANENT TORT FILE (DOC)  
JAIL ADMINISTRATORS

# LANCASTER COUNTY CORRECTIONS DEPARTMENT

605 SOUTH TENTH STREET  
LINCOLN, NE 68508  
(402) 441-7530  
FAX: 441-8946

MICHAEL THURBER, DIRECTOR

TO: Terry Weber, Superintendent  
FROM: Lt. Barry Heinbigner   
DATE: May 24, 2011  
RE: Tort Claim #JT11-12  
(Inmate Samuel Craigie CFN 397976)

## Complaint

The subject matter of this tort claim is the same as that in a complaint investigated by the Office of the Public Counsel (Ombudsman) in November 2010. Both allege improper medical care when Craigie was stricken with a kidney stone on November 18 of that year. His main allegations seem to be that his pain was not properly treated, medical attention was not prompt, and the orders of the emergency room physicians were not followed.

## Findings

1. Records and documentation confirm that Craigie did receive prompt and appropriate medical attention for his condition when the symptoms warranted it.

## Investigation

1. Craigie first complained about pain from a kidney stone at about 7:00 a.m. and as a result was scheduled for 9:00 a.m. nursing sick call. During morning medication pass he was observed to be standing by the toilet. The chart notes, "Not diaphoretic. No emesis during conversation. I/M declined meds when offered." However, at about 8:40 a.m. he complained about blood in his urine, and was taken to the medical area to pass the stone under medical supervision.
2. The stone did not pass while in Medical, and, due to blood in his urine and inability to keep down fluids, he was transported to the emergency room at about 10:00 a.m. The ER physician determined that the kidney stone had already dropped past "the most sensitive area." Craigie was told to drink fluids and was given orders for Cipro, an antibiotic, and Ibuprofen, both of which he received. Craigie was already taking Tramadol, a non-narcotic pain medication, on a regular basis for a back complaint.

4. Upon return to his housing unit, he was observed to be intoxicated from the Morphine which had been administered at the hospital, and was placed in his room.
5. Corrections medical staff left instructions that if Craigie was unable to urinate for more than eight hours, he was to be returned to the ER. At about 11:15 p.m. Craigie was again complaining about pain, and staff learned that he had not urinated for over eight hours. He was transported to the ER at about 12:10 a.m.
6. During the second ER visit, Craigie was prescribed Ibuprofen, Phenegran (an antihistamine) and Flomax (to ease urination). He was also prescribed Lortab, a narcotic pain killer. However, because of the risk presented by narcotics in correctional facilities, Corrections Department policy is to only administer this class of medications following surgery or childbirth. He was not given the Lortab, therefore, but continued to take Tramadol and Ibuprofen for pain.
7. Upon return from his second ER visit, Craigie was lodged in Booking on Medical Observation over night, and returned to his regular cell in the morning. The kidney stone eventually passed on November 29.

**MINUTES**  
**LANCASTER COUNTY BOARD OF EQUALIZATION**  
**TUESDAY, AUGUST 9, 2011**  
**CITY COUNCIL CHAMBERS**  
**FIRST FLOOR, COUNTY-CITY BUILDING**  
**11:00 A.M.**

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

Others Present: Dan Nolte, County Clerk  
Cori Beattie, Deputy County Clerk  
Melissa Virgil, Board of Equalization Specialist  
Norm Agena, County Assessor/Register of Deeds  
Rob Ogden, County Assessor/Register of Deeds  
Tom Kubert, Referee Coordinator  
Lori Johnson, Great Plains Appraisal  
Shana Sprackling, Great Plains Appraisal  
Cody Gerdes, Great Plains Appraisal  
Josh Sapp, Great Plains Appraisal

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 11:03 a.m.

**1) REAL PROPERTY VALUATION PROTEST HEARINGS FOR 2011:**

**Protests 11-204, 11-205, 11-206; Priestly Fraternity Of St. Peter, Inc.** - Appearing was Geoffrey Coleman. Coleman noted all three properties were purchased in 1998 and they receive a tax exemption on the improvements. With regard to Protest 11-205, there was a 43% increase in the value between 2005-2010 and a 60% increase from 2010 to 2011. Coleman said there are improvements on the property, however it is primarily grassland. He compared his acreage property to the subject property and feels the protested value is over assessed.

Kubert asked if the property was all grassland. Coleman said there were a few acres of alfalfa that were converted to grass a few years ago. In response to Heier's inquiry, Coleman said they do not receive any payment on the land from the government nor is it in CRP. Kubert said he will take another look at the land use.

With regard to Protest 11-204, Coleman said the property was purchased out of a subdivision. There is no tax exemption and it is grassland and waste. He also noted the valuation was increased 52% between 2005-2010 and 35% from 2010 to 2011. Kubert said the land use is consistent and it is taxed as a farm. It was purchased in 2000 for \$90,000.

With regard to Protest 11-206, Coleman said most of the improvements have occurred on this particular property. There was an 80% increase between 2005-2010 and 34% from 2010 to 2011. He said the land is dry grassland and waste and it is listed as real property valued at \$8,644,000 on the assessment notice. Coleman determined the non-exempt assessed valuation should be \$69,400.

Schorr asked what the \$69,400 represents. Coleman said it is supposed to be the non-exempt land value. Kubert noted it would be the taxable value of the non-exempt land. He added the referee's do not consider whether the improvements should be on or whether there is an exemption. During the referee process, they are looking at market value and not percentages of increase.

Kubert also noted the County shows 1.32 acres of dryland. He asked what that represents. Coleman said it is a soccer field. Kubert said he will review this issue.

## **2) FINAL ACTION ON REAL PROPERTY VALUATION PROTESTS FOR 2011:**

**Protest 11-706; Noah Jacobsen** - Kubert indicated they reviewed additional sales in the area. He recommended a reduction from \$91,500 to \$87,700.

Hudkins arrived at 11:28 a.m.

**Protest 11-853; CNL-Lincoln** - Kubert said they looked at the actual and projected historic future income and the sale. He recommended a reduction from \$2,984,100 to \$2,395,000.

**Protest 11-788; Woodbridge Properties** - Kubert recommended no change, \$403,400.

**Protest 11-358; Le Troi A Partnership** - Kubert recommended no change, \$97,100.

**Protest 11-755; Pau-Chang Lu & Janet Chih-Hwa Cheng** - Kubert recommended a reduction from \$133,300 to \$129,400.

**Protest 11-208; Le Troi A Partnership** - Kubert said they took into consideration the access and power line issues. He recommended a reduction from \$328,900 to \$165,000.

**Protest 11-713; Douglas B. & Kimberly K. Rath Revocable Trust** - Kubert indicated they reallocated some waste acres. He recommended a reduction from \$160,300 to \$158,600.

**Protest 11-714; Union Bank & Trust Company Custodian** - Kubert reported they corrected the land use. He recommended a reduction from \$21,200 to \$20,900.

**Protest 11-715; Douglas B. & Kimberly K. Rath, Trustees** - Kubert said there was an extensive analysis done on this property last year and in previous years. He recommended no change, \$664,300.

**Protest 11-1064, 11-1108, 11-1109; Jason Huck** - Kubert noted these recommendations were discussed at the meeting on August 3, 2011. (Note: For other final value recommendations, please see the August 3, 2011, Board of Equalization meeting minutes.)

**1) REAL PROPERTY VALUATION PROTEST HEARINGS FOR 2011 (CONTINUED):**

**Protest 11-263; Phil & Mary Durst** - Phil Durst appeared and said the front part of his property is Lincoln Auto Auction and the back part is 11.97 acres of farm land. He displayed a spreadsheet of the taxes paid over the last 5 years (copy on file). Durst also discussed his neighbor's property and its lower assessed value.

Hudkins asked Durst if this property was in the greenbelt category. Durst said it was not. Kubert indicated in 2008 it was assessed at \$51,000 and then in 2009 it increased to \$229,000. Kubert encouraged Durst to apply for special greenbelt valuation with the County Assessor on June 1<sup>st</sup> because it is currently assessed as commercial land. Durst said the property is currently listed for sale at either \$4.00 or \$6.00 a square foot.

Rob Ogden, County Assessor's Office, indicated the property was annexed by the City of Waverly, therefore, it does not qualify for greenbelt. Kubert said they should look at the 80 acres to the east to see if it is assessed consistently and fairly with other parcels of vacant industrial land. He believed everything was annexed between Highway 6 and I-80 from the Waverly interchange to the Durst property. Kubert said they need to look at market value if it won't qualify for the special agricultural value.

**2) FINAL ACTION ON REAL PROPERTY VALUATION PROTESTS FOR 2011 (CONTINUED):**

**Protest 11-640; M. Jo Theis** - Kubert reviewed the additional data submitted and recommended a reduction from \$296,800 to \$245,700.

**Protest 11-45; Brian & Kayla Northup** - Kubert looked at the additional data and said it was consistent with other properties. He recommended no change, \$186,700.

**Protest 11-593; Mark Becher** - Kubert recommended no change, \$81,300.

**Protest 11-459; Lola H. Sievers Living Trust & Bruce J. Sievers Family Trust** - Kubert said they analyzed the flood plain issue. He recommended no change, \$127,900.

**Protest 11-461; Lola H. Sievers Living Trust & Bruce J. Sievers Family Trust** - Kubert recommended no change, \$147,100.

**Protest 11-462; Lola H. Sievers Living Trust & Bruce J. Sievers Family Trust** - Kubert recommended no change, \$139,900.

**Protest 11-460; Lola H. Sievers Living Trust & Bruce J. Sievers Family Trust** - Kubert recommended no change, \$11,100.

**Protest 11-105; Frank A. & Sharon K. Kimmons** - Kubert recommended no change, \$227,300.

**Protest 11-176; Larry A. & Carol E. Graham** - Kubert said he read the information provided. He recommended a reduction from \$110,500 to \$93,500.

**Protest 11-85; Richard W. Bartek** - Kubert said the house is not 100% completed and asked the Assessor's office to review the property annually. He recommended a reduction from \$151,800 to \$100,800.

**Protest 11-418; Robert A. & Sheri S. Martin** - Kubert recommended no change, \$245,600.

**Protest 11-499; Gay N. Martin** - Kubert recommended no change, \$245,200.

**Protest 11-699; Senad & Leyla Hrustemovich** - Kubert recommended no change, \$78,700.

**Protest 11-265; Deroyce J. & Beverly A. Polak** - Kubert said there was a slight correction in the number of irrigated acres. He recommended a reduction from \$254,600 to \$252,200.

**Protest 11-117; Denise Walker & David Courtright Lange** - Kubert recommended no change, \$48,400.

**Protest 11-270; 4-R Partnership** - Kubert recommended no change, \$235,500.

**Protest 11-668; Kay Enterprises LLC** - Kubert recommended no change, \$309,500.

**Protest 11-669; Kay Enterprises LLC** - Kubert recommended no change, \$3,151,300.

**Protest 11-673; Lester Electrical of Nebraska** - Kubert recommended no change, \$2,869,700.

**Protest 11-731; Gayatri Corporation** - Kubert recommended no change, \$2,100,000.

**Protest 11-815; Country Plaza South, Inc.** - Kubert recommended no change, \$584,100.

**Protest 11-817; Country Plaza South, Inc.** - Kubert recommended no change, \$584,100.

**Protest 11-194; Fred L. & Joyce E. Nass** - Kubert recommended no change, \$261,800.

**Protest 11-282; Donald D. & Elaine A. Rutt, Life Estate** - Kubert indicated they corrected the land use on the next four protests which warranted a reduction on each one. In regard to Protest 11-282, Kubert recommended a reduction from \$51,400 to \$25,700.

**Protest 11-283; Donald D. & Elaine A. Rutt, Life Estate** - Kubert recommended a reduction from \$157,100 to \$156,000.

**Protest 11-284; Donald D. & Elaine A. Rutt, Life Estate** - Kubert recommended a reduction from \$42,800 to \$26,900.

**Protest 11-285; Donald D. & Elaine A. Rutt, Life Estate** - Kubert recommended a reduction from \$57,000 to \$40,400.

**Protest 11-129; David H. Murdock** - Kubert recommended a reduction from \$5,100,000 to \$2,025,000.

**Protest 11-266; Ronald S. & Patsy K. Mellen** - Kubert recommended no change, \$327,600.

**Protest 11-298; Ruth M. Danley, Trustee** - Kubert recommended no change, \$228,900.

**Protest 11-585; J.H. Lesoing** - Kubert recommended no change, \$106,000.

**Protest 11-278; Hp Properties, LLC** - Kubert recommended no change, \$64,300.

**Protest 11-280; Joyce M. Pocras Revocable Trust** - Kubert recommended no change, \$58,600.

**Protest 11-357; Verna J. Deinert, Donna L. Havener, Jean Marie Petsch, Melvin H. Deinert and Joann C. Boshart, Trust** - Kubert recommended no change, \$359,300.

**Protest 11-979; Gary E. & Diane K. Kubicek** - Kubert recommended no change, \$291,300.

**Protest 11-636; Richard H. & Marti Ann Hudson** - Kubert recommended no change, \$673,000.

**Protest 11-416; Larry K. Wrasse** - Kubert visited the property and looked at some sales in the area. He recommended a reduction from \$109,900 to \$99,600.

**Protest 11-851; World Color (USA) Corp.** - Kubert said the contract for \$1,000,000 is an arms length transaction. He recommended a reduction from \$2,075,000 to \$1,000,000.

**Protest 11-515; Roger A. Hornung** - Kubert recommended no change, \$337,500.

**Protest 11-927; L. Merrill Cook Life Estate** - Kubert said he corrected the land use. He recommended a reduction from \$399,500 to \$375,100.

**Protest 11-247; Rodney L. & Barbara J. Wussow** - Kubert recommended no change, \$126,000.

**Protest 11-500; Summit Homes LLC** - Kubert reviewed the appraisal and sales information. He recommended a reduction from \$169,000 to \$162,000.

**Protest 11-501; Summit Homes LLC** - Kubert recommended a reduction from \$169,000 to \$162,000.

**Protest 11-502; Summit Homes LLC** - Kubert recommended no change, \$157,600.

**Protest 11-505; Summit Homes LLC** - Kubert recommended a reduction from \$169,000 to \$162,000.

**Protest 11-171; Ryan J. & Jennifer I. Omel, Trustees** - Kubert reviewed the additional sales agreement. He recommended a reduction from \$126,200 to \$89,900.

**Protest 11-900; Regal Building Systems, Inc.** - Kubert recommended no change, \$125,600.

**Protest 11-901; Regal Building Systems, Inc.** - Kubert recommended no change, \$141,400.

**Protest 11-902; Regal Building Systems, Inc.** - Kubert recommended no change, \$125,800.

**Protest 11-903; Regal Building Systems, Inc.** - Kubert recommended no change, \$125,500.

**Protest 11-904; Regal Building Systems, Inc.** - Kubert recommended no change, \$125,500.

**Protest 11-905; Regal Building Systems, Inc.** - Kubert recommended no change, \$127,000.

**Protest 11-906; Regal Building Systems, Inc.** - Kubert recommended no change, \$125,500.

**Protest 11-248; Sai Hospitality, Inc.** - Kubert recommended no change, \$1,174,400.

**Protest 11-161; Felix G. & Vivian I. Fortune** - Kubert said he reviewed the appraisal. He recommended a reduction from \$112,800 to \$101,500.

**Protests 11-1036, 11-1035, 11-1033, 11-1032, 11-1031, 11-1026, 11-1024, 11-1023, 11-1020, 11-1019, 11-1011, 11-1006, 11-1004, 11-1003, 11-1002, 11-998; Rembolt Development Ltd, H W L E Education Trust, Rod S. Hornby, Rod S. & Camie S. Hornby, Rodney Scott Hornby** - Since no additional information was submitted, Kubert recommended no change on all of the above listed protests.

**Protest 11-975; Rita J. & Brian J. McAllister** - Kubert recommended no change, \$37,100.

**Protest 11-976; Rita J. & Brian J. McAllister** - Kubert reviewed the additional FSA map and certificate of acres. He recommended a reduction from \$133,800 to \$129,500.

**Protest 11-203; Bonita J. Breitenfeldt, Etal.** - Kubert indicated there was an error in the report. He recommended a reduction from \$389,000 to \$377,300.

**Protest 11-481; Dayton Hudson Corporation** - Kubert recommended no change, \$6,938,100.

**Protest 11-482; Target Corporation** - Kubert recommended no change, \$13,000,000.

**Protest 11-483; Dayton Hudson Corporation** - Kubert recommended no change, \$6,656,200.

**Protest 11-709; Strube Enterprises I LLC** - Kubert recommended no change, \$405,600.

**Protest 11-517; Kenneth D. & Shelby J. Dixon** - Kubert recommended no change, \$226,700.

**Protest 11-710; MSS Realty LLLC** - Kubert commended no change, \$1,427,500.

**Protest 11-756; Joan Speicher-Simpson** - Kubert reviewed the information and pictures regarding the basement finish. He recommended a reduction from \$183,600 to \$175,300.

**Protest 11-811; US Bank Corporate Properties** - Kubert recommended no change, \$470,400.

**Protest 11-813; US Bank Corporate Properties** - Kubert recommended no change, \$2,074,200.

**Protest 11-824; US Bank Corp. Real Estate Acctg.** - Kubert recommended no change, 557,900.

**Protest 11-1081; Brentwood Estates Retirement** - Kubert noted this was a 2009 TERC settlement case. He recommended a reduction from \$4,479,600 to \$4,150,000.

**Protest 11-263; Phil & Mary Durst** - Kubert recommended no change, \$228,800.

**Protest 11-204; Priestly Fraternity Of St. Peter Inc.** - Kubert recommended no change, \$19,100.

**Protest 11-205; Priestly Fraternity Of St. Peter** - Kubert reviewed the information provided and said there was a land use change. He recommended a reduction from \$63,700 to \$37,000.

**Protest 11-206; Priestly Fraternity Of St. Peter, Inc.** - Kubert said 1.32 dryland acres were changed to grassland. He recommended a reduction from \$8,644,000 to \$8,643,000.

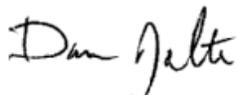
**MOTION:** Raybould moved and Hudkins seconded to accept the recommendations of the referees for 2011 real property valuations as established by the record except where the Board of Equalization determined a revised value was warranted during protest hearings. Smoyer, Hudkins, Heier, Raybould and Schorr voted aye. Motion carried 5-0.

**MOTION:** Heier moved to adjourn the Board of Equalization meeting.

Heier withdrew his motion.

2) **ADJOURNMENT:**

**MOTION:** Raybould moved and Smoyer seconded to close the Board of Equalization acting upon individual real property valuation protests for 2011 at 12:27 p.m. Raybould, Heier, Hudkins, Smoyer and Schorr voted aye. Motion carried 5-0.



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Dan Nolte  
Lancaster County Clerk

