

Board of Equalization
May 14, 2019

At 9:45 a.m. a meeting of the Board of Equalization was called to order by Chairman Jerad Sornson. Answering present at roll call were Commissioner Sornson, Commissioner Parsons, Commissioner Freshman, Commissioner Speth and Commissioner Thurman. None Absent

Chairman Sornson informed the public in attendance that a current copy of the Open Meetings Act is posted on the south wall of the Courtroom.

Commissioner Parsons made a motion, seconded by Commissioner Freshman to accept the agenda as posted. There being no further discussion Chairman Sornson called for a vote. Voting aye were Commissioners Sornson, Parsons, Freshman, Speth and Thurman. Nay – none. Motion carried.

Commissioner Freshman made a motion, seconded by Commissioner Thurman to accept the minutes from the previous meeting and not have them read as each member was furnished with a copy of same. There being no further discussion, Chairman Sornson called for a vote. Voting aye were Commissioners Parsons, Freshman, Speth, Thurman and Sornson. Nay – none. Motion carried.

Christi Smallfoot, County Assessor, presented the following tax list corrections:

1) Parcel #000074500 – Add \$83.58 to tax year 2019 – accelerated taxes paid due to the sale of a mobile home. 2) Parcel #003817000 – deduct \$1,068.62 for tax year 2017 – value adjusted per TERC order. There being no further discussion, Commissioner Sornson called for a vote. Voting aye were: Commissioners Speth, Thurman, Sornson, Parsons and Freshman. Nay – none. Motion carried.

Anthony Aerts, an attorney representing Kimmel Orchard & Vineyard Educational Foundation, came before the Board to give testimony as to why they disagree with the Assessor's recommendation to deny tax exemption on most of the real and personal property owned by the organization. Kimmel Orchard & Vineyard Educational Foundation, Inc. has submitted applications for real estate tax exemption for the following parcels: #000658500, #005003500, #005004500, #005004000 and personal property exemption on Schedule #453201286. Mr. Aerts stated the foundation was organized with a charitable and educational mission and purpose. The foundation has filed and established

501C-3 status and is bound by regulations set by the IRS that prohibit the use of monies to benefit or profit individuals associated with the organization. The properties are being used for charitable and educational uses. The properties do have incidental items that produce income for the foundation and this is allowable as long as the funds are used to expand the educational or charitable use of the foundation. By statute, the properties may be used for other activities, but the primary use must remain educational and charitable. There is alcohol sold in a small contained area on one of the properties. Assessor, Christi Smallfoot, indicated that the alcohol sales is not the sole reason for the denial recommendation for that parcel. The parcel does not meet the five part statutory test for exemption status. She also noted that 501C-3 status does not exempt an organization from real estate or personal property tax. Acting Otoe County Attorney, John Palmtag, stated that it needs to be decided if the predominate use of the properties is educational and charitable. He noted that the financial documents submitted do not show the break down of wages/salaries. Vaughn Hammond reported on the educational aspects of the foundation. There were over 1200 teaching hours completed last year. Participants may take a tour of the orchard and there are opportunities to learn about pollination, fruits, anatomy of plants, etc. The new playground equipment has educational placards on the equipment for passive learning. The placards can be read by the participants and can also be integrated into an educational game played with an app on a phone. The Orchard has interns every year and it is the policy of the foundation to not deny an intern a position. The interns earn credit hours, pay and provided housing. The interns participate in classroom time to learn tasks that

will be performed, such as soil testing, as well as physical labor at the orchard. Two of the four real estate parcels being addressed are for intern housing. Tyler Vock, Business and Marketing Team Leader, stated that the foundation does not receive federal grants, but had received a large grant from the Kimmel Foundation. Those monies were used for the playground equipment, new sorter and the purchase of property for intern housing. He stated that 2012, the foundation showed a profit and that was due to the grant. On average, the foundation is losing \$250,000 per year. Mrs. Smallfoot commended the foundation on the charitable, educational and recreational contributions, but feels that the predominate and primary use of the property is a commercial orchard to generate sales and income and all other uses are incidental. The assessor's recommendation for the parcels and schedule are as follows:

Parcel #005004500: Denial of exemption – does not meet the five part statutory test for exemption due to exclusive use.

Parcel #005004000: Approval of a portion - Partial exemption of home, garage and first acre

Parcel #000658500: Approval of a portion - Partial exemption of home and first acre

Parcel #005003500: Approval of a portion; does not meet the five part statutory test for exemption for the property as a whole. Partial exemption for the research building.

Personal Property Schedule #453201286: Denial of exemption – does not meet the five part statutory test for exemption.

Commissioner Parsons made a motion, seconded by Commissioner Speth to agree with the Assessor's recommendation on the partial approvals and denials as listed on the Form 451. There being no further discussion, Chairman Sornson called for a vote. Voting aye were Commissioners Speth, Thurman, Sornson, Parsons and Freshman. Nay – none. Motion carried.

There being no further business to come before the Board at this time, and since all items on the agenda have been disposed of, Chairman Sorson declared the meeting adjourned at 10:32 a.m.

I, Jennifer Bassinger, County Clerk for Otoe County, do hereby certify that the above minutes were taken by me, and are true and correct to the best of my knowledge, and I therefore set my hand and affix my seal this 14th day of May 2019.

Jennifer Bassinger
Otoe County Clerk