

**BUFFALO COUNTY BOARD OF COMMISSIONERS  
BUFFALO COUNTY BOARD OF EQUALIZATION  
TUESDAY, MARCH 14, 2023**

The Buffalo County Board of Commissioners and the Buffalo County Board of Equalization met on Tuesday, March 14, 2023 at 9:00 A.M. and 9:45 A.M. Chairperson Klein called the meeting to order and led those present in the Pledge of Allegiance. The following Board members responded to roll call: Timothy Higgins, Myron Kouba, Ronald Loeffelholz, Daniel Lynch, Bill Maendele, Sherry Morrow and Ivan Klein. A copy of the acknowledgment and receipt of notice and agenda by the Board of Commissioners is attached to these minutes. Public notice of this meeting was published/posted in the Kearney Hub, on the Buffalo County website, and the bulletin boards located outside the County Clerk's office and County Board Room on March 9, 2023. Chairperson Klein announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and posted at the back of the Board Room. County Clerk Heather Christensen took all proceedings hereinafter shown; while the convened meeting was open to the public. County Attorney Shawn Eatherton and Deputy County Attorney Andrew Hoffmeister were present.

**REGULAR AGENDA**

Moved by Maendele and seconded by Loeffelholz to approve the February 28, 2023 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Maendele, Loeffelholz, Higgins, Kouba, Lynch, Morrow and Klein. Motion declared carried.

Sheriff Neil Miller was present for the Swearing in of Investigative Sergeant Paul Koerner.

Moved by Morrow and seconded by Lynch to ratify the following March 10, 2023 payroll claims processed by the County Clerk. Upon roll call vote, the following Board members voted "Aye": Morrow, Lynch, Higgins, Kouba, Loeffelholz, Maendele and Klein. Motion declared carried.

<b><u>GENERAL FUND</u></b>			
NET PAYROLL			305,491.50
AMERICAN FAMILY LIFE	I	PREMIUMS	1,264.90
RETIREMENT PLANS AMERITAS	R	EMPE RET	51,666.74
BUFFALO CO TREASURER	I	PREMIUMS	129,973.00
EMPOWER ANNUITY INS	R	DEFERRED COMP	1,150.00
FIRST CONCORD	E	FLEX FUNDS	5,582.91
FIRST NATIONAL BANK	T	FEDERAL TAXES	102,983.31
KEARNEY UNITED WAY	E	DONATIONS	61.00
MADISON NATIONAL	I	PREMIUMS	1,107.60
MADISON NATIONAL	I	LT DISABILITY	282.50
ERIN M MCCARTNEY	E	GARNISHMENT	402.00
NATIONWIDE RETIREMENT	R	DEFERRED COMP	385.00
NE CHILD SUPPORT	E	CHILD SUPPORT	1,200.00
PRINCIPAL	E	DENTAL	3,496.08
STATE OF NE	T	STATE TAXES	17,868.61
VISION SERVICE PLAN	E	EMPE VSP EYE	904.89
<b><u>ROAD FUND</u></b>			
NET PAYROLL			63,718.37
AMERICAN FAMILY LIFE	I	PREMIUMS	747.72
RETIREMENT PLANS AMERITAS	R	EMPE RET	10,236.81
BUFFALO CO TREASURER	I	PREMIUMS	4,085.00
FIRST CONCORD	E	FLEX FUNDS	914.92
FIRST NATIONAL BANK	T	FEDERAL TAXES	18,902.23
MADISON NATIONAL	I	PREMIUMS	204.21
MADISON NATIONAL	I	LT DISABILITY	113.81
NATIONWIDE RETIREMENT	R	DEFERRED COMP	272.50
PRINCIPAL	E	DENTAL	1,065.84
STATE OF NE	T	STATE TAXES	3,049.84
VISION SERVICE PLAN	E	EMPE VSP EYE	254.71
<b><u>COVID AMERICAN RESCUE PLAN FUND</u></b>			
NET PAYROLL			1,634.05
AMERICAN FAMILY LIFE	I	PREMIUMS	30.23
RETIREMENT PLANS AMERITAS	R	EMPE RET	334.38
BUFFALO CO TREASURER	I	PREMIUMS	281.00
FIRST NATIONAL BANK	T	FEDERAL TAXES	465.98

MADISON NATIONAL	I	PREMIUMS	4.90
MADISON NATIONAL	I	LT DISABILITY	5.91
PRINCIPAL	E	DENTAL	45.52
STATE OF NE	T	STATE TAXES	67.82
VISION SERVICE PLAN	E	EMPE VSP EYE	14.08
<b>WEED FUND</b>			
NET PAYROLL			5,344.70
RETIREMENT PLANS AMERITAS	R	EMPE RET	840.87
BUFFALO CO TREASURER	I	PREMIUMS	281.00
FIRST CONCORD	E	FLEX FUNDS	25.00
FIRST NATIONAL BANK	T	FEDERAL TAXES	1,696.82
MADISON NATIONAL	I	LT DISABILITY	3.68
PRINCIPAL	E	DENTAL	60.96
STATE OF NE	T	STATE TAXES	269.62

Moved by Morrow and seconded by Lynch to accept the Clerk of the District Court February 2023 Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Lynch, Higgins, Kouba, Loeffelholz, Maendele and Klein. Motion declared carried.

Moved by Morrow and seconded by Loeffelholz to accept the Buffalo County Treasurer February 2023 Fund Balance Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Loeffelholz, Higgins, Kouba, Lynch, Maendele and Klein. Motion declared carried.

Moved by Maendele and seconded by Loeffelholz to accept the January 2023 Community Action Partnership of Mid-Nebraska RYDE Report. Upon roll call vote, the following Board members voted "Aye": Maendele, Loeffelholz, Higgins, Kouba, Lynch, Morrow and Klein. Motion declared carried.

### **ROAD DEPARTMENT**

Highway Superintendent John Maul and Assistant Highway Superintendent Cory Jensen were present for the following agenda items.

Chairperson Klein instructed County Clerk Christensen to open and read aloud the submitted gravel bids for the period of April 1, 2023 through March 31, 2024. Gravel Bids were submitted from the following companies: Broadfoot Sand and Gravel Co. Inc., Ed Broadfoot & Sons Sand & Gravel Inc, Southwest Gravel Products, Paulsen Inc. and Mid Nebraska Aggregate Inc. The Road Committee, Highway Superintendent Maul and Assistant Highway Superintendent Jensen will review the bids and come back with recommendations later in the meeting.

Moved by Loeffelholz and seconded by Lynch to set bid date of Tuesday, April 11, 2023 at 9:30A.M. for Project No. C10 (1423) Structure No. C001025925 located on Navaho Road north of 370<sup>th</sup> Road over the South Loup River. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Lynch, Higgins, Kouba, Maendele, Morrow and Klein. Motion declared carried.

### **ZONING**

Zoning Administrator Dennise Daniels and Deputy County Attorney Hoffmeister were present for the following Zoning agenda items.

Chairperson Klein opened the public hearing at 9:27 A.M. for a special use permit review regarding sign installation. Zoning Administrator Daniels was present to review and answer any questions. No one else addressed the Board and Chairperson Klein closed the hearing at 9:31 A.M. Moved by Maendele and seconded by Kouba to approve the Special Use Permit, filed by Vonl Mattson of Mayhew Signs, Inc., on behalf of Woody Giddings, Jr., of Bigdog, L.L.C., to install a sign, on tax parcel 660286105, described as a tract of land in the North Half of the Northwest Quarter, lying north of the railroad, situated in Section Thirty (30), Township Nine (9) North, Range Fourteen (14) West of the Sixth Principal Meridian, Buffalo County, Nebraska with the following Resolution 2023-07. Upon roll call vote, the following Board members voted "Aye": Maendele, Kouba, Higgins, Loeffelholz, Lynch, Morrow and Klein. Motion declared carried.

### **RESOLUTION 2023-07**

WHEREAS, Vonl Mattson of Mayhew Signs, Inc., on behalf of Woody Giddings, Jr., of Bigdog, L.L.C., has filed for a Special Use Permit, located at 40060 Highway 30, Gibbon, Nebraska, with the Buffalo County Clerk and/or Zoning Administrator.

WHEREAS, one application was filed November 10, 2022, to install signage on the following legal description:

A tract of land being part of the Northeast Quarter of the Northwest Quarter of Section 30, Township 9 North, Range 14 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Northwest Corner of Government Lot 1 in Section 30 and assuming the West line of Government Lot 1 as bearing S 00°09'34" W and all bearings contained herein are relative thereto; thence S 89°29'20" E and on the North line of Government Lot 1 in said Section 30 a distance of 1273.14 feet to the Northeast

Corner of Government Lot 1 in said Section 30, said point also being the Northwest Corner of the Northeast Quarter of the Northwest Quarter of said Section 30; thence S 89°29'20" E and on the North line of the Northeast Quarter of the Northwest Quarter of said Section 30 a distance of 653.69 feet to the ACTUAL PLACE OF BEGINNING; thence continuing S 89°29'20" E and on the North line of the Northeast Quarter of the Northwest Quarter of said Section 30 a distance of 670.23 feet to the Northeast Corner of the Northwest Quarter of said Section 30; thence S 00°12'42" E and on the East line of the Northeast Quarter of the Northwest Quarter of said Section 30 a distance of 310.72 feet to a point on the North line of Union Pacific Railroad Company's Right-of-way; thence S 73°30' W and on the North line of the Union Pacific Railroad Company's Right-of-Way a distance of 658.77 feet to a point being N 73°30' E a distance of 2054.80 feet along the North line of the Union Pacific Railroad Company's Right-of-Way from the West line of Government Lot 1 in said Section 30; thence N 04°30' W a distance of 214.5 feet; thence continuing N 04°30' W a distance of 290.95 feet to the place of beginning.

hereinafter referred to as the "subject property".

WHEREAS, on February 16, 2023, the Buffalo County Planning and Zoning Commission conducted a public hearing on such Special Use Permit and on a 8-0 vote with one absence and no abstentions, voted to forward this application to the County Commissioners, and

WHEREAS, on March 14, 2023, the Buffalo County Board of Commissioners held a public hearing on this Special Use Permit and,

WHEREAS, three exhibits were attached to the application:

The application of the Special Use Permit.  
Proposed Design of Sign(s).  
Site Plan with Proposed Location of Sign(s).

WHEREAS, only a simple majority is required by this Board to approve this Special Use Permit because no protests against issuance of this permit have been filed, and

WHEREAS, the Board, after public hearing and review of the Special Use application, finds:

The subject property abuts Highway 30 to the South.  
Signage will be affixed to the existing structure.  
The signage content will be regarding the business being conducted on the premises.

WHEREAS, this special use permit is found to be in compliance with Section 6.2 of Buffalo County's Zoning Regulations because with the below stated conditions contained in this Resolution, the requested use/structure(s) would:

Be compatible with and similar to the use permitted in the district, and  
Not be a matter which should require re-zoning of the property, and  
Not be detrimental to adjacent property, and  
Not tend to depreciate the value of the surrounding structures or property, and  
Be compatible with the stated intended use of the district, and  
Not change the character of the district, and  
Be in accordance with the Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED THAT BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS by a majority vote of its members, approves the applicant's requested Special Use Permit, subject however to the following:

No additional conditions were placed on the project other than the sign shall remain in compliance with State and Federal regulations.

BE IT FURTHER RESOLVED that this Board reserves the power to revoke such special use permit for failure to comply with such terms, conditions and requirements, or take such other action as it may deem necessary to obtain compliance. If the Zoning Administrator or any two members of this Board find at any time that the terms, conditions and requirements of this special use permit have not been complied with, or that any phase thereof has not been completed within the time required under said special use permit or any amendment thereto, the Zoning Administrator or any two members of this Board shall report this fact to the County Commissioners, and thereafter this Board may conduct review of compliance by public hearing with notice given to applicant(s) and/or entity using the subject property. Following such public meeting this Board may take any action it may deem necessary to secure compliance including revocation and termination of this special use permit.

RESOLVED FURTHER that a copy of this Resolution shall be filed against the subject property as described above.

Keith Carl, Senior Planner of Hanna:Keelan, Associates, P.C., presented The Comprehensive Plan, or the general plan for the improvement and development of the county outside of the jurisdiction of any city or village, as required per Neb. Rev. Stat. §23-174.06

to the Board of Commissioners. Moved by Loeffelholz and seconded by Kouba to approve The Comprehensive Plan with the following Resolution 2023-08. Upon roll call vote, the following Board members voted “Aye”: Loeffelholz, Kouba, Higgins, Lynch, Maendele, Morrow and Klein. Motion declared carried.

### **RESOLUTION 2023-08**

**WHEREAS**, pursuant to Neb.Rev.Stat. Sec. 23-114.02 and other applicable Nebraska Laws, Buffalo County has revised and updated its general plan for development and improvement of Buffalo County, by preparation of a Comprehensive Plan update, referred to as “Buffalo County, Nebraska Comprehensive Plan – 2033”, hereinafter referred to as “Plan”, and

**WHEREAS**, The Buffalo County Planning and Zoning Commission, in public hearing, held February 16, 2023, recommended approval of this Plan, and

**WHEREAS**, this Board has reviewed the Plan and believes that it should be adopted as the plan of development and improvement for Buffalo County.

**WHEREAS**, a copy of the Buffalo County, Nebraska Comprehensive Plan – 2033, with this Resolution, shall be filed with the Buffalo County Clerk and posted on Buffalo County Website.

NOW, THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS, in regular session with a quorum present, The Buffalo County, Nebraska Comprehensive Plan – 2033, be adopted by approval of this board.

Chairperson Klein opened the public hearing at 9:47 A.M. for Code Amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following sections: (Renumbered) Section 6.6, Location and Distance Requirements of Wind Farms. Deputy County Attorney Hoffmeister was present to review and answer any questions. Sonja Peterson of Miller Nebraska and Dawson County residents Trace Turecek and Matt McTygue addressed the Board in favor of the proposed code amendment for distance requirements. No one addressed the Board in opposition of the code amendment and Chairperson Klein closed the hearing at 10:10 A.M. Moved by Loeffelholz and seconded by Maendele to accept the Code Amendments for the (Renumbered) Section 6.6, Location and Distance Requirements of Wind Farms with the following Resolution 2023-09 and refer to the Planning & Zoning Commission for additional matters. Upon roll call vote, the following Board members voted “Aye”: Loeffelholz, Maendele, Higgins, Kouba, Lynch, Morrow and Klein. Motion declared carried.

### **RESOLUTION 2023-09**

**WHEREAS**, on December 13, 2022, this Board referred to the Buffalo County Planning and Zoning Commission, hereinafter simply referred to as “Planning Commission” or “Commission”, requests for review of potential amendments to Wind Farms provisions in the Buffalo County Zoning Resolution., and

**WHEREAS**, on February 16, 2023, the Commission at public hearing considered amendments to Buffalo County’s Zoning Resolution regarding Wind Farms, and

**WHEREAS**, on February 16, 2023, following public hearing and comment, and a review of evidence submitted to the Commission, the Commission made changes in suggested amendments of this Board with no person present at the Commission hearing speaking in opposition to the following provisions, and forwarded to the Buffalo County Board of Commissioner a favorable recommendation of adoption of the following amendments to the Buffalo County Zoning Resolution:

**“1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:**

**A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:**

**i. Shall not be located or expanded within:**

- a. Three-miles of Agricultural Residential (AGR) zoned property.
- b. Three miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- c. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- d. Five-miles of any incorporated village or city.
- e. Two Miles of a private or public burial site.
- f. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- g. Three miles from the thread of the stream of the South Loup River.
- h. Five miles from any Federal or State wildlife preservation or management area.

**B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:**

- i. The nearest property line of any real estate situated in the Agricultural Residential (AGR) use district by the Zoning Map of Buffalo County; and**
- ii. The nearest portion of the building or structure used as a part of a Wind Farm; and**
- iii. The nearest property line of the premises of a windfarm non-applicant property line, church, synagogue, temple, hospital, public school, public park, licensed day care center, and day care home, and**
- iv. The nearest grave marker at a burial site.**
- v. The nearest property line of a Federal or State wildlife preservation or management area.**

vi. The nearest municipal corporate limit line, exclusive of areas annexed for economic development.

C. Distance certifications: An application for a Wind Farm shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures within two miles of the property to be certified; that shall minimally include the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within two-miles of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County within two miles of the property to be certified.

D. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted.

WHEREAS, after providing notices as required by law, this Board held public hearing for the consideration and potential adoption of the foregoing language at meeting held March 14, 2023.

WHEREAS, no one spoke in opposition to the above recommendations at the public hearings before the Planning Commission and this Board.

WHEREAS, this Board has reviewed and considered the:

1. Minutes of the Planning Commission for meeting held February 16, 2023.
2. Exhibits 1-10 and 12 were received by the Planning Commission at the February 16, 2023 hearing, Exhibit 11 was discussed at that meeting then added after the public hearing, with the record before the Commission being left open for submittal of additional Exhibits 13 through 18.
3. Additional Exhibits 19 -21 were received at the public hearing before this Board.
4. Currently existing and adopted Comprehensive Plan of Buffalo County together with the revised Comprehensive Plan submitted to this Board for consideration and adoption at the February 16, 2023, meeting of the Planning Commission.
5. Testimony given by the public at the Planning Commission's public hearing held on this issue where no one present voiced opposition to the distancing recommendations of the Planning Commission.
6. Testimony and evidence given at the public hearing held before this Board.
7. Existing zoning regulations of this county.

WHEREAS, based upon the foregoing, and in the best judgment of this Board for the public good and wellbeing, this Board finds the adoption of the foregoing language should occur. However, certain items of evidence are irrefutable. These irrefutable items are:

1. The maps published and produced by several sources, including but not limited to American Bird Conservatory, U.S. Game and Wildlife and Nebraska Game and Parks, indicate that most of Buffalo County is in the migration route of Whooping Cranes, an endangered species.
2. Also based upon a map and information published within Smithsonian magazine, Kearney, Buffalo County, Nebraska, is the center of an 80-mile east to west conduit for 200 Million migrating birds belonging to 300 or so species. Kearney roughly sits centered east to west in Buffalo County, with Buffalo County being Six (6) townships wide, east to west, or thirty-six (36) miles.
3. Within the suggested setback distance areas from the Platte and South Loup Rivers there exist wetlands as inventoried by U.S. Fish and Wildlife all as set out on this map: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>) The density of the inventoried wetlands is notable. The minimum distancing requirements of the proposed amendment are consistent with a need to protect the wetlands located along the named rivers from encroachment of wind farms.
4. Highway #2 has been designated a scenic byway by the State of Nebraska and preservation of the scenery of that route should be protected. It has been popularly referred to as "Nebraska's Sandhill's Journey Scenic Byway". According to an article posted in The Fencepost on June 10, 2010: "The late Charles Kuralt called Nebraska's Highway 2 "one of America's 10 most beautiful highways" exclaiming, "This road will take you to one of the last unexplored frontiers where vast treasures can be discovered." Additionally, since 1984, the Nebraska Sandhills has been designated a National Natural Landmark. See: Wikipedia.

WHEREAS, based upon the foregoing findings, the Board believes the areas around the Platte and Loup Rivers, together with Nebraska Scenic By-Law (Highway #2), and Federal State wildlife preservation or management area should be afforded distancing protection from wind farms. Further, that the distances recommended by the Planning Commission for these situations, as outlined above in (A) (i.) subsections f, g, and h, are reasonable and are based upon scientific reasoning. Also, there is a need for public policy stated in the form of zoning regulation to protect these areas.

WHEREAS, this Board believes that the Planning Commission's recommendations regarding required minimum distancing do have sufficient factual and scientific information to merit adoption by this Board. In this regard the Board notes that many of the noise study distancing studies studied wind turbine towers that were smaller height than the height of towers that more prevalent in high the previous wind towers. This Board believes that the increased height of the more modern, more power generation potential towers, would in turn increase the distancing requirements for sound derived complaints. Additionally, a taller tower would correspondingly cause more people be exposed to flicker, shadow flash of the blades, and similar unpopular, unaesthetic aspects of wind towers for residences and uses that are in the vicinity of Wind Farms.

WHEREAS, it is in the public interest that proper respect be given to burial sites within Buffalo County and the need to keep these areas away from disturbing sounds that could be generated by Wind Farms that are within two (2) miles of these places of remembrance and respect.

WHEREAS, according to a 2017 review of cemeteries in this county for purposes of determining the tax- exempt status of some of the cemeteries within Buffalo County, the following cemeteries were listed together with section, township, and range, as being ruled tax-exempt status due to cemetery use, with the cemeteries marked with a \* being within municipal zoning jurisdiction:

Armada (Miller) 9-11-18  
Black Hills Creek 6-11-18  
Burgess 28-11-14  
Dove Hill 30-9-16  
Dow (Pleasant Ridge) 30-11-14  
Elm Creek Catholic 28-9-18\*  
Elm Creek 28-9-18\*  
Fairmont 34-11-16  
Fairview 32-10-18  
Gibbon-Riverside 15-9-14\*  
Immanuel 20-11-17  
Kearney 25-9-16\*

Majors 15-11-15  
 Old Stanley (Amherst) 22-10-17  
 Old Zion 22-11-13  
 Peak (Grace) Lutheran 30-11-16  
 Pleasant Valley 18-12-16  
 Pleasanton 26-12-16\*  
 Prairie Center 18-10-15  
 Ravenna 6-12-14\*  
 Ravenna Protestant 7-12-14\*  
 Riverdale 5-9-16\*  
 St. John's (Grace) Lutheran 33-11-15  
 St. Joseph 21-11-14  
 St. Mary's Catholic of Prairie Center 7-10-15  
 St. Mary's Catholic Pleasanton 26-12-16\*  
 St. Wenceslaus (Bohemian National Catholic) 23-11-14  
 Sod Town 32-12-17  
 Sweetwater 5-12-15  
 Zion Evangelical Lutheran 22-11-13  
 Watertown 12-11-18

Also, private burial sites were noted in 2017 by the Board in the following sections within townships, all as disclosed in a rootsweb.ancestry website based type listing, which said document was used for County Board review of exemptions in 2017, listed as follows:

Beaver, Section 4  
 Cedar, Section 8  
 Collins, City of Kearney  
 Gardner, Section 8  
 Odessa, Sections 8 and 21  
 Rusco, Sections 18, 20 and 31  
 Sartoria Section 5  
 Schneider, Section 2  
 Scott, Section 34

WHEREAS, provisions relating specifically to distancing Windfarms from inventoried wetlands was not included in the Planning Commission's recommended amendments. The Board believes that many of these inventoried wetlands are probably contained in the provisions relating to setbacks from the South Loup and Platte Rivers. However, inventoried wetlands located within the Wood River Valley might need further study and review by the Planning Commission to determine whether all inventoried wetlands within Buffalo County should be added to setback/distancing provisions and the appropriate distancing measurement.

WHEREAS, some of the areas of protection from incursion from Wind Farms by use of proposed setback distancing provisions overlap each other. This overlapping indicates the multiple needs of areas that need zoning protection in order to preserve property valuations, preserve natural habitat and beauty of the areas, and the standard of living within those areas.

WHEREAS, this Board believes that the Planning Commission's recommendations are well taken and should be adopted in its entirety. In approving the Planning Commission's recommendations, this Board will pass the amendments in two portions. The first portion will relate to zoning protection of migratory bird areas and scenic by way zoning setback provisions and the other portion will relate to all other item that need setbacks.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS THAT THE Buffalo County Zoning Resolution shall be amended to add the following language regarding Wind Farms, to read as follows with underlined wording indicating the added language:

"1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

Shall not be located or expanded within:

- a. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- b. Three miles from the thread of the stream of the South Loup River.
- c. Five miles from any Federal or State wildlife preservation or management area.

B. Measurements pursuant to the foregoing section shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises of a Wind Farm to the following distances, whichever applies:

- a. The nearest portion of the building or structure used as a part of a Wind Farm;
- b. The nearest property line of a Federal or State wildlife preservation or management area.

C. Distance certifications: An application for a Wind Farm shall be accompanied by a current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures within two miles of the property to be certified; that shall minimally include the property lines of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home within two-miles of the property to be certified; and the property lines of any property zoned Agricultural Residential (AGR) by the Zoning Map of Buffalo County within two miles of the property to be certified.

D. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted."  
 With renumbering and indentation to be done to integrate the language of this Resolution into the existing Zoning Resolution as necessary.

IT IS FURTHER RESOLVED that the following amendments are also additionally added to Buffalo County's Zoning Resolution, based upon the public testimony provided, with these regulations being found to be in the best interests of public for the preservation of property values and maintenance of a standard of rural living. In adopting the following language this Board finds and notes that Buffalo County spatially has a considerable Agricultural Residential (AGR) Zoning District, existing in several areas of this

County. The AGR Zoning District does not allow Wind Farms uses. Also, the now-existing and current planned Comprehensive Plan indicate planned growth of the AGR Zoning District. That would mean that this county's future growth is expected to grow for residential uses. Further, as a future use, Agricultural Residential, or simply more residences in rural areas, will increase in various areas of rural Buffalo County. Wind Farms are incompatible use as compared to the uses outlined in the AGR District and/or increased rural residential use. Accordingly, due to foregoing reasons, among others, the following amending language, with underlining reflecting added language, all as recommended by the Planning Commission are adopted:

"1. LOCATION AND DISTANCE REQUIREMENTS-WIND FARMS:

A. A Wind Farm, as herein defined within the Buffalo County Zoning Regulations:

a. Shall not be located or expanded within:

- c. Three-miles of Agricultural Residential (AGR) zoned property.
- d. Three-miles of any owned in whole or in part by a non-applicant of the wind farm, unless the applicant secures consent of all property owners of parcels within three miles of the parcel boundaries containing the proposed wind farm. This can be waived, with an agreement in writing filed with the Register of Deeds, executed and filed prior to submittal of the application.
- e. Three-miles of any church, synagogue or temple, hospital, public school or public park, or any licensed day care center or day care home.
- f. Five-miles of any incorporated village or city.
- g. Two-miles of a private or public burial site.
- h. The south river bank of the Platte River to three miles from the north right of way for Highway 30 and three miles from the centerline of Highway 2.
- i. Three miles from the thread of the stream of the South Loup River.
- j. Five miles from any Federal or State wildlife preservation or management area."

With renumbering and indentation to be done to integrate the language of this Resolution into the existing Zoning Resolution as necessary.

IT IS FURTHER RESOLVED that the following items and issues are referred back to the Planning Commission for further study, review, recommendation, and report, all as seen best by that Commission, with this Board not committing itself to enactment or non-enactment of the following items:

1. That based upon the maps and other matters, relating to flyways and other environmental and economic issues, whether the entire county should simply not consider Wind Farms as an acceptable land use within Buffalo County.
2. Based upon the review of U.S. Fish and Wildlife's mapping and inventory of Wetlands, namely the mapping contained at: (<https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>), whether a fact-based minimum distancing requirement should or should not be implemented for each of, or some of, the inventoried wetlands that exist in the named inventory.
3. Whether Buffalo County should or should not enact a perimeter county bordering minimum distance requirement. A similar provision is being discussed in Dawson County.
4. Whether an overall height limitation should be enacted.

Chairperson Klein opened the public hearing at 10:17 A.M. for Code Amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following sections: Section 5.34, Permitted Special Uses of the Agricultural – Residential (AGR) District, and all other zoning districts, to consider the permissibility of dog-breeding establishments, kennels, and domesticated animal training facilities. Deputy County Attorney Hoffmeister was present to review and answer any questions. No one else addressed the Board and Chairperson Klein closed the hearing at 10:19 A.M. Moved by Loeffelholz and seconded by Lynch to accept the Code Amendments for with proposed amendment regarding dog breeding establishments, kennels, and domesticated animal training facilities with the following Resolution 2023-10. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Lynch, Higgins, Kouba, Maendele, Morrow and Klein. Motion declared carried.

### **RESOLUTION 2023-10**

WHEREAS, on February 16, 2023, the Buffalo County Planning and Zoning Commission held a public hearing for amendments, to Buffalo County's Zoning Regulations, to delete Section 5.34 (7), Dog breeding establishments, kennels, and domesticated animal training facilities, to add Dog breeding establishments, kennels, and domesticated animal training facilities in the Commercial District, under Section 5.54, as a Permitted Special Use and to add Dog breeding establishments, kennels, and domesticated animal training facilities in the Industrial District, under Section 5.64, as a Permitted Special Use, and to allow Dog breeding establishments, kennels, and domesticated animal training facilities in the Agriculture District, under Section 5.14 (14), as a Permitted Special Use, with certain provisions, as shown below, and renumbering as necessary.

That Commission voted unanimously, with one absence, to recommend that this Board adopt the proposed amendment, and

WHEREAS, no protests have been filed with the Buffalo County Clerk against such proposed amendments, and

WHEREAS, on March 14, 2023, this Board conducted a public hearing concerning proposed amendments to Buffalo County's Zoning Regulations and no parties appeared to oppose such proposed amendment,

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS in regular session with a quorum present, that the following amendment is adopted with amending language generally shown by underlining as additions and strikethrough as deletion, as reflected below, and renumbering as necessary:

**Delete Section 5.34 (7) in the Agricultural – Residential (AGR) District:**

~~“7. Dog breeding establishments, kennels, and domesticated animal training facilities; (Resolution 10-10-17)”~~

**Add the following in the Commercial (C) District, under Section 5.54, as a Permitted Special Use and in the Industrial (I) District, under Section 5.64, as a Permitted Special Use:**

“ . Dog breeding establishments, kennels, and domesticated animal training facilities provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.”

**Add the following provision to Section 5.14 (14), Permitted Special Uses, in the Agriculture (AG) District:**

“Dog breeding establishments, kennels, and domesticated animal training facilities provided that all buildings and facilities be at least 100 feet from the property line and 300 feet from any neighboring residence.”

Chairperson Klein opened the public hearing at 10:20 A.M. for Code Amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following section, Section 3.3152 (renumbered) to clarify the definition of paved and hard surfaced roads. Deputy County Attorney Hoffmeister was present to review and answer any questions. No one else addressed the Board and Chairperson Klein closed the hearing at 10:23 A.M. Moved by Morrow and seconded by Kouba to accept the Code Amendments for Buffalo County Zoning Regulations, to clarify the definition of paved and hard surfaced roads with the following Resolution 2023-11. Upon roll call vote, the following Board members voted “Aye”: Morrow, Kouba, Higgins, Loeffelholz, Lynch, Maendele and Klein. Motion declared carried.

**RESOLUTION 2023-11**

WHEREAS, on February 16, 2023, the Buffalo County Planning and Zoning Commission held a public hearing for an amendment to Section 3.3152, Buffalo County Zoning Regulations, to add, with renumbering as necessary, the definition of “Paved Hard Surfaced Road/Street” as shown below.

That Commission voted unanimously, with one absence, to recommend that this Board adopt the proposed amendment, and

WHEREAS, no protests have been filed with the Buffalo County Clerk against such proposed amendments, and

WHEREAS, on March 14, 2023, this Board conducted a public hearing concerning proposed amendments to Buffalo County’s Zoning Regulations and no parties appeared to oppose such proposed amendment,

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS in regular session with a quorum present, that the following amendment is adopted with amending language generally shown by underlining as additions and strikethrough as deletion, as reflected below, and renumbering as necessary:

**Add the following under Section 3.3152:**

“PAVED HARD SURFACED ROAD/STREET: A road or street that uses a minimum thickness of seven (7) inches of poured Portland Concrete with all materials used in this type surfacing shall be of class “47B” and shall conform to the requirements of the 1985 Nebraska Department of Roads Specifications as revised for highway construction or a road or street that uses asphalt using a minimum thickness of ten (10) inches, or nine (9) inches with a six (6) inch subbase. The terms paved and hard surfaced are interchangeable.”

Chairperson Klein opened the public hearing at 10:24 A.M. for Code Amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following sections, Section 5.52, Permitted Principle Uses and Structures, Section 5.54, Permitted Special Uses, both under the Commercial (C) District, Section 5.62, Permitted Principal Uses and Structures, Section 5.64, Permitted Special Uses, both under the Industrial (I) District, Section 8.3, regarding regulation of signage. Deputy County Attorney Hoffmeister was present to review and answer any questions. No one else addressed the Board and Chairperson Klein closed the hearing at 10:28 A.M. Moved by Loeffelholz and seconded by Higgins to accept the Code Amendments for Buffalo County Zoning Regulations regarding regulation of signage with the following Resolution 2023-12. Upon roll call vote, the following Board members voted “Aye”: Loeffelholz, Higgins, Kouba, Lynch, Maendele, Morrow and Klein. Motion declared carried.

**RESOLUTION 2023-12**

WHEREAS, on February 16, 2023, the Buffalo County Planning and Zoning Commission held a public hearing for amendments to Buffalo County’s Zoning Regulations, regarding signage, under Section 5.52, Permitted Principle Uses and Structures, Section 5.54,

Permitted Special Uses, both under the Commercial (C) District, Section 5.62, Permitted Principal Uses and Structures, Section 5.64, Permitted Special Uses, both under the Industrial (I) District, and Section 8.3, as shown below.

That Commission voted unanimously, with one absence, to recommend that this Board adopt the proposed amendment, and

WHEREAS, no protests have been filed with the Buffalo County Clerk against such proposed amendments, and

WHEREAS, on March 14, 2023, this Board conducted a public hearing concerning proposed amendments to Buffalo County's Zoning Regulations and no parties appeared to oppose such proposed amendment,

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS in regular session with a quorum present, that the following amendment is adopted with amending language generally shown by underlining as additions and strikethrough as deletion, as reflected below, and renumbering as necessary:

**Amend Section 5.52 in the Commercial (C) District, as shown below:**

“5.52 PERMITTED PRINCIPLE USES AND STRUCTURES: The following shall be permitted as uses by right:

16. Signs, As allowed in Section 8.31 (Resolution 07-13-2021) and Section 8.32.”

**Amend Section 5.54 in the Commercial (C) District, as shown below:**

“5.54 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the C Commercial District if a special use permit for such use has been obtained in accordance with Article 6 of these regulations.

~~10. Signs, As Allowed in Sec. 8.32 (Resolution 07-13-2021);”~~

**Amend Section 5.62 in the Industrial (I) District, as shown below:**

“5.62 PERMITTED PRINCIPAL USES AND STRUCTURES: (Resolution 10-11- 11)

36. Signs, As allowed in Section 8.31 (Resolution 07-13-2021) and Section 8.32.”

**Amend Section 5.64 in the Industrial (I) District, as shown below:**

“5.64 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the I Industrial District if a special permit for such use has been obtained in accordance with Article 6 of this Resolution.

~~7. Signs, As Allowed in Sec. 8.32 (Resolution 07-13-2021);”~~

**Amend Section 8.3, as shown below:**

“8.3 SIGNS. All signs, regardless of the need to obtain a zoning permit, shall not impair visibility along any street or road. The approval of the County Highway Superintendent is needed before placing a sign within fifty feet of public road street right-of-way to ensure no issues exist, as to visibility. A sign permit that is issuable by a permit by right can be included in a zoning permit for a structure to which the zoning permit pertains. In this situation, there shall be no additional payment of zoning fees for the sign that accompanies the structure.

8.31. Signs Allowed as a Use by Right partially exempted. The following signs are allowed as a use by right by submittal of zoning application and without need of payment of permit fee, but subject to approval by the County Highway Superintendent if located within fifty feet of a public road street right-of-way, in the various zoning districts if listed in the particular applicable zoning district:

1. Signs erected by, or required by a public entity that has power to condemn,
2. Permanent sign(s) with an signage area of nine (9) square feet or less,
3. Permanent sign(s) for church(s) or cemeteries with a signage area of twenty (20) square feet or less, or
4. Temporary sign, whether affixed to the ground or on a trailer, with a signage area of thirty-three (33) square feet or less,
5. These signs are subject to any State regulation when located sight of a State or Federal Highway.

8.32 Signs Allowed by Right and/or Special Permit. Signs not meeting the criteria set out in Sec. 8.31 shall be allowed ~~only by special permit as allowed~~ as provided in the various zoning districts. Minimally these shall be required to:

1. Maintain as a minimum setback from all property lines a distance equal in feet to the square root of the area of the sign, plus the height, both measured in feet, rounded up, which said distance shall be measured from the nearest edge of the sign to any property line.
2. ~~Have permission from the Nebraska Department of Transportation, if located along, or in, a Federal or State Maintained highway, or Buffalo County Highway Superintendent, or both, if placed on land that abuts a parcel abutting both state and locally controlled or maintained highways, streets, and/or roads. These agencies shall have the sole judgment as to whether the sign, either as erected or maintained, may obscure or otherwise physically interfere, or cause confusion with any official traffic sign, signal, or device, or obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.~~
2. Comply with any state and/or federal regulations relating to signage. Buffalo County in granting any permit for signage makes no assurance as to compliance with state and/or federal regulations relating to signage.”

(Break in meeting at 10:28 A.M. and the meeting reconvened at 10:35 A.M.)

Moved by Loeffelholz and seconded by Maendele to recess the regular meeting of the Board of Commissioners at 10:35 A.M. and reconvene as a Board of Equalization. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Maendele, Higgins, Kouba, Morrow and Klein. Absent: Lynch. Motion declared carried. Commissioner Lynch rejoined the meeting at 10:36 A.M.

## **BOARD OF EQUALIZATION**

Chairperson Klein called the Board of Equalization to order in open session. County Assessor Roy Meusch and County Treasurer Brenda Rohrich were present.

Moved by Maendele and seconded by Kouba to approve the application filed by the Vietnam Vets-Nebraska Inc., on Personal Property Parcel number 680065000 as 100% Exempt. Upon roll call vote, the following Board members voted "Aye": Maendele, Kouba, Higgins, Loeffelholz, Lynch, Morrow and Klein. Motion declared carried.

Moved by Morrow and seconded by Lynch to approve Tax List Corrections numbered 4954 through 4960 submitted by County Assessor Meusch. Upon roll call vote, the following Board members voted "Aye": Morrow, Lynch, Higgins, Kouba, Maendele and Klein. Abstain: Loeffelholz. Motion declared carried.

Moved by Lynch and seconded by Maendele to approve the Motor Vehicle Tax Exemption renewal as indicated on the application by County Treasurer Rohrich for Community Action Partnership of Mid-Nebraska for a 2019 Ford Fusion, a 2019 Kia Optima and a 2022 Chevy Equinox. Upon roll call vote, the following Board members voted "Aye": Lynch, Maendele, Higgins, Loeffelholz, Morrow and Klein. Abstain: Kouba. Motion declared carried.

Moved by Lynch and seconded by Morrow to approve the Motor Vehicle Tax Exemption renewal as indicated on the application by County Treasurer Rohrich for Catholic High School of Kearney for a 2022 Ford Expedition Max. Upon roll call vote, the following Board members voted "Aye": Lynch, Morrow, Higgins, Kouba, Loeffelholz, Maendele and Klein. Motion declared carried.

Moved by Loeffelholz and seconded by Lynch to adjourn the Board of Equalization and return to the regular meeting of the Board of Commissioners at 10:39 A.M. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Lynch, Higgins, Kouba, Maendele, Morrow and Klein. Motion declared carried.

## **ROAD DEPARTMENT**

Highway Superintendent Maul and Assistant Highway Superintendent Jensen returned to the meeting and were present for the following agenda item.

The Road Committee, Highway Superintendent Maul and Assistant Highway Superintendent Jensen reviewed the final tabulations for the gravel bids submitted on March 14, 2023. Moved by Loeffelholz and seconded by Lynch to award the following gravel bids for April 1, 2023 through March 31, 2024: Paulsen Inc.-Zones, 1, 2, 3, 4, 5, 6, 7 and 8; Mid-Nebraska Aggregates-Zones 10, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26; Ed Broadfoot & Sons-Zones 9, 11, 12 and 15; Southwest Gravel Products-Zone 13. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Lynch, Higgins, Kouba, Maendele, Morrow and Klein. Motion declared carried.

## **REGULAR AGENDA**

After discussion, it decided by the Board of Commissioners to delay the Single Audit Report done by Dana F. Cole & Company, LLP for the fiscal year ending June 30, 2022 until the next meeting scheduled for Tuesday, March 28, 2023.

Following discussion, it was moved by Morrow and seconded by Higgins to authorize Chairperson Klein to sign the American Rescue Plan Act (ARPA) of 2021 Grant Contract with The Kearney Visitors Bureau with the following Resolution 2023-13. Upon roll call vote, the following Board members voted "Aye": Morrow, Higgins, Kouba, Loeffelholz, Lynch, Maendele and Klein. Motion declared carried.

## **RESOLUTION 2023-13**

WHEREAS, on March 11, 2021, the American Rescue Plan Act (H.R. 1319), § 4001, ARPA") was signed into law providing federal funding relief for American workers, families, industries, and state and local governments; and

WHEREAS, on May 10, 2021, the United State Department of Treasury released an interim final guide on allowed uses of funds and allocated \$ 350 billion for state, local, territorial, and Tribal governments from the American Rescue Plan Act Fund; and

WHEREAS, Buffalo County has received funds to be used for purposes designated by ARPA, and

WHEREAS, after a requests from political subdivision and other non-profit organizations of this county were made to Buffalo County for ARPA funds, this Board's Budget Committee reviewed these requests and has made recommendations to this Board as to an allocation of some of the ARPA funds that have been received by this County, and

WHEREAS, APRA provides funds to charitable and non-profit entities to make necessary investments in structures and infrastructure, and

WHEREAS, Buffalo County pursuant to that committee's report on allocations, desires to allocate a portion of the received ARPA Funds to the Kearney Visitors Bureau hereinafter simply referred to as "KVB" to assist that non-profit organization to pay for and fund a venture referred to as "Kearney Forward" involving the Kearney Visitors Bureau, Kearney Area Chamber of Commerce, and Kearney Development Council to pursue planning and anticipated construction of a new facility to house several players in local economic development, all entities of which have suffered from the negative economic impacts of the COVID- 19 public health emergency; and

WHEREAS, Buffalo County has determined that contracting with KVB would yield efficiencies in time and in the processing the goals of are economic development.

NOW, THEREFORE BE IT RESOLVED BY BUFFALO COUNTY, NEBRASKA, ACTING BY AND THROUGH THE BUFFALO COUNTY BOARD OF COUNTY COMMISSIONERS that the Chairperson of this Board is hereby authorized, empowered, and directed to execute an American Rescue Plan Act Agreement with the KEARNEY VISITOR'S BUREAU for the financial assistance to KVB to assist in the payment of economic development funding used for the development of "Kearney Forward" for the pursuit of the planning and anticipated construction of a new facility to house several players in local economic development, area tourism and signage to promote Kearney and Buffalo County, and to take all necessary steps required to complete the Project Agreement.

Facilities Director Steve Gaasch reviewed the Contract Change Order Requests from Beckenhauer Construction for the 610 Central Project. Moved by Morrow and seconded by Maendele to approve the following Change Order Requests for the 610 Central Project; Request #30 in the amount of \$6,177.20; Request #31 in the amount of \$1,322.86; Request #32 in the reduced amount of \$289.00. All Change Orders were processed from the contingency fund of the Guaranteed Maximum Price of the project and are on file with the County Clerk. Upon roll call vote, the following Board members voted "Aye": Morrow, Maendele, Higgins, Kouba, Loeffelholz, Lynch and Klein. Motion declared carried.

Chairperson Klein reviewed the following correspondence. The Loeffelholz family sent a thank you letter to the Board thanking them for the sympathy flowers. Center for Infrastructure and Economic Development sent a letter and pamphlets to the Board of Commissioners introducing their State Director and Leadership members along with a description on services they offer. Nebraska Department of Natural Resources sent a letter in regards to the Cottonmill Dam inspection due this year and included a pamphlet for Safety and Maintenance of Small Earthen Dams and a pamphlet for Nebraska Silver Jackets information. City of Kearney sent a letter regarding the City of Kearney Planning commission agenda for the March 17, 2023 meeting. Kinship Pointe of Northridge sent a brochure for their March Schedule. Nebraska Public Power District sent a brochure for updates on Kearney Power Projects as of February 2023. Nebraska Auditor of Public Accounts sent a letter regarding the continuing education of former Buffalo County Treasurer Jean Sidwell. Chairperson Klein called on each Board member present for committee reports and recommendations.

Chairperson Klein called for Citizen's forum. Jace Schanou, a Buffalo County resident, addressed the Board regarding the road maintenance of Puddle Boulevard. No one else addressed the Board.

Chairperson Klein asked if there was anything else to come before the Board at 11:20 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, March 28, 2023.

ATTEST:

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Ivan Klein, Chairperson  
Buffalo County Board of Commissioners

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Heather A. Christensen  
Buffalo County Clerk

(SEAL)