

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

The Buffalo County Board of Commissioners and the Buffalo County Board of Equalization met on Tuesday, February 14, 2023 at 9:00 A.M. and 9:30 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 and Ivan Klein. Absent: Sherry Morrow. 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 February 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, Deputy County Attorney Andrew Hoffmeister and Deputy County Clerk Rachelle Warner were present.

**REGULAR AGENDA**

Moved by Lynch and seconded by Kouba to approve the January 24, 2023 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Lynch, Kouba, Higgins, Loeffelholz, Maendele and Klein. Absent: Morrow. Motion declared carried.

Moved by Loeffelholz and seconded by Maendele to ratify the following January 27, 2023 and February 10, 2023 payroll claims processed by the County Clerk. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Maendele, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

**JANUARY 27, 2023 PAYROLL**

<b><u>GENERAL FUND</u></b>			
NET PAYROLL			294,547.40
AMERICAN FAMILY LIFE	I	PREMIUMS	1,201.59
RETIREMENT PLANS AMERITAS	R	EMPE RET	49,393.75
BUFFALO CO TREASURER	I	PREMIUMS	122,505.00
CREDIT MANAGEMENT	E	GARNISHMENT	133.32
EMPOWER RETIREMENT	R	DEFERRED COMP	1,125.00
FIRST CONCORD	E	FLEX FUNDS	4,877.10
FIRST NATIONAL BANK	T	FEDERAL TAXES	101,474.61
KEARNEY UNITED WAY	E	DONATIONS	114.67
MADISON NATIONAL	I	PREMIUMS	1,001.09
MADISON NATIONAL	I	LT DISABILITY	293.95
ERIN M MCCARTNEY	E	GARNISHMENT	402.00
NATIONWIDE RETIREMENT	I	DEFERRED COMP	1,860.00
NE CHILD SUPPORT	E	CHILD SUPPORT	1,200.00
NE DEPARTMENT OF REVENUE	E	GARNISHMENT	55.00
PRINCIPAL	E	DENTAL	3,300.34
STATE OF NE	T	STATE TAXES	17,136.41
VISION SERVICE PLAN	E	EMPE VSP EYE	869.64
<b><u>ROAD FUND</u></b>			
NET PAYROLL			54,362.94
AMERICAN FAMILY LIFE	I	PREMIUMS	1,060.70
RETIREMENT PLANS AMERITAS	R	EMPE RET	8,666.58
BUFFALO CO TREASURER	I	PREMIUMS	2,998.50
FIRST CONCORD	E	FLEX FUNDS	697.84
FIRST NATIONAL BANK	T	FEDERAL TAXES	15,852.90
MADISON NATIONAL	I	PREMIUMS	146.34
MADISON NATIONAL	I	LT DISABILITY	105.51
NATIONWIDE RETIREMENT	R	DEFERRED COMP	272.50
PRINCIPAL	E	DENTAL	946.21
STATE OF NE	T	STATE TAXES	2,341.80
VISION SERVICE PLAN	E	EMPE VSP EYE	236.65
<b><u>WEED FUND</u></b>			
NET PAYROLL			5,061.03
RETIREMENT PLANS AMERITAS	R	EMPE RET	800.66
BUFFALO CO TREASURER	I	PREMIUMS	268.50

FIRST CONCORD	E	FLEX FUNDS	40.84
FIRST NATIONAL BANK	T	FEDERAL TAXES	1,623.80
MADISON NATIONAL	I	LT DISABILITY	3.55
PRINCIPAL	E	DENTAL	61.00
STATE OF NE	T	STATE TAXES	254.12

**FEBRUARY 10, 2023 PAYROLL**

<b><u>GENERAL FUND</u></b>			
NET PAYROLL			309,584.06
AMERICAN FAMILY LIFE	I	PREMIUMS	1,264.90
RETIREMENT PLANS AMERITAS	R	EMPE RET	50,132.81
BUFFALO CO TREASURER	I	PREMIUMS	127,687.00
EMPOWER ANNUITY INS	R	DEFERRED COMP	1,150.00
FIRST CONCORD	E	FLEX FUNDS	5,708.75
FIRST NATIONAL BANK	T	FEDERAL TAXES	98,922.56
KEARNEY UNITED WAY	E	DONATIONS	61.00
MADISON NATIONAL	I	PREMIUMS	1,140.91
MADISON NATIONAL	I	LT DISABILITY	293.06
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	3,374.56
STATE OF NE	I	STATE TAXES	16,972.28
VISION SERVICE PLAN	E	EMPE VSP EYE	889.23
<b><u>ROAD FUND</u></b>			
NET PAYROLL			35,728.63
AMERICAN FAMILY LIFE	I	PREMIUMS	747.72
RETIREMENT PLANS AMERITAS	R	EMPE RET	9,224.88
BUFFALO CO TREASURER	I	PREMIUMS	3,769.00
FIRST CONCORD	E	FLEX FUNDS	914.92
FIRST NATIONAL BANK	T	FEDERAL TAXES	16,645.42
MADISON NATIONAL	I	PREMIUMS	190.41
MADISON NATIONAL	I	LT DISABILITY	109.31
NATIONWIDE RETIREMENT	R	DEFERRED COMP	272.50
PRINCIPAL	E	DENTAL	1,006.88
STATE OF NE	T	STATE TAXES	2,587.34
VISION SERVICE PLAN	E	EMPE VSP EYE	260.25
<b><u>COVID AMERICAN RESCUE FUND</u></b>			
NET PAYROLL			1,076.92
AMERICAN FAMILY LIFE	I	PREMIUMS	30.23
RETIREMENT PLANS AMERITAS	R	EMPE RET	283.70
BUFFALO CO TREASURER	I	PREMIUMS	281.00
FIRST NATIONAL BANK	T	FEDERAL TAXES	364.10
MADISON NATIONAL	I	PREMIUMS	4.90
MADISON NATIONAL	I	LT DISABILITY	5.91
PRINCIPAL	E	DENTAL	45.52
STATE OF NE	T	STATE TAXES	47.48
VISION SERVICE PLAN	E	EMPE VSP EYE	14.08
<b><u>WEED FUND</u></b>			
NET PAYROLL			3,177.95
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 Lynch and seconded by Maendele to accept the Clerk of the District Court January 2023 Report. Upon roll call vote, the following Board members voted "Aye": Lynch, Maendele, Higgins, Kouba, Loeffelholz and Klein. Absent: Morrow. Motion declared carried.

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

Moved by Lynch and seconded by Higgins to accept the Veterans Service Quarterly Reports ending December 31, 2022. Upon roll call vote, the following Board members voted "Aye": Lynch, Higgins, Kouba, Loeffelholz, Maendele and Klein. Absent: Morrow. Motion declared carried.

Moved by Maendele and seconded by Loeffelholz to accept the December 2022 Community Action Partnership RYDE Report. Upon roll call vote, the following Board members voted "Aye": Maendele, Loeffelholz, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

Kellie John, Register of Deeds was present to introduce the Property Fraud Alert Free Service.

Sheriff Neil Miller and Kearney Police Chief Bryan Waugh discussed the Co- Responder Law Enforcement Grant and introduced members of the Co-Response team as Megan Morris and Wendy Space to the Board.

## **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 9:19 A.M. for an Administrative Subdivision filed by Trenton Snow, Licensed Land Surveyor, on behalf of David Bentley and Maris Bentley, for an Administrative Subdivision, to be known as "Aspen Acres." This property is located in part of Government Lot One (1) and part of the Southeast Quarter of the Northeast Quarter, Section Five (5), Township Eleven (11) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska. Trenton Snow and David Bentley were present to answered questions. No one else addressed the Board and Chairperson Klein closed the hearing at 9:21 A.M. Moved by Higgins and seconded by Kouba to approve the Administrative Subdivision with the following Resolution 2023-03. Upon roll call vote, the following Board members voted "Aye": Higgins, Kouba, Loeffelholz, Lynch, Maendele and Klein. Absent: Morrow. Motion declared carried.

## **RESOLUTION 2023-03**

WHEREAS, Trenton Snow, licensed land surveyor, on behalf of David Bentley and Maris Bentley, hereinafter referred to as "applicants", has filed for an Administrative Subdivision to be known as "Aspen Acres", with the Buffalo County Clerk and/or Zoning Administrator, and

WHEREAS, the Zoning Administrator forwarded this application to this Board, and

WHEREAS, on February 14, 2023, this Board conducted a public hearing now and finds:

1. The proposed "Aspen Acres" is in the Agriculture (AG) Zoning District for Buffalo County, Nebraska.
2. The remaining portion of the subdivided tract, presently owned by David Bentley, referred to as part of Parcel ID 200009000, and situated in part of Government Lot One (1) and part of the Southeast Quarter of the Northeast Quarter, Section Five (5), Township Eleven (11) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, complies with the minimum lot size of this zoning district; any remnant property not subdivided and owned by David Bentley amounts to roughly 154 acres.
3. The proposed plat for this subdivision fulfills Buffalo County's Subdivision Resolution requirements for administrative subdivisions specifically allowed under Section 3.02, together with other provisions applicable, thereto.
4. U.S. Highway 183 is a state-maintained open public road and it abuts the subdivision on its west side. The width of U.S. Highway 183 meets this county's minimum width standards. No additional right-of-way is required.
5. Title search paperwork has been provided to the Buffalo County Attorney's Office and that office has cleared title as concerns Buffalo County's interests based upon the title search documents delivered to that office by applicant.
6. This proposed administrative subdivision should be approved.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF COMMISSIONERS in regular session with a quorum present, that the plat of "Aspen Acres", an administrative subdivision being located in part of Government Lot One (1) and part of the Southeast Quarter of the Northeast Quarter, Section Five (5), Township Eleven (11) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, duly made out, acknowledged and certified, is hereby approved, accepted, ratified, and authorized to be filed and recorded in the Office of the Register of Deeds, Buffalo County, Nebraska.

## **REGULAR AGENDA**

Chairperson Klein reviewed the following correspondence. Family Advocacy Network (FAN) sent a card updating the construction progress of the new building. Nebraska Intergovernmental Risk Management Association (NIRMA) sent a letter and Magazine for the 2022 Annual Report as well as a letter and brochure regarding the Expanded Legal Resources for NIRMA Members. City of Kearney sent a letter regarding Annual TIF Report Required by Section 18-2117.02 of LB 874 as well as a letter regarding the

City of Kearney Planning Commission Agenda for February 17, 2023 Meeting. JEO Consulting Group sent a letter and map regarding the Lower Wood River WFPO Watershed Plan-Environmental Impact Statement (Plan-EIS) and an invitation to attend the agency-scoping meeting on Wednesday, March 1, 2023. Court Appointed Special Advocates (CASA) sent an invitation to the 3rd Annual Kearney/ Buffalo County CASA Superhero Gala on April 7, 2023 and letter asking for donations. Buffalo County Sheriff's Office sent a copy of Police Chief magazine article titled "When the stakes are high departments need a Crisis Response Team" and the 2021 Community Policing Development (CPD) Crisis Intervention Teams Project Narrative. Pleasanton Fire and Rescue sent a 2023 newsletter with updates on building funds for 2023. Zelle Human Resource Solutions sent a letter in regards to the 2023 Compliance Checklist. Sort My Stuff owner, Wendy Spencer, sent a letter advertising her online auction services. Chairperson Klein called on each Board member present for committee reports and recommendations.

Moved by Maendele and seconded by Loeffelholz to recess the regular meeting of the Board of Commissioners at 9:26 A.M. and reconvene as a Board of Equalization. Upon roll call vote, the following Board members voted "Aye": Maendele, Loeffelholz, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

### **BOARD OF EQUALIZATION**

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

Moved by Lynch and seconded by Kouba to approve the Motor Vehicle Tax Exemption renewal as indicated on the application by County Treasurer Brenda Rohrich for Countryside Christian Church for a Ford Econoline Van E250. Upon roll call vote, the following Board members voted "Aye": Lynch, Kouba, Higgins, Loeffelholz, Maendele and Klein. Absent: Morrow. Motion declared carried.

Jon Watts Vice Chancellor for Business and Finance for University of Nebraska Kearney, presented a video to the Board. Moved by Maendele and seconded by Higgins to approve the Permissive Exemption Application for the Board of Regents of the University of Nebraska dba University of Nebraska at Kearney for parcel 580170450. Upon roll call vote, the following Board members voted "Aye": Maendele, Higgins, Kouba, Loeffelholz, Lynch and Klein. Absent: Morrow. Motion declared carried.

Following discussion it was moved by Maendele and seconded by Loeffelholz, that the following motion be adopted:

1. That the Board, after review of the County Attorney's letter and other evidence presented to it, and in its' own judgment, finds as follows.
  - A. That the issue of clerical error was resolved at the January 24, 2023, meeting and that decision shall remain unaffected by the following findings and determinations.
  - B. That the issue of insufficient notifications as to assessed value and exempt status as concerns notices to the tenant and government was raised the January 24, 2023, meeting and held for further review.
  - C. That a review of the 2016 notices concerning exempt status, valuation, and the subsequent billing(s) for taxes due on the following parcels would indicate that in this situation the notices were insufficient to fulfil constitutional needs of due process as to the tenant and/or the landlord government entity.
2. Accordingly, due to the notification defects of the 2016 taxes, as now corrected due a clerical error, are void and of no effect as to parcels described as:
  - A. Tax Parcel #520164000, also known as the North East Quarter of Section 23, Township 9 North, Range 17 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska
  - B. 520165000, also known as the West one-half of Section 23, Township 9 North, Range 17 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska
  - C. 520040000, also known as the East one-half of Section 14, Township 9 North, Range 17, West of the 6<sup>th</sup> P.M., Buffalo County, Nebraska.

Upon roll call vote, the following Board members voted "Aye": Maendele, Loeffelholz, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

Moved by Loeffelholz and seconded by Kouba to approve Tax List Corrections numbered 4929 through 4952 submitted by County Assessor Meusch. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Kouba, Higgins, Lynch, Maendele and Klein. Absent: Morrow. Motion declared carried.

Moved by Loeffelholz and seconded by Maendele to adjourn the Board of Equalization and return to the regular meeting of the Board of Commissioners at 9:50 A.M. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Maendele, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

## **ROAD DEPARTMENT**

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

After discussion it was moved by Lynch and seconded by Loeffelholz to authorize Chairperson Klein to sign the Preliminary Engineering Service Agreement for Alfred Benesch & Company for the supplemental agreement #2 for Project No. BRO-7467 (1), Poole South with the following Resolution 2023-04. Upon roll call vote, the following Board members voted "Aye": Lynch, Loeffelholz, Higgins, Kouba, Maendele and Klein. Absent: Morrow. Motion declared carried.

### **RESOLUTION 2023-04**

#### **PRELIMINARY ENGINEERING SERVICES AGREEMENT – BK1850 SUPPLEMENTAL AGREEMENT NO. 2**

**Whereas:** Buffalo County and Alfred Benesch & Company have previously executed a preliminary engineering services agreement for a transportation project for which the Local Public Agency (LPA) would like to obtain Federal Funds;

**Whereas:** Buffalo County understands that it must continue to strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of this Federal-aid project; and

**Whereas:** Buffalo County and Alfred Benesch & Company wish to enter into a supplemental preliminary engineering services agreement setting out modifications and/or additional duties and/or funding responsibilities for the Federal-aid project.

**Be It Resolved:** by the Board of Commissioners of Buffalo County, Nebraska that:  
Ivan Klein, Chair of the Buffalo County Board of Commissioners, is hereby authorized to sign the attached preliminary engineering services Supplemental Agreement No. 2 between Buffalo County and Alfred Benesch & Company.  
Buffalo County is committed to providing local funds for the project as required by the Project Program Agreement and any Supplemental Project Agreements.

NDOT Project Number: BRO-7467(1)

NDOT Control Number: 42844

NDOT Project Description: Poole South

Moved by Loeffelholz and seconded by Kouba to set a bid date of Tuesday, February 28, 2023 for Buffalo County 2023 Gravel Bids to be effective from April 1, 2023 through March 31, 2024. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Kouba, Higgins, Lynch, Maendele and Klein. Absent: Morrow. Motion declared carried.

Moved by Maendele and seconded by Kouba to change the weekly hour schedule at the Highway Department from five (5) eight (8) hour days to four (4) ten (10) hour days beginning March 6, 2023 through November 3, 2023 returning to five (5) eight (8) hour days on Monday, November 6, 2023. Upon roll call vote, the following Board members voted "Aye": Maendele, Kouba, Higgins, Loeffelholz, Lynch and Klein. Absent: Morrow. Motion declared carried.

### **REGULAR AGENDA**

Moved by Maendele and seconded by Higgins to enter into Executive Session at 9:57 A.M. regarding personnel issues. In addition to the Board members responding to roll call were County Attorney Eatherton and Deputy County Attorney Hoffmeister. Upon roll call vote, the following Board members voted "Aye": Maendele, Higgins, Kouba, Loeffelholz, Lynch, and Klein. Absent: Morrow. Motion declared carried.

Moved by Loeffelholz and seconded by Maendele to move out of Executive Session at 10:28 A.M. and resume the open meeting. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Maendele, Higgins, Kouba, Lynch and Klein. Absent: Morrow. Motion declared carried.

The Board and Deputy County Attorney Andrew Hoffmeister reviewed correspondence regarding this County's participation in the distribution of funds awarded in a class action lawsuit brought against Opioid drug companies that was pursued by the Nebraska Attorney General's Office. According to settlement paperwork provided to this county there is a need to designate a county office or official that is authorized to submit paperwork to request settlement funds on behalf of Buffalo County. Moved by Maendele and seconded by Kouba to authorize Lynn Martin, Buffalo County Board Administrator to submit all necessary paperwork needed to make claim for these settlement funds and she may do the necessary actions to effectuate the collection of the settlement funds. Upon roll call vote, the following Board members voted "Aye": Maendele, Kouba, Higgins, Loeffelholz, Lynch, and Klein. Absent: Morrow. Motion declared carried.

Following discussion, it was moved by Higgins and seconded by Kouba to authorize Chairperson Klein to sign the American Rescue Plan Act (ARPA) of 2021 Grant Contract with Buffalo County Agricultural Society with the following resolution 2023-05. Upon roll call vote, the following Board members voted "Aye": Higgins, Kouba, Lynch, Maendele and Klein. Abstain: Loeffelholz. Absent: Morrow. Motion declared carried.

### **RESOLUTION 2023-05**

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 the various political subdivisions 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 governmental 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 received ARPA Funds to the Buffalo County Agricultural Society, hereinafter simply referred to as "Society" to assist that government organization to pay for the repair and upgrading Heating, Ventilation, and Conditional systems together with electrical wiring at the Buffalo County Fairgrounds and, to help with the payment of these improvements because this governmental organization has suffered negative economic impacts as a result of the COVID- 19 public health emergency; and

WHEREAS, this grant is in addition to the previous ARPA contract entered into on or about June 30, 2022, with the Society, and

WHEREAS, Buffalo County has determined that contracting with the Society would yield efficiencies in time and process in the development and implementation of the goals of that organization.

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 additional American Rescue Plan Act Agreement with the Buffalo County Agricultural Society for the financial assistance to that Society to pay for the repair and upgrading Heating, Ventilation, and Air Conditioning systems together with electrical wiring at the Buffalo County Fairgrounds for the duration of the Agreement, and to take all necessary steps required to complete the Project Agreement.

The Single Audit Report done by Dana F. Cole & Company, LLP for the fiscal year ending June 30, 2022 has been continued for further discussion until the next meeting scheduled for Tuesday, February 28, 2023.

Chairperson Klein called for Citizen's forum and no one was present.

Chairperson Klein asked if there was anything else to come before the Board at 10:39 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, February 28, 2023.