

**BUFFALO COUNTY BOARD OF SUPERVISORS  
BUFFALO COUNTY BOARD OF EQUALIZATION  
TUESDAY, MARCH 11, 2014  
9:00 A.M**

The Buffalo County Board of Supervisors and the Buffalo County Board of Equalization met on Tuesday, March 11, 2014 at 9:00 and 10:45 A.M. Chairman McMullen called the meeting to order and led those present in the Pledge of Allegiance. The following Board members responded to roll call: Francis Biehl, Joseph Brayton, Ivan Klein, Sherry Morrow, Dennis Reiter and William McMullen. Absent: Kent Greder. A copy of the acknowledgment and receipt of notice and agenda by the Board of Supervisors is attached to these minutes. Chairman McMullen 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. County Clerk Janice Giffin took all proceedings hereinafter shown; while the convened meeting was open to the public. County Attorney Shawn Eatherton was present.

**REGULAR AGENDA**

Moved by Brayton and seconded by Klein to approve the February 25, 2014 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Brayton, Klein, Biehl, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Brayton to accept the County Treasurer February 2014 Fund Balance Report and the Clerk of the District Court February 2014 Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

**COURTHOUSE RENOVATIONS**

Project Manager Steve Gaasch from Beckenhauer Construction was present to update the Board on Phases 4-7 Courthouse Renovation Project. No formal action was required.

Visitors Bureau Executive Director Roger Jasnoch presented his annual report and current brochures from the Visitors Bureau.

**REGULAR AGENDA**

Chairman McMullen reviewed the correspondence from the Zoning Administrator regarding the inspection of the special use permits. Chairman McMullen called on each Board member present for committee reports and recommendations.

Moved by Klein and seconded by Reiter to accept the petition to vacate a portion of public road located in Sections 9, 16, 21 and 28 in Township 9 North, Range 17 West of the Sixth Principal Meridian, Buffalo County, Nebraska and to forward this petition to the Highway Superintendent for his review. Upon roll call vote, the following Board members voted "Aye": Klein, Reiter, Biehl, Brayton, Morrow, and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Brayton to approve the addition of pledged collateral for the Buffalo County Treasurer in the amount of \$260,000.00 at the Nebraskaland National Bank. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Brayton to approve the tax refund request submitted by County Treasurer Sidwell for Travis J. and Angela K. Hollman in the amount of \$222.00 on parcel number 620160100. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Klein and seconded by Biehl to enter into Executive Session to discuss contract negotiations and possible litigation at 9:42 A.M. County Attorney Shawn Eatherton was present. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Klein and seconded by Biehl to move out of Executive Session at 10:07 A.M. and resume the open meeting. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Highway superintendent Ron Sklenar was present for the following Agenda items.

Moved by Klein and seconded by Brayton to accept the gravel bids as follows: T & F Sand & Gravel for Zones 1, 2, 3, 4, 6 and 8; Carl Whitney Sand & Gravel for Zones 5, 7, 17, 19, 20, 21, 22, 23 and 26; Ed Broadfoot Sand & Gravel for Zone 9 and 10; Broadfoot Sand & Gravel for Zones 11, 12, 13, 14 and 15; and Mid-NE Aggregates for Zones 16, 18, 24 and 25. Upon roll call vote, the following Board members voted "Aye": Klein, Brayton, Biehl, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Klein and seconded by Reiter to accept the bid from Blessing, LLC. in the amount of \$497,049.19 with a final completion date of November 7, 2014 for Project C10 (649). Upon roll call vote, the following Board members voted "Aye": Klein, Reiter, Biehl, Brayton, Morrow and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Klein and seconded by Brayton to approve the following Resolution 2014-09 authorizing the interlocal agreement with Hall County. Upon roll call vote, the following Board members voted "Aye": Klein, Brayton, Biehl, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

#### **RESOLUTION 2014-09**

WHEREAS Buffalo and Hall Counties desire to enter into and have an Interlocal Government Agreement for engineering services, and

WHEREAS, an Interlocal Government Agreement has been drafted that addresses construction consultation, shared expenses, supervision, and other issues as more specifically addressed in that agreement, and

NOW THEREFORE, be it resolved that Buffalo County accepts the Interlocal Agreement between itself and Hall County, Nebraska, all as set forth in the minutes of this meeting and this Board authorizes the Chairperson to sign this agreement on behalf of Buffalo County and to do all necessary acts to carry out the provisions of this Interlocal agreement.

Moved by Klein and seconded by Reiter to approve the following Resolution 2014-10 authorizing the 2014 Fracture Critical Bridge Inspections Interlocal Agreement with NDOR. Upon roll call vote, the following Board members voted "Aye": Klein, Reiter, Biehl, Brayton, Greder, Morrow and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

#### **RESOLUTION 2014-10**

##### **SIGNING OF A PROGRAM AGREEMENT FOR 2014 FRACTURE CRITICAL BRIDGE INSPECTIONS**

Whereas: the Nebraska Department of Roads (NDOR) is developing a transportation project, on the behalf of the county, for which it intends to obtain Federal funds;

Whereas: Buffalo County as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project;

Whereas: Buffalo County and the NDOR wish to enter into a Program Agreement to provide for fracture critical bridge inspection and load re-rating (if necessary) services for the Federal-aid project.

Be It Resolved: by the Board of Supervisors of Buffalo County, Nebraska that:

William McMullen, Chair of the Buffalo County Board of Supervisors is hereby authorized to sign the attached Program Agreement between the Buffalo County and the NDOR.

Transportation Director Charles McGraw from the Community Action Partnership of Mid Nebraska was present to review the funding matches required for the operation of Mid-Nebraska-RYDE Transportation. Moved by Morrow and seconded by Brayton to approve the Local Funding Match Resolution 2014-11 for RYDE Transit Public Transportation. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

#### **RESOLUTION 2014-11**

WHEREAS, there are federal funds available under Section 5311 of the Federal Transit Act and for the Nebraska Public Transportation Assistance Program, and

WHEREAS, the Community Action Partnership of Mid Nebraska – RYDE Transit desires to apply for said funds to provide public transportation in (transit system's service area).

NOW THEREFORE, BE IT RESOLVED; the Buffalo County Board of Supervisors hereby instructs the Community Action Partnership of Mid Nebraska – RYDE Transit to apply for said funds.

Said funds are to be used for the Community Action Partnership of Mid Nebraska – RYDE Transit transportation operations in the FY 2013-2014 Application for Public Transportation Assistance.

Moved by Klein and seconded by Reiter to recess the regular meeting of the Board of Supervisors at 10:22 A.M. and reconvene as a Board of Equalization. Upon voice vote all Board Members present voted "Aye". Absent: Greder. None voted "Nay". Motion declared carried.

## BOARD OF EQUALIZATION

Chairman McMullen called the Board of Equalization to order in open session. County Assessor Joe Barber and County Treasurer Jean Sidwell were present.

Moved by Brayton and seconded by Reiter to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Sidwell for Great Plains Annual Conference of the United Methodist Church on a 2011 Honda CRV-SE. Upon roll call vote, the following Board members voted "Aye": Brayton, Reiter, Klein, Morrow and McMullen. Abstain: Biehl. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Brayton to approve Tax List Corrections numbered 3946 through 3948 submitted by County Assessor Barber. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

At 10:46 A.M. Chairman McMullen reopened the public hearing that was recessed on February 25, 2014 for the Family Lutheran Church request of real and personal property tax exemption. Since that hearing documentation has been submitted that records the current and future uses of the property. Church Council President Jane David was present. The public hearing was closed at 10:49 A.M. After review of the request and recommendation of the County Assessor, it was moved by Reiter and seconded by Biehl to approve the request of real and personal property tax exemption for Family Lutheran Church for property described as Lots 9, 10, 11, 12 and 13, Blk 2, Taylor Add to the City of Kearney. Upon roll call vote, the following Board members voted "Aye": Reiter, Biehl, Brayton, Klein, Morrow and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Brayton and seconded by Klein to adjourn the Board of Equalization at 10:50 A.M. Upon roll call vote, the following Board members voted "Aye": Brayton, Klein, Biehl, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

## ZONING

Chairman McMullen opened the Zoning hearings at 11:02 A.M. Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Kari Fisk and Zoning Administrator LeAnn Klein were present.

Mitch Humphrey on behalf of Seth J and Jessica M Axmann and Arthur D. and Maxine M. Axmann, was present to review an administrative subdivision application for property described as part of the Northwest Quarter of the Northeast Quarter of Section 7, Township 12 North, Range 16 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska to be known as S and J Axmann Administrative Subdivision. Chairman McMullen closed this public hearing at 11:04 A.M. Moved by Brayton and seconded by Biehl to approve the Administrative Subdivision application with the following Resolution 2014-12. Upon roll call vote, the following Board members voted "Aye": Brayton, Biehl, Klein, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

## RESOLUTION 2014-12

WHEREAS, Mitchell Humphrey, Licensed Surveyor, on behalf of Seth J. Axmann and Jessica M. Axmann, Husband and Wife, and Arthur D. Axmann and Maxine M. Axmann, Husband and Wife, owners hereinafter referred to as "applicant" has filed for an administrative Subdivision to be known as "S. AND J. AXMANN ADMINISTRATIVE SUBDIVISION" with the Buffalo County Clerk and/or Zoning Administrator, and

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

WHEREAS, on March 11, 2014, this Board conducted a public hearing and now finds:

1. The proposed S. AND J. AXMANN ADMINISTRATIVE SUBDIVISION is in the Agricultural (AG) Zoning District for Buffalo County, Nebraska and the size of the lots after subdividing complies with the minimum lot size requirements of that Zoning District Agricultural (AG) Zoning District for Buffalo County, Nebraska.
2. 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.
3. 370th Road is a county maintained open public road that abuts the proposed subdivision. The width of this road after dedication complies with minimum width standards required by the Buffalo County Subdivision Resolution.
4. Title search paperwork has been provided to the Buffalo County Attorney's Office and that office has cleared title based upon the title search documents delivered to that office by applicant.
5. This proposed administrative subdivision should be approved.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS in regular session with a quorum present, that the plat of "S. AND J. AXMANN ADMINISTRATIVE SUBDIVISION", an administrative subdivision being part of the Northwest Quarter of the Northeast Quarter (NW1/4NE1/4), Section Seven (7), Township Twelve (12) North, Range Sixteen (16),

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 record in the Office of the Register of Deeds, Buffalo County, Nebraska.

Chairman McMullen opened the public hearing to amend the Buffalo County Subdivision Regulations for Sections 4.04, 3.14, 3.02, 3.20 and Section 9.03 at 11:04 A.M. Deputy County Attorney Andrew Hoffmeister presented and reviewed draft copies of these code amendment changes. Mitch Humphrey addressed the Board regarding some of the changes to the Subdivision Regulations. This hearing was recessed until March 25, 2014 at 11:00 A.M.

Thereafter amendments to Buffalo County Zoning Regulations concerning Adult Entertainment Establishments were taken up by the Board. These amendments were recommended for adoption by the Buffalo County Planning and Zoning Commission, excepting however provisions relating to hours of operation. For hours of operation the Commission issued a "no recommendation" referral to the Board. The public hearing opened at 11:22 A.M. with Andrew W. Hoffmeister, Chief Deputy Buffalo County Attorney reviewing the proposed amendments with Kari R. Fisk, Deputy Buffalo County Attorney, also assisting in the presentation. Hoffmeister reminded the Board that this hearing was similar to the public hearing held in the last regular Board meeting that discussed the Adult Entertainment Establishment ordinance adopted by the Board in Resolution 2014-06, but a separate public hearing was also necessary to consider these provisions that concerned zoning issues. Randy Reese from Pleasanton discussed issues surrounding the Village of Pleasanton and that village's distancing provisions for these establishments. The public hearing was closed at 11:40 A.M.

After the public hearing it was moved by Morrow, seconded by Brayton, that the Buffalo County proposed zoning resolution consisting of the Adult Entertainment Establishment amendment, as recommended by adoption by the Buffalo County Planning and Zoning Commission be adopted as recommended, with the time provisions set out in Sec. 6.5 2(b) of the amendments submitted to this Board being stricken and the remainder of that Commission's recommended language being adopted as stated below. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

### **RESOLUTION 2014-13**

WHEREAS, ON February 20, 2014 the Buffalo County Planning and Zoning Commission held a public hearing concerning various amendments to Buffalo County's Zoning Regulations concerning Adult Entertainment Establishments amendments, and recommended by unanimous vote that this Board approve the proposed amendments, excepting therefrom hours of operation provisions, which said provision was submitted to this Board as a "no recommendation given", and

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

NOW THEREFORE, be it resolved by the Buffalo County Board of Supervisors that the following amendments are adopted with amending language as generally shown as underlined wording and language to be deleted shown with strikethrough font with renumbering and alphabetical re-ordering to occur as necessary:

#### **To add as Adult Entertainment Establishment Definition:**

##### **3.32 ADULT ENTERTAINMENT ESTABLISHMENT is:**

1. A commercial establishment or use open to the public which:
  - a. Displays, distributes, issues, gives, provides, lends, delivers, transfers, transmits, circulates, disseminates, presents, exhibits, advertises, sells, rents or leases a substantial or significant portion, as herein defined, of its stock in trade, any material defined by the Neb. Rev. Stat. Sec. 28-808 or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined; or
  - b. Utilizes a substantial or significant portion, as herein defined, of its display areas, including but not limited to, floor, shelf, rack, table, stand or case display areas, boxes, cabinet drawers, cartons, or any other storage area or apparatus, for any material defined by the Neb.Rev.Stat. Sec. 28-807, et. seq., or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined; or
  - c. Exhibits for a substantial or significant portion, as herein defined, of the total presentation time any material defined by Neb.Rev.Stat. Sec. 28-808, et seq, or characterized by the depiction of "specified anatomical areas" or "specified sexual activities", as such are herein defined.
2. A commercial establishment or use open to the general public which involves employees or customers who engage in conduct which is distinguished or characterized by "specified sexual activities" or "specified anatomical areas", as herein defined.
3. Adult Entertainment Establishments shall include, but are not necessarily limited to:
  - a. Adult arcades;
  - b. Adult bookstores;
  - c. Adult cabarets;
  - d. Adult motion picture theaters;
  - e. Adult theaters;
  - f. Escort agencies;
  - g. Massage parlors;
  - h. Nude modeling studios;
  - i. Sexual encounter centers

**TO ADD AS DEFINITIONS, WITH RENUMBERING AND ARRANGING IN ALPHABETICAL ORADER, AS NECESSARY.**

SPECIFIED ANATOMICAL AREA or AREAS is defined as:

- a. Less than opaquely covered human genitals, pubic region or pubic hair; or
- b. Less than opaquely covered perineum, buttock, or anus; or
- c. Less than opaquely covered female breast below a point immediately above the top of the areola; or
- d. Human male genitals in a discernibly erect or turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITY or ACTIVITIES is defined as:

- a. Human genitals in a discernable state of sexual stimulation or arousal; or
- b. Acts or representations of human masturbation, sexual intercourse, sodomy, bestiality, excretory functions, sadism, masochism, lewd exhibition of genitals; or
- c. Fondling or other erotic touching of human genitals, pubic region or pubic hair, perineum, buttock or anus, or female breast.

SUBSTANTIAL, SIGNIFICANT OR PRIMARY, regardless of whether these words are used singly or in combination means a use of over fifty (50) percent of stock in trade, display area, or presentation time, whichever may be applicable to the nature of the establishment. Stock in trade and material shall be measured in terms of titles or objects. Items with the same title or name shall be considered as separate titles or objects.

**AND OTHER DEFINITIONS AS FOLLOWS:**

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin-operated, slug- or token-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified anatomical areas" or "specified sexual activities," as herein defined.

ADULT BOOKSTORE: A commercial establishment which has devoted a substantial or significant portion of its business to the sale, rental or any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video tapes, or other video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- b. Instruments, devices, or paraphernalia which depict "specified anatomical areas" or are designed for use in connection with "specified sexual activities".

ADULT CABARET: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- a. Person or persons who appear by the exposure of his, her, and/or their "specified anatomical areas", or
- b. Live performances which are characterized by the exposure of "specified anatomical areas", or by "specified sexual activities", including topless or bottomless dancers, exotic dancers, or strippers; or
- c. Films, motion pictures, video cassettes or tapes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or tapes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of exposure of "specified anatomical areas", or live performances that are characterized by the depiction or description of "specified sexual activities" or the exposure of "specified anatomical areas".

ESCORT: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

ESCORT AGENCY: A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

MASSAGE PARLOR: Any place where, for any form of consideration, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with any "specified sexual activity", or where any person providing such treatment, manipulation or service related thereto exposes any "specified anatomical area."

This term shall not apply to a place wherein registered physical therapists or a certified massage therapist treats only patients recommended by a licensed physician and operate only under such physician's direction.

This term shall not apply to Massage Therapy).

MASSAGE THERAPY:

As defined by the North American Industry Classification System (NAICS), 2007 edition, with the additional description that any establishment and/or person providing massage therapy services shall be appropriately licensed by the Nebraska Department of Health and Human Services.

This term shall not apply to a Massage Parlor.

NUDE MODELING STUDIO: Any place where a person who displays any "specified anatomical area" that is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. This shall not include uses where instruction is given for human lactation, breastfeeding support groups, and human breastfeeding education groups.

SEXUAL ENCOUNTER CENTER: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons displays or exposes "specified anatomical areas" and/or engages in "specified sexual activity or activities".

ADDITIONAL DEFINITIONS ARE:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin-operated, slug- or token-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified anatomical areas" or "specified sexual activities," as herein defined.

ADULT BOOKSTORE: A commercial establishment which has devoted a substantial or significant portion of its business to the sale, rental or any form of consideration, of any one or more of the following:

a. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes, video tapes, or other video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

b. Instruments, devices, or paraphernalia which depict "specified anatomical areas" or are designed for use in connection with "specified sexual activities".

ADULT CABARET: A nightclub, bar, restaurant, juice bar, or similar commercial establishment which regularly features:

a. Person or persons who appear by the exposure of his, her, and/or their "specified anatomical areas", or

b. Live performances which are characterized by the exposure of "specified anatomical areas", or by "specified sexual activities", including topless or bottomless dancers, exotic dancers, or strippers; or

c. Films, motion pictures, video cassettes or tapes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT MOTION PICTURE THEATER: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes or tapes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of exposure of "specified anatomical areas", or live performances that are characterized by the depiction or description of "specified sexual activities" or the exposure of "specified anatomical areas".

ESCORT: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

ESCORT AGENCY: A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

MESSAGE PARLOR: Any place where, for any form of consideration, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of or in connection with any "specified sexual activity", or where any person providing such treatment, manipulation or service related thereto exposes any "specified anatomical area."

This term shall not apply to a place wherein registered physical therapists or a certified massage therapist treats only patients recommended by a licensed physician and operate only under such physician's direction.

This term shall not apply to Massage Therapy).

MESSAGE THERAPY:

As defined by the North American Industry Classification System (NAICS), 2007 edition, with the additional description that any establishment and/or person providing massage therapy services shall be appropriately licensed by the Nebraska Department of Health and Human Services.

This term shall not apply to a Massage Parlor.

NUDE MODELING STUDIO: Any place where a person who displays any "specified anatomical area" that is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

**To amend 5.14 to not allow Adult Entertainment Establishments in AG District by special permit:**

**5.14 PERMITTED SPECIAL USES:** A building or premises may be used for the following purposes in the "AG" Agriculture District if a special permit for such use has been obtained in accordance with Article 6 of these regulations: (Resolution 12-4-07 & Resolution 10-11-11)

14. Commercial and/or Industrial operations, excepting therefrom Adult Entertainment Establishments;

**To add as separate special uses in the C District the following additional language in Section Sec. 5.54:**

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.

9. Wind powered generation of electrical power.
10. Wind Farms.

11. Adult Entertainment Establishment, specifically allowed only in the Commercial District and not as a special use in Agricultural District.

**ARTICLE 6 AMENDED TO ADD:**

**6.5 Special provisions regarding Adult Entertainment Establishments.**

Adult Entertainment Establishment, as previously defined, shall not be allowed in the Agricultural District (AG), and shall only be allowed as a special permit in the Commercial (C) District, under the following conditions:

**1. LOCATION AND DISTANCE REQUIREMENTS:**

a. An Adult Entertainment Establishment, as herein defined:

i. Shall not be located or expanded within one thousand (1,000) feet of Agricultural Residential (AGR) zoned property;

ii. Shall not be located or expanded within one thousand (1,000) feet of any other Adult Entertainment Establishment;

iii. Shall not be located or expanded within one thousand (1,000) feet of any church, synagogue or temple, hospital, public school or public park, or any day care center or day care home.

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 an Adult Entertainment Establishment to:

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 the premises of any other Adult Entertainment Establishment; and

iii. The nearest property line of the premises of a church, synagogue, temple, hospital, public school, public park, day care center, and day care home.

c. Distance certifications: An application for an Adult Entertainment Establishment 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 containing any existing Adult Entertainment Establishments within 1000 feet of the property to be certified; 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 1000 feet 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 1000 feet of the property to be certified. For purposes of this sub-section, a use shall be considered existing if it is in existence at the time an application is submitted.

**2. SPECIAL REQUIREMENTS:**

a. An Adult Entertainment Establishment shall be located in a freestanding building, on one lot containing no other uses or Adult Entertainment Establishments.

b. All Adult Entertainment Establishment businesses, its owners, managers, entertainers, and any other employee thereof shall permit any governmental official acting in their official capacity to inspect the premises and activities on the premises as necessary to insure the business is complying with all applicable regulations and laws.

c.

**REGULAR AGENDA**

Chairman McMullen called for Citizen's forum and no one was present to address the Board.

Chairman McMullen asked if there was anything else to come before the Board at 11:41 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, March 25, 2014.