

**BUFFALO COUNTY BOARD OF COMMISSIONERS  
BUFFALO COUNTY BOARD OF EQUALIZATION  
TUESDAY, FEBRUARY 11, 2020**

The Buffalo County Board of Commissioners and the Buffalo County Board of Equalization met on Tuesday, February 11, 2020 at 9:00 A.M. and 9:45 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: Timothy Higgins, Ivan Klein, Myron Kouba, Ronald Loeffelholz, Sherry Morrow, Dennis Reiter and William McMullen. A copy of the acknowledgment and receipt of notice and agenda by the Board of Commissioners 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 Loeffelholz and seconded by Higgins to approve the January 28, 2020 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Higgins, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

Moved by Morrow and seconded by Reiter to ratify the following January 31, 2020 payroll claims processed by the County Clerk. Upon roll call vote, the following Board members voted "Aye": Morrow, Reiter, Higgins, Klein, Kouba, Loeffelholz and McMullen. Motion declared carried.

<b>GENERAL FUND</b>			
NET PAYROLL			274,037.20
RETIREMENT PLANS AMERITAS	R	EMPE RET	43,454.07
FIRST NATIONAL BANK	T	FEDERAL TAX	92,851.28
STATE OF NE	T	STATE TAX	15,433.89
<b>ROAD FUND</b>			
NET PAYROLL			57,632.77
RETIREMENT PLANS AMERITAS	R	EMPE RET	8,553.25
FIRST NATIONAL BANK	T	FEDERAL TAX	17,968.55
STATE OF NE	T	STATE TAX	2,830.84
<b>WEED FUND</b>			
NET PAYROLL			3,821.08
RETIREMENT PLANS AMERITAS	R	EMPE RET	570.33
FIRST NATIONAL BANK	T	FEDERAL TAX	1,216.38
STATE OF NE	T	STATE TAX	191.82

Moved by Loeffelholz and seconded by Kouba to approve the February 3, 2020 Interview Committee meeting minutes for the GIS Technician/Planning & Zoning Administrator position interviews. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Kouba and McMullen. Motion declared carried.

Moved by Morrow and seconded by Klein to accept the Clerk of the District Court January 2020 Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Klein, Higgins, Kouba, Loeffelholz, Reiter and McMullen. Motion declared carried.

Moved by Morrow and seconded by Reiter to accept the Buffalo County Treasurer January 2020 Fund Balance Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Reiter, Higgins, Klein, Kouba, Loeffelholz and McMullen. Motion declared carried.

Zoning Administrator Jason Wozniak reviewed the 2019 Annual Zoning Report. Moved by Higgins and seconded by Klein to accept the 2019 Annual Zoning and Floodplain Administrator Report. Upon roll call vote, the following Board members voted "Aye": Higgins, Klein, Kouba, Loeffelholz, Morrow, Reiter and McMullen. Motion declared carried.

Laura Robbins from Mac's Creek Vineyards & Winery was present to answer questions on their Special Designated Liquor License applications. After discussion and review of the County Sheriff's report, it was moved by Loeffelholz and seconded by Morrow to approve the Special Designated Liquor License applications filed by Mac's Creek Vineyards & Winery for wine and beer sampling/off sale events to be held at the Iain Nicolson Audubon Center at Rowe Sanctuary located at 44450 Elm Island Rd, Gibbon, NE. The events will be on March 14, March 21 and April 4, 2020. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Morrow, Higgins, Klein, Kouba, Reiter and McMullen. Motion declared carried.

Emergency Manager Darrin Lewis was present and reviewed the Memorandum of Understanding (MOU) with Great Plains Conference Disaster Response Team. Moved by Reiter and seconded by Loeffelholz to authorize Emergency Manager Darrin Lewis to sign the Memorandum of Understanding (MOU) with Great Plains Conference Disaster Response Team. Upon roll call vote, the following Board members voted "Aye": Reiter, Loeffelholz, Higgins, Klein, Kouba, Morrow and McMullen. Motion declared carried.

Chairman McMullen reviewed the following correspondence. The Jail Standards Division with the NE Crime Commission sent a notice to confirm an annual inspection date of the Buffalo County Detention Center. The Board received an agenda for the City of

Kearney Planning Commission for February 21, 2020. Chairman McMullen called on each Board member present for committee reports and recommendations.

Commissioner Loeffelholz reported that four candidates were interviewed by a Committee for the GIS Technician/Planning & Zoning Administrator position and the Committee recommendation is to hire Dennise Daniels for the position. Moved by Loeffelholz and seconded by Higgins to offer the GIS Technician/Planning & Zoning Administrator position to Dennise Daniels. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Higgins, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

## **ZONING**

Zoning Administrator Jason Wozniak and Deputy County Attorney Andrew Hoffmeister were present for the following Zoning agenda items.

Chairman McMullen opened the public hearing at 9:15 A.M. for proposed zoning resolution amendments regarding adoption of solar energy provisions and amendments to accessory buildings, heard together. Deputy County Attorney Hoffmeister reviewed the provisions before the Board noting that the solar energy provisions were reviewed twice by the Planning and Zoning Commission and that several entities shared in the drafting and review of the proposed additions and changes. Deputy County Attorney Hoffmeister handed out to the Board pictures of roofs that had or did not have the three-foot open space mentioned in the proposed rules and a copy of a solar powered water well flyer, which a company provided advice concerning "exempt" sized farm stock well that used solar power. Joe Johnson, of Kearney, Nebraska, a person who has an operating solar energy system testified before the Board in support of the proposed solar energy provisions. Johnson thanked the Board for the opportunity to participate in the review and drafting of the provisions. Johnson mentioned several other entities, public and private, that were involved in the process. Chairman McMullen closed the public hearing at 9:29 A.M. Moved by Morrow and seconded by Higgins that the following two Resolutions 2020-03 and 2020-04 amending and/or adding provisions to Buffalo County's Zoning Resolution be approved, passed in one vote. Upon roll call vote, the following Board members voted "Aye": Morrow, Higgins, Klein, Kouba, Loeffelholz, Reiter and McMullen. Motion declared carried.

### **RESOLUTION 2020-03**

WHEREAS, the Buffalo County Planning and Zoning Commission first held public hearing on Solar Energy on September 19, 2019. Thereafter, this Board held public hearing and took the suggested provisions under review. Thereafter, on December 23, 2019, this Board referred back to the Planning and Zoning Commission suggested changes in Solar Energy provisions for that Commission's review and input, and

WHEREAS, on January 16, 2020, the Buffalo County Planning and Zoning Commission held its' most recent public hearing concerning amendments to Buffalo County's Zoning Regulations concerning Solar Energy. Thereafter, that Commission referred suggested provisions back to this Board for public hearing and possible acceptance by this Board, and

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

WHEREAS, any existing solar energy system use(s) can continue as allowed uses as to existing structural size and nonconforming setback after adoption date of this Resolution without need of a permit or need of reconstruction to cause conformity. However, as provided by state law and local resolution, any substantial repair, usually defined by 60% destruction, physical enlargement, moving of the structures, or other physical actions, beyond maintenance and minor repairs, causes the need for compliance with setbacks for any additional structures or rebuilding of the original structure(s) and need of a zoning permit as required under Buffalo County Zoning Resolution after adoption of this Resolution, effective as of date of publication.

WHEREAS, on February 11, 2020, this Board conducted a public hearing to add Solar Energy provisions to Buffalo County's Zoning Regulations. No parties appeared to oppose these amendments. A party appeared before the Board to support adoption of the suggested provisions as submitted, and

WHEREAS, from the testimony given to this Board and the referral from the Planning and Zoning Commission, the Board finds that the suggested Solar Energy provisions as set forth below should be adopted and incorporated into Buffalo County's Zoning Resolution and thereafter published according to law.

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 added as indicated by underlining as generally shown below, all to be placed and/or inserted into Buffalo County Zoning Resolution:

TO ADD IN DEFINITIONS (renumber existing number usage in code where appropriate):

"GROUND-MOUNTED SOLAR ENERGY SYSTEM. A Solar Energy System that is a ground-mounted structure, not allowed in a residential use lot's front yard and no closer than the allowed side and rear yard setback from the property line for a structure within the zoning district in which it is situated, consisting of Solar Related Equipment that does not exceed sixteen (16) feet in height, from the highest panel edge to the ground. The area used for this system is considered coverage for lot coverage limitations in the various zoning districts.

PERSONAL SOLAR ENERGY SYSTEM (PSES) - A Solar Energy System (SES) that is intended primarily for onsite consumption of electrical power. It consists of roof attached and/or free standing Solar Energy Systems. A Personal SES cannot exceed 25kW rated nameplate capacity. Any SES, or combination of SES on one lot, that is, or in total combination are, rated less than .8 kW rated nameplate capacity is considered an incidental use to the main use of the lot. No zoning permit is needed for .8 kW rated nameplate capacity solar energy systems.

RATED NAMEPLATE CAPACITY- The maximum rated wattage output of electric power production of the Solar Energy System or Wind Powered Generator rated in Direct Current (DC) at Standard Test Conditions or Alternating Current (AC) at Performance Test Conditions.

ROOF ATTACHED SOLAR ENERGY SYSTEM. The Solar Energy System's collector surface and mounting devices that attach a solar energy system(s) to the roof of a structure. It shall have a minimum a 3-foot open space on the roof from the side edges, hip(s), and ridge(s) of the roof, and not cause a height increase of the structure to which it is attached. The system cannot be greater than twenty-four (24) inches between the roof and highest edge of the surface of the Solar Energy System (SES) measured perpendicularly from any part of the roof.

SOLAR ENERGY - Radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR ENERGY SYSTEM (SES) - An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power. Principal solar energy systems consist of one (1) or more free-standing ground, movable, and/or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers.

SOLAR FARM – A commercial large-scale solar energy system facility for the primary purpose of wholesale sales of generated electricity. A solar farm can be the principal or secondary use of the land for the parcel on which it is located. It is designed for providing energy to off-site users or export to the wholesale market. It is comprised of one or more Solar Energy System(s) (SES) that create and transmit power principally for connection to publicly used power grid. Solar Farm(s) shall include, but shall not necessarily be limited to the following structures and uses: Solar Energy Systems, operations and/or maintenance buildings, meteorological towers, electrical wiring, collector grids, roads and substations. Any Solar Energy System (SES) with rated nameplate capacity over 25kw singly and/or wholly, is a Solar Farm. It can include, but is not necessarily limited to, substations, electrical infrastructure, transmission lines and other appurtenant structures used to collect and distribute power from the Solar Farm.

SOLAR PANEL - That part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

SOLAR RELATED EQUIPMENT - Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy. This equipment can consist of:

A. SOLAR ARRAY: A grouping of multiple solar modules with purpose of harvesting solar energy.

B. SOLAR CELL: The smallest basic solar electric device which generates electricity when exposed to light.

C. SOLAR MODULE: A grouping of solar cells with the purpose of harvesting solar energy. “

**To add as uses by right as an accessory use:**

In RC Zoning District add to 5.23:

“4. Personal Use Solar Energy Systems.”

AGR Zoning District, add to 5.33:

“4. Personal Use Solar Energy Systems.”

**To add as uses by right (renumber as needed):**

AG Zoning District, add to Sec. 5.12:

“10. Personal Use Solar Energy Systems.”

C Zoning District, add to Sec. 5.52:

22. Personal Use Solar Energy Systems.”

I Zoning District, add to Sec. 5.62:

39. Personal Use Solar Energy Systems.”

**SOLAR FARMS: AG, C, AND I Zoning Districts add as a use by Special Permit (renumber as appropriate).**

AG Zoning District, add to Sec.5.14:

“18. Solar farm.

C Zoning District, add to Sec. 5.54:

9. Solar farm.

I Zoning District, add to Sec. 5.64:

5. Solar farm.”

#### **RESOLUTION 2020-04**

WHEREAS, on January 16, 2020, the Buffalo County Planning and Zoning Commission held a public hearing concerning amendments concerning “Accessory Structures” in Buffalo County’s Zoning Resolution as referred to that Commission from this Board, and

WHEREAS, no protests have been filed with the Buffalo County Clerk against this proposed amendment, and

WHEREAS, on February 11, 2020, this Board conducted a public hearing concerning the proposed amendment to Buffalo County’s Zoning Regulations and no parties appeared to oppose this proposed amendment,

WHEREAS, any existing accessory structure(s) can be continue as uses as to structural size and nonconforming setback after adoption date of this Resolution without need of a zoning permit or need reconstruction to cause conformity. However, as provided by state law and local resolution, any substantial repair, usually defined by 60% destruction, physical enlargement, moving of the structure(s), or other physical actions, beyond maintenance and minor repairs, causes the need for compliance with setbacks for any additional structures, or rebuilding of the original structure(s) and need of zoning permit as required under Buffalo County Zoning Resolution.

WHEREAS, from the testimony given to this Board and the referral from the Planning and Zoning Commission, the Board finds that the suggested amendment to “Accessory Building” as set forth below should be adopted and incorporated into Buffalo County’s Zoning Resolution and thereafter published according to law with it being effective upon publication.

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 added as indicated by underlining, and language deleted as indicated by strikethrough, all as generally shown below, all to be placed and/or inserted into Buffalo County Zoning Resolution after adoption of this Resolution:

Amend Sec. 8.1 to read as follows:

#### **“8.1 ACCESSORY BUILDING AND STRUCTURE**

Buildings and structures may be erected and land may be used for purposes, which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings, structures, and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property, or the users thereof, and shall be on the premises of the main use.

Accessory buildings and structures shall not occupy more than thirty percent of the required area for the rear yard. Any accessory building and/or structure shall have a minimum yard setback as required within the zoning district. ~~of 3 feet and all garage entrances must have ten (10) feet from the access street or alley.~~ Attached garages are considered part of principal building.”

#### **REGULAR AGENDA**

Transportation Director Charles McGraw from the Community Action Partnership of Mid Nebraska reviewed the funding matches required for the operations RYDE Transit-Community Action Partnership of Mid Nebraska. Moved by Morrow and seconded by Reiter to approve the Local Funding Match with the following Resolution 2020-05 for RYDE Transit Public Transportation. Upon roll call vote, the following Board members voted "Aye": Morrow, Reiter, Higgins, Klein, Kouba, Loeffelholz and McMullen. Motion declared carried.

#### **RESOLUTION 2020-05**

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 RYDE Transit-Community Action Partnership of Mid Nebraska 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 Commissioners hereby instructs the RYDE Transit to apply for said funds.

Said funds are to be used for the RYDE Transit transportation operations in the FY 2020-2021 Application for Public Transportation Assistance. Local Funding Amount Match for 2020-2021: \$65,300.00.

Moved by Loeffelholz and seconded by Higgins to recess the regular meeting of the Board of Commissioners at 9:39 A.M. and reconvene as a Board of Equalization. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Higgins, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

#### **BOARD OF EQUALIZATION**

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

Moved by Klein and seconded by Higgins to approve the following list of late filings for the Permissive Exemption Applications submitted by County Assessor Skinner to be heard by the Board of Equalization at a later date. Upon roll call vote, the following Board members voted "Aye": Klein, Higgins, Kouba, Loeffelholz, Morrow, Reiter and McMullen. Motion declared carried.

<b>Name of Organization</b>	<b>Parcel</b>
1st Church of God	600130300
American Legion Post #52	605160000
Church of God Prophecy	600866000
Church of God Prophecy	600866050
Congregational Church of Christ	40201000
Corpus Christi Carmelites/Mount Carmel Home	602980000
Diocese of Grand Island	602458000
Diocese of Grand Island	602459000
Diocese of Grand Island	604535000
Diocese of Grand Island	604537000
Faith Baptist Church	604891000
First Presbyterian Church	606534747
Fort Kearney Aerie 2722	610173010
Good Shepherd Evangelical Lutheran Church	602479010
Grace Lutheran Church	100220000
Grace Lutheran Church	100222000
HelpCare Clinic	PP Only
Iglesia Del Dios Vivo Columna Y Apoyo De La Verdad La Luz Del Mundo	601681000
Iglesia Del Dios Vivo Columna Y Apoyo De La Verdad La Luz Del Mundo	601775000
Kearney Area Habitat for Humanity	600675000
Kearney Community Theatre	603561000
Movimiento Pena De Horeb, Inc. De Puerto Rico	680073000
National Audobon Society, Inc.	720145001
Our Lady of Lourdes Catholic Church	40042000
Our Lady of Lourdes Catholic Church	40135000
Our Lady of Lourdes Catholic Church	40143000
Our Lady of Lourdes Catholic Church	40151000
Pleasanton Evangelical Free Church	120020101
St Paul Lutheran Church	680365000
St. Mary's Church	120005000
St. Mary's Church	120030000
St. Mary's Church	120258000

Moved by Klein and seconded by Higgins to approve Tax List Corrections numbered 4656 through 4666 submitted by County Assessor Skinner. Upon roll call vote, the following Board members voted "Aye": Klein, Higgins, Kouba, Loeffelholz, Morrow, Reiter and McMullen. Motion declared carried.

Moved by Klein and seconded by Loeffelholz to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Jean Sidwell for the Salvation Army on a 2019 Chevrolet Traverse and a 2006 Chevrolet Express Van. Upon roll call vote, the following Board members voted "Aye": Klein, Loeffelholz, Higgins, Kouba, Reiter and McMullen. Abstain: Morrow. Motion declared carried.

Moved by Klein and seconded by Higgins to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Jean Sidwell for Christian Student Fellowship on a 2018 Ford Transit 350 Van and a 2006 Chevrolet Express Van. Upon roll call vote, the following Board members voted "Aye": Klein, Higgins, Kouba, Loeffelholz, Morrow, Reiter and McMullen. Motion declared carried.

Moved by Loeffelholz and seconded by Higgins to adjourn the Board of Equalization and return to the regular meeting of the Board of Commissioners at 9:52 A.M. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Higgins, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

## **REGULAR AGENDA**

Highway Superintendent John Maul was present for the following agenda items.

The bid opening for the concrete project on the Navaho Road was canceled, due to legal reasons.

Moved by Klein and seconded by Morrow to set a bid date of February 25, 2020 at 10:00 A.M. for the 2020 Gravel Bids for the period from April 1, 2020 through March 31, 2021. Upon roll call vote, the following Board members voted "Aye": Klein, Morrow, Higgins, Kouba, Loeffelholz, Reiter and McMullen. Motion declared carried.

Moved by Klein and seconded by Loeffelholz to set a public hearing date of February 25, 2020 at 10:00 A.M. to amend the One and Six Year Road Program. Upon roll call vote, the following Board members voted "Aye": Klein, Loeffelholz, Higgins, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

Road Chairman Klein instructed County Clerk Giffin to open and read aloud the submitted bids for three new Twin Screw Cab & Chassis (Lowboy) and two Twin Screw Cab & Chassis (Dump Truck). Bids for three Twin Screw Cab & Chassis (lowboy) were submitted from: Hansen International Truck Inc., Nebraska Truck Center and Truck Center Company. Bids for two Twin Screw Cab & Chassis (Dump Truck) were submitted from: Hansen International, Nebraska Truck Center and Truck Center Company. The Road Committee and Highway Superintendent will review the bids and come back with recommendations at the next meeting on February 25, 2020 at 10:00 A.M.

Chairman McMullen called for Citizen's forum and no one was present.

Chairman McMullen asked if there was anything else to come before the Board at 10:08 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, February 25, 2020.

ATTEST:

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William McMullen, Chairman  
Buffalo County Board of Commissioners

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Janice I. Giffin  
Buffalo County Clerk

(SEAL)