

**BUFFALO COUNTY BOARD OF COMMISSIONERS
TUESDAY, DECEMBER 8, 2020**

The Buffalo County Board of Commissioners met on Tuesday, December 8, 2020 at 9:00 A.M. via Zoom meeting. Chairman McMullen called the meeting to order. The following Board members responded to roll call: Ivan Klein, Myron Kouba, Ronald Loeffelholz, Sherry Morrow, Dennis Reiter and William McMullen. Absent: Timothy Higgins. Commissioner Klein was having audio issues in the zoom meeting and acknowledged roll call votes visually. 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 December 3, 2020. Chairman McMullen announced that pursuant to “Executive Order No. 20-36 Public Meeting Requirement Limited Waiver”, the County Board will be conducting their meetings via Zoom and the link to this meeting was posted on the Buffalo County Website. County Clerk Janice Giffin took all proceedings hereinafter shown. Deputy County Attorney Andrew Hoffmeister joined the meeting.

REGULAR AGENDA

Moved by Loeffelholz and seconded by Reiter to approve the November 24, 2020 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Reiter, Klein, Kouba, Morrow and McMullen. Absent: Higgins. Motion declared carried.

Moved by Morrow and seconded by Kouba to ratify the following December 4, 2020 payroll claims processed by the County Clerk. Upon roll call vote, the following Board members voted "Aye": Morrow, Kouba, Klein, Loeffelholz, Reiter and McMullen. Absent: Higgins. Motion declared carried.

GENERAL FUND			
NET PAYROLL			279,679.94
AMERICAN FAMILY	I	PREMIUMS	1,037.63
RETIREMENT PLANS AMERITAS	R	EMPE RET	47,331.30
BUFFALO CO TREASURER	I	PREMIUMS	112,852.00
FIRST CONCORD	E	FLEX FUNDS	4,985.49
FIRST NATIONAL BANK	T	FEDERAL TAXES	96,164.28
KEARNEY UNITED WAY	E	DONATIONS	102.67
KATHLEEN A LAUGHLIN	E	GARNISH	402.00
MADISON NATIONAL	I	PREMIUMS	942.29
MADISON NATIONAL	I	LT DISABILITY	149.44
MASSMUTUAL	R	DEFERRED COMP	1,175.00
NATIONWIDE RETIREMENT	R	DEFERRED COMP	1,330.00
NE CHILD SUPPORT	E	CHILD SUPPORT	1,200.00
PRINCIPAL	E	DENTAL	3,199.48
STATE OF NE	T	STATE TAXES	16,291.02
VISION SERVICE PLAN	E	EMPE VSP EYE	837.62
ROAD FUND			
NET PAYROLL			55,458.07
AMERICAN FAMILY LIFE	I	PREMIUMS	907.19
RETIREMENT PLANS AMERITAS	R	EMPE RET	8,662.81
BUFFALO CO TREASURER	I	PREMIUMS	2,567.00
FIRST CONCORD	E	FLEX FUNDS	677.42
FIRST NATIONAL BANK	T	FEDERAL TAXES	16,516.65
MADISON NATIONAL	I	PREMIUMS	148.55
MADISON NATIONAL	I	LT DISABILITY	47.91
NATIONWIDE RETIREMENT	R	DEFERRED COMP	272.50
NE CHILD SUPPORT	E	CHILD SUPPORT	342.00
PRINCIPAL	E	DENTAL	946.92
STATE OF NE	T	STATE TAXES	2,473.24
VISION SERVICE PLAN	E	EMPE VSP EYE	205.22
WEED DEPARTMENT			
NET PAYROLL			4,806.58
RETIREMENT PLANS AMERITAS	R	EMPE RET	758.07
BUFFALO CO TREASURER	I	PREMIUMS	248.00
FIRST CONCORD	E	FLEX FUNDS	33.33
FIRST NATIONAL BANK	T	FEDERAL TAXES	1,548.53
MADISON NATIONAL	I	LT DISABILITY	1.52
PRINCIPAL	E	DENTAL	45.72
STATE OF NE	T	STATE TAXES	241.93

Moved by Morrow and seconded by Loeffelholz to accept the Clerk of District Court November 2020 Report. (Commissioner Timothy Higgins joined the meeting at 9:04 A.M.) Upon roll call vote, the following Board members voted "Aye": Morrow, Loeffelholz, Higgins, Klein, Kouba, Reiter and McMullen. Motion declared carried.

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

Zoning Administrator, Dennise Daniels was present for the discussion and appointment of a member to the Planning and Zoning Commission. Moved by Higgins and seconded by Kouba to appoint Kurt Schmidt to the Planning and Zoning Commission for a three year term. Upon roll call vote, the following Board members voted "Aye": Higgins, Kouba, Klein, Loeffelholz, Morrow, Reiter and McMullen. Motion declared carried.

Chairman McMullen opened the discussion on the referral to the Planning Commission zoning resolution amendments. Deputy County Attorney Hoffmeister reviewed the proposed amendments and after discussion, it was moved by Loeffelholz and seconded by Reiter to refer the following proposed admendments to the Planning and Zoning Commission.

1. Amend to add word "side" in accessory use general applicable provision.

Add as a special use provision for AGR/AG Districts to:

Accessory uses, when specific provisions as to location and size of allowed accessory use by right do not apply but the proposed accessory use and/or structure is in compliance with all applicable minimum yard setbacks.

2. Board suggested amendment for review: 8.1 be amended to read:

8.1 ACCESSORY BUILDING

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~~ of the side and rear yard. Any accessory building and/or structure shall have a minimum yard setback as required within the zoning district. Attached garages are considered part of principal building. (Resolution 02-11-2020)

Any accessory building and structure and/or use comprised of one hundred twenty (120) square feet or less is exempted from the need to obtain a zoning permit, but must comply will all applicable zoning district minimum yard setbacks.

3. Add as a special use for AGR/AG Districts:

Accessory uses and/or structures, when the specific provisions as to location and size of the allowed accessory use and/or structure by right do not apply, but the proposed accessory use and/or structure is in compliance with all other applicable minimum yard setbacks.

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

Chairman McMullen reviewed the following correspondence. The State of Nebraska sent Executive Order No. 20-36 Corona Virus – Public Meetings Requirement Limited Waiver that applies to all public governing body meetings that occur from December 1, 2020 through January 31, 2021. The City of Kearney sent letter regarding the Annexation of property located south of 56th Street between the Kearney East Expressway and Airport Road, West of Airport Road, North and West of Cessna Street, West of Piper Avenue, North of Patriot Boulevard, East of Cherry Avenue and Kearney East Expressway. Nebraska Department of Transportation sent letter stating there was an opportunity to provide input on the FY 2022 through FY 2025 transportation projects included in the State Transportation Improvement Plan (STIP). Chairman McMullen called on each Board member present for committee reports and recommendations.

ZONING

Chairman McMullen opened the public hearing at 9:14 A.M. for a special use permit application to operate a Motocross Track. Deputy County Attorney Hoffmeister reviewed the application and Jon Dorothy was present to answer questions. No one else addressed the Board and Chairman McMullen closed the hearing at 9:22 A.M. Moved by Loeffelholz and seconded by Higgins to approve the Special Use Permit application for JRAYD, L.L.C., on lease from Dorothy Farms, Inc. to operate a Motocross Track, for property located at 29922 Grand Island Road, Pleasanton, Nebraska, 68866, described as Part of the South Half of Section 13, Township 11, Range 16 West of the 6th p.m., Buffalo County, Nebraska with the following Resolution 2020-56. Upon roll call vote, the following Board members voted "Aye": Loeffelholz, Higgins, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

RESOLUTION 2020-56

WHEREAS, JRAYD, L.L.C, Applicant, on a land leased from Dorothy Farms, Inc., for property located at 29922 Grand Island Road, Pleasanton, Nebraska, 68866, have filed for a Special Use Permit with Buffalo County Clerk and/or Zoning Administrator.

WHEREAS, one application was filed September 1, 2020, to operate a Motocross Track, to be situated on the following legal description: Part of the South Half of Section 13, Township 11, Range 16 West of the Sixth Principal Meridian, Buffalo County, Nebraska, hereinafter referred to as the “subject property”.

WHEREAS, on November 19, 2020, the Buffalo County Planning and Zoning Commission conducted a public hearing on such Special Use Permit and on a 7-0 vote with zero absent voted to forward this application to the County Commissioners, and

WHEREAS, on December 8, 2020, the Buffalo County Board of Commissioners held a public hearing on this Special Use Permit and,

WHEREAS, one exhibit is attached to the application and the Board takes notice of the contents and exhibit on that application in considering this special use permit.

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:

1. Applicants desire to use the subject property to hold off-road motocross motorcycle and/or all-terrain vehicle (ATV) dirt racing and practice for racing that is situated on the subject property.
2. The proposed use is more than one-half mile distance from any residential uses.
3. Placement of 911 (Address) signage should be required for the main public entrance. The Board notes that in the application and before the Board, applicant disclosed that the subject property has an additional emergency entrance. The Board will not make requirements as concerns this additional entrance, but requests that the applicants share information about access through this non-public entrance with 911 officials.
4. Some notification, requested, but not required for 24-hours’ Notice to Law Enforcement should be consider.
5. No Permanent Structures (Accessory Uses) will be added and are not needed for the requested use. It is noted that in the Planning Commission minutes for their meeting, the applicants do use towable bleachers or seating facilities when events are held on the subject property. Also, while events are occurring on the subject premises, primitive camping on the subject property occurs without need of sanitary or public utility electrical connections.

WHEREAS, the requested amendment to this previously issued special use permit is found to be in compliance with Section 6.2 of Buffalo County’s Zoning Regulations now in effect, in that if the proposed amendment, with the below stated conditions contained in this Resolution, would:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. 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, this Board approves applicants’ requested Special Use Permit, subject however to the following:

1. There is allowed on the subject property Motocross Motorcycle and All-Terrain Vehicle type racing events together with race practicing.
2. Applicants shall place 911 (Address) Signage at the public entry point on Grand Island Road.
3. Applicants are request, not required, as a condition for issuance of the special use permit, to provide 24-hours’ notice to Law Enforcement.
4. No permanent structures are requested in the special use permit and no additional structure and/or uses will be added to this special use permit, without amendment of this special use permit and/or reapplication for an additional special use permit.
5. All rules and regulations shall be 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.

Chairman McMullen opened the public hearing for a special use permit application to operate a Recreational/Event Center. Kinzy & Brent Carmody were present to answer questions. No one else addressed the Board and Chairman McMullen closed the hearing at 9:33 A.M. Moved by Higgins and seconded by Loeffelholz to approve a Special Use Permit Application filed by Kinzy & Brent Carmody to operate a Recreational/Event Center, for property located at 3070 Odessa Road, Kearney, Nebraska, 68845, described as Carmody Acres, Lot 1, situated in Section 33, Township 9, Range 17 West of the 6th p.m., Buffalo County, Nebraska with the following Resolution 2020-57. Upon roll call vote, the following Board members voted "Aye": Higgins, Loeffelholz, Klein, Kouba, Morrow, Reiter and McMullen. Motion declared carried.

RESOLUTION 2020-57

WHEREAS, Kinzy and Brent Carmody, Applicants, have filed for a Special Use Permit, located at 3070 Odessa Road, Kearney, Nebraska, 68845, with Buffalo County Clerk and/or Zoning Administrator.

WHEREAS, one application was filed October 21, 2020, to operate a Recreational/Event Center, to be situated on the following legal description: Carmody Acres, Lot 1, in Section 33, Township 9, Range 17 West of the Sixth Principal Meridian, Buffalo County, Nebraska, hereinafter referred to as the "subject property".

WHEREAS, on November 19, 2020, the Buffalo County Planning and Zoning Commission conducted a public hearing on such Special Use Permit and on a 7-0 vote with zero absent voted to forward this application to the County Commissioners, and

WHEREAS, on December 8, 2020, the Buffalo County Board of Commissioners held a public hearing on this Special Use Permit and,

WHEREAS, two exhibits are attached to the application:

1. The application of the Special Use Permit.
2. The site plan with future construction plans.

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 an all-weather road and is located about one-half mile north of the intersection of Odessa Road and U.S. Highway 30. It has adequate public access without need of additional public works services.
- Placement of 911 (Address) Signage needs to be placed at the north & south entrances of the subject property. From these two entrance areas, there appears to be enough parking area for 250, as disclosed on the application.
- The applicants will use a 1920's era barn as an event/gathering structure for receptions, gatherings, and trade/marketing area. Not all events on the subject property are to occur in that barn in that there may be outdoor weddings, small scale trade shows, and other gatherings.
- Future planned structures allowed in this special use permit include: a concrete pad with awning (Patio Area) built on to the west side of the barn and a grain bin Gazebo, to be built to the northwest of the barn.
- It is suggested that the operators of this special use permit give 24-hours' notification to Law Enforcement for events consisting of 250 people or more.

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:

1. Be compatible with and similar to the use permitted in the district, and
2. Not be a matter which should require re-zoning of the property, and
3. Not be detrimental to adjacent property, and
4. Not tend to depreciate the value of the surrounding structures or property, and
5. Be compatible with the stated intended use of the district, and
6. Not change the character of the district, and
7. 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 applicants' requested Special Use Permit, subject however to the following:

1. The use is to be designated a Recreational Use (Reception, Gathering Place) to be conducted on the subject property.
2. Applicants shall place 911 (Address) Signage at North & South Entrances on the subject property.
3. Future structures and improvements allowed under this special use permit, without need of additional zoning permit(s), shall include: a concrete pad with awning (patio area) on the west side of the barn and a grain bin gazebo, to the northwest of the barn.
4. The applicants are requested, but not required, to provide 24-hour notification to Law Enforcement of events occurring on the subject property.
5. All rules and regulations shall be 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.

Chairman McMullen opened the public hearing for a Code Amendment of Zoning Regulations, Permitted Special Uses under Section 5.34 of the Agricultural Residential District, regarding Mini-Storage and Personal Use Solar Arrays, **AND** a Subdivision Regulation code amendment of Block Requirements under Section 4.06. Deputy County Attorney Hoffmeister reviewed the proposed Code Amendments. No one else addressed the Board and Chairman McMullen closed the hearing at 9:43 A.M. Moved by Morrow and seconded by Kouba to approve the Code Amendment with the following Resolution 2020-58. Upon roll call vote, the following Board members voted "Aye": Morrow, Kouba, Higgins, Klein, Loeffelholz, Reiter and McMullen. Motion declared carried.

RESOLUTION 2020-58

WHEREAS, on November 19, 2020, the Buffalo County Planning and Zoning Commission held a public hearing concerning amendments to Buffalo County's Zoning Regulations of Permitted Special Uses under Section 5.34 of the Agricultural Residential District, regarding Mini-Storage and Personal Use Solar Arrays, **AND** a Subdivision Regulation code amendment of Block Requirements under Section 4.06.

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

WHEREAS, on December 8, 2020, this Board conducted a public hearing concerning a proposed amendment to Buffalo County's Zoning Regulations and no parties appeared to oppose such proposed amendments,

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:

To delete Section 5.32 (11), Mini Storage Facilities from the Agricultural Residential District as a use allowed by Special Use Permit, with alphabetical placement and renumbering done appropriately.

AND

To add Personal Solar Systems as a provision allowed by Special Use Permit in the Agricultural Residential District, with alphabetical placement and renumbering done appropriately.

AND

To change the language of Section 4.06, Subdivision Regulations, regarding Block Requirements as shown below:

Sec. 4.06 BLOCKS No block shall be longer than thirteen hundred twenty (1,320) feet between cross streets except where a major street(s), other man made barrier(s), lake, or natural barrier forms a boundary, or boundaries, of a block. This distance may be extended when topographical rise and fall of street does not exceed six (6) feet from highest elevation to lowest elevation of block measured from center of intersections of intersecting streets at opposite ends of the block.

REGULAR AGENDA

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

Moved by Higgins and seconded by Reiter to accept the low bid of \$681,625.05 from Gary Smith Construction Company Inc. for the Asphalt Overlay Projects for 2020-2021. Upon roll call vote, the following Board members voted "Aye": Higgins, Reiter, Klein, Kouba, Loeffelholz, Morrow and McMullen. Motion declared carried.

Moved by Reiter and seconded by Loeffelholz to authorize Chairman McMullen to sign on behalf of the County Board the Annual Certification Program Compliance for Nebraska Board of Public Roads Classification and Standards with the following Resolution 2020-59. (Commissioner Klein left the zoom meeting for this motion.) Upon roll call vote, the following Board members voted "Aye": Reiter, Loeffelholz, Higgins, Kouba, Morrow and McMullen. Absent: Klein. Motion declared carried.

RESOLUTION 2020-59

SIGNING OF THE YEAR-END CERTIFICATION OF COUNTY HIGHWAY SUPERINTENDENT FORM 2020

Whereas: State of Nebraska Statutes, sections 39-2302, and 39-2501 through 39-2505 details the requirements that must be met in order for a county to qualify for an annual Incentive Payment; and

Whereas: The State of Nebraska Department of Transportation (NDOT) requires that each county must annually certify (by December 31st of each year) the appointment of the County Highway Superintendent to the NDOT using the Year-End Certification of County Highway Superintendent; and

Whereas: The NDOT requires that such certification shall also include a copy of the meeting minutes showing the appointment of the County Highway Superintendent by their name as it appears on their License (if applicable), their License Number and Class of License (if applicable), the type of appointment, i.e., employed or under contract (consultant, or interlocal agreement with another county and/or incorporated municipality), and the beginning date of the appointment; and

Whereas: The NDOT also requires that such Year-End Certification of County Highway Superintendent form shall be signed by the County Board Chairperson and shall include a copy of a resolution of the County Board authorizing the signing of the Year-End Certification of County Highway Superintendent form by the County Board Chairperson.

Be it resolved that the County Board Chairperson of Buffalo County is hereby authorized to sign the attached Year-End Certification of County Highway Superintendent form.

Sheriff Neil Miller, Chief of Police Bryan Waugh, Lieutenant Robert Tubbs, Fire Administrator Jason Whalen and Tony Kosiba the Area Manager for Motorola Solution presented an overview on the City/County Public Safety Radio System project. No action was taken at this time.

Chairman McMullen called for Citizen's forum and no one addressed the Board.

Chairman McMullen asked if there was anything else to come before the Board at 10:27 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, December 22, 2020.