

**BUFFALO COUNTY BOARD OF SUPERVISORS
BUFFALO COUNTY BOARD OF EQUALIZATION
TUESDAY, MARCH 8, 2011
9:00 A.M.**

The Buffalo County Board of Supervisors and the Buffalo County Board of Equalization met on Tuesday, March 8, 2011 at 9:00 A.M and 10:30 A.M. Chairman Pierce called the meeting to order and led those present in the Pledge of Allegiance. The following Board members responded to roll call: Joseph Brayton, Kent Greder, Ivan Klein, William McMullen, Sherry Morrow and Richard Pierce. Absent: Horace Dannehl. Chairman Pierce 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 is posted at the back of the Board Room.

Posting and publishing gave notice of the meeting in advance, thereof. Notice of the meeting was simultaneously given to all Board members; and availability of the agenda was communicated in the advance notice and in the notice of this meeting. Said agenda was also furnished to all area news media. A copy of the acknowledgment and receipt of notice and agenda by the Board members is attached to these minutes. County Clerk Janice Giffin took all proceedings hereinafter shown while said meeting was open to the public. County Attorney Shawn Eatherton was present.

Chairman Pierce called for Citizen's forum. County Assessor Joe Woodward was present to visit with the Board about the Board of Equalization protest hearings. Woodward wanted to know if the Board would agree to waive property valuation protest hearings if the Assessor agreed with the taxpayer. Woodward will discuss this with the Deputy County Attorney Andrew Hoffmeister and come back to the Board with more detail. Ron Nielsen with the Rob Morris Masonic Lodge was present to ask the Board about the placement of a cornerstone on the Justice Center when it is completed. Details will be worked out at a later date.

CONSENT AGENDA

Chairman Pierce inquired if there was anything which needed to be removed from the Consent agenda. Moved by McMullen and seconded by Klein to approve the Consent Agenda as presented. Upon roll call vote, the following Board members voted "Aye" with the disclaimer of recusing themselves on any claim for themselves or for the benefit of any family member: McMullen, Klein, Brayton, Greder, Morrow and Pierce. Absent: Dannehl. None voted "Nay".

GENERAL COUNTY BUSINESS

1. Approve February 22, 2011 minutes
2. Accept reports
 - Buffalo County Treasurer February 2011 Fund Balance Report
 - Buffalo County Clerk of District Court February 2011 Report

JUSTICE CENTER PROJECT

Carl Gibbs from Beckenhauer Construction was present for updated reports on the Justice Center Project. No formal action was necessary at this time.

REGULAR AGENDA

Chairman Pierce reviewed the following correspondence with the Board. Nebraska Department of Roads notified the County that the February incentive payment would be coming in March. City of Kearney sent copies of the annexation of the Kearney RV Park & Campground, South of 11th Street and East of Avenue M. Government Matters newsletter was received. Public notice from U.S. Army Corps of Engineers for proposed new interchange located at I-80 and Cherry Avenue was received. Nebraska Department of Roads sent notice of correct load posting and bridge closure for public safety. Nebraska Department of Environmental Quality sent notice of application for transfer of permit and NMP Amendment Approval for Platte Valley Feeders, LLC Animal Feeding Operation. Chairman Pierce called on each Board member present for committee reports and recommendations.

Supervisor Morrow, Chairperson of the Budget committee reported that it is custom every few years to ask for Request for Proposal (RFP) for audit services to see what the market bears as far as cost and services provided. Moved by Morrow and seconded by Greder to set March 22, 2011 at 10:00 as a bid date for audit services with the RFP on the County website and on file with the County Clerk. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Brayton, Klein, McMullen and Pierce. Absent: Dannehl. Motion declared carried.

Discussion followed on request for special designated liquor license for Kearney Shooters Inc. Kevin Hibbs, owner/manager of Shooters was present. Chairman Pierce reviewed the Sheriff's office written report on the application. Hibbs stated that he would be responsible for ensuring that applicable laws, ordinances, rules and regulations are followed. Sheriff Neil Miller was also present and asked Hibbs how he would be able to control a wedding reception, noting the previous violations in 2007, 2009 and 2010. Sheriff

Miller stated that his report intentionally left no recommendation for the Board. Moved by Greder and seconded by McMullen to approve the application for the special designated liquor license for the event on April 30, 2011 and to forward that approval to the Nebraska Liquor Control Commission. Upon roll call vote, the following Board members voted "Aye": Greder, McMullen, Klein, Morrow and Pierce. Nay: Brayton. Absent: Dannehl. Motion declared carried.

Highway Superintendent Ron Sklenar and County Sheriff Neil Miller were present to discuss the special purchase of mobile radios for the Road Department and the Weed District. This would be considered a special purchase because there is an opportunity to save \$5,850.00 below the state contract pricing. An opportunity for others to submit price quotes has been advertised and no other price quotes were received.

Moved by Klein and seconded by McMullen to suspend the formal bidding process under Nebraska State Statute 23-3109 in order to take advantage of the cost savings. Upon roll call vote, the following Board members voted "Aye": Klein, McMullen, Brayton, Greder, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

Moved by Morrow and seconded by Brayton to authorize the special purchase of VHF Narrow Band Radios from Platte Valley Communications with the quantity pricing resulting from coordinating and combining multiple orders with other entities. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Greder, Klein, McMullen and Pierce. Absent: Dannehl. Motion declared carried.

Moved by McMullen and seconded by Klein to award the gravel bids to the following companies and defined Zones: Overton Sand & Gravel, Zones 1, 2, 3 and 5; T & F Sand & Gravel, Zones 4, 6 and 7; Broadfoot Sand & Gravel, Zones 10, 11, 12, 13, 14, 15, 16, 17, 19, 20 and 21; Mid-Nebraska Aggregates, Zones 18, 22, 23, 24, 25 and 26; Carl Whitney Sand and Gravel, Zones 8 and 9. Upon roll call vote, the following Board members voted "Aye": McMullen, Klein, Brayton, Greder, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

Moved by McMullen and seconded by Greder to set bid date of March 22, 2011 at 10:00 A.M. for Concrete Box Extension C10(1414). Upon roll call vote, the following Board members voted "Aye": McMullen, Greder, Brayton, Klein, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

Deputy County Attorney Andrew Hoffmeister was present for the following Highway Business.

Moved by McMullen and seconded by Greder to approve the following Resolution 2011-08 for acceptance of petition for access road in NE ¼ of NE ¼ of Section 16, Township 11 North, Range 18 West. Upon roll call vote, the following Board members voted "Aye": McMullen, Greder, Brayton, Klein, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

RESOLUTION 2011-08

WHEREAS, a Petition to open a road or other public or private way has been filed for access to property generally described as the Northeast Quarter of the Northeast Quarter of Section Sixteen (16), Township Eleven (11) North Range Eighteen (18), West of the 6th P.M., Buffalo County, Nebraska, hereinafter referred to as alleged "isolated land", which states that access to the isolated land is now or can be provided by private road of a width of less than two rods across the South half of the Northeast Quarter in the same section all lying north of Nebraska State Highway #40, and

WHEREAS, it would appear that this filing fulfills the minimal statutory requirements for this Board of commence public hearings as set forth in Neb.Rev.Stat. Sec. 39-1713, et seq., concerning access to isolated land, and

WHEREAS, this Board should set down a time and place to hold a hearing and give notice to interested parties as provided by law with notice of hearing being given to owners of the isolated land, the now alleged traversed parcel, and land abutting the east section line of Section Eleven with fifteen (15) days notice being given to these persons and with public posting in no less than three (3) public places in the county posted no less than ten (10) days prior to the hearing, and

WHEREAS, due to statutory timeframes of notice and scheduling of this hearing, this Board cannot hold the hearing on or within 30 days from today's date and can only set hearing at the soonest possible date following the 30 days after this Board's receipt of the application and giving of lawful notice to interested parties.

NOW THEREFORE BE IT RESOLVED that Buffalo County Board of Supervisors sets down April 12, 2011, at 10:00 o'clock, a.m. as date and time of public hearing for this Board sitting in the Buffalo County Courthouse, 16th Street & Central Avenue, Kearney, Nebraska, regarding the need and necessity of opening a road or other adequate access to the isolated land with notice as provided by law as specified above.

Moved by McMullen and seconded by Klein to approve Resolution 2011-09 and Resolution 2011-10 to set the public hearing for consideration of abandonment or vacation road petitions. Upon roll call vote, the following Board members voted "Aye": McMullen, Klein, Brayton, Greder, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

RESOLUTION 2011-09

WHEREAS, a Petition to vacate a road, alley, or other public way has been properly filed for the following described road, alley, and/or public way:

All of Township Road #370 located on, in, and between the South Section line of Section Two (2) and north section line of Section Eleven (11), Township Twelve (12), North, Range Thirteen (13) West of the 6th P.M., Buffalo County, Nebraska.

And,

WHEREAS, the Buffalo County Highway Superintendent has made a study and has recommended that said road be vacated; and

WHEREAS, more than four months ago, specifically November 4, 2010, an offer was made by Buffalo County to relinquish this road to the Cherry Creek Township and this Township has not responded to this offer; and

WHEREAS, it is now necessary to set this matter down for Public Hearing with notice to be given by: (1) publication of the proposed vacation or abandonment to be given by publication for three consecutive weeks and (2) copy of this resolute to owners of land adjoining this road given no less than two weeks in advance of the hearing by registered or certified mail, and

WHEREAS, following public hearing, this Board shall in the next meeting following the public hearing, or as soon thereafter as may be practicable, by resolution take action to vacate or abandon or refuse vacation or abandonment as in the judgment of the board the public good may require.

NOW THEREFORE BE IT RESOLVED that Buffalo County Board of Supervisors sets down April 12, 2011, at 10:00 o'clock, a.m. as date and time of public hearing regarding vacation or abandonment of this road and that this Resolution be published once each week for three consecutive weeks with other notice as provided by law.

RESOLUTION 2011-10

WHEREAS, a Petition to vacate a road, alley, or other public way has been properly filed for the following described road, alley, and/or public way:

The east to west section line of road accepted by the County Board in 1954 in Supervisors Minutes Book 15, Page 230 generally described as a road beginning at the center of the West line of Section Twenty-Four (24), Township Nine (9) North, Range Seventeen (17) West of the 6th P.M. Buffalo County, Nebraska that was established at a 40 feet in width "for a distance of approximately 1700 feet long to connect with Mr. Burkey's driveway."

And,

WHEREAS, the Buffalo County Highway Superintendent has made a study and has recommended that said road be vacated; and

WHEREAS, more than four months ago, specifically October 18, 2010, an offer was made by Buffalo County to relinquish this road to the Odessa Township and this Township has not responded to this offer; and

WHEREAS, it is now necessary to set this matter down for Public Hearing with notice to be given by: (1) publication of the proposed vacation or abandonment to be given by publication for three consecutive weeks and (2) copy of this resolute to owners of land adjoining this road given no less than two weeks in advance of the hearing by registered or certified mail, and

WHEREAS, following public hearing, this Board shall in the next meeting following the public hearing, or as soon thereafter as may be practicable, by resolution take action to vacate or abandon or refuse vacation or abandonment as in the judgment of the board the public good may require.

NOW THEREFORE BE IT RESOLVED that Buffalo County Board of Supervisors sets down April 12, 2011, at 10:00 o'clock, a.m. as date and time of public hearing regarding vacation or abandonment of this road and that this Resolution be published once each week for three consecutive weeks with other notice as provided by law.

Weed Committee Chairman Klein introduced the new Weed Superintendent Mitch Huxoll. Huxoll started to work for Buffalo County on March 1, 2011. Discussion was held on the current weed spraying truck and it was moved by Klein and seconded by McMullen to set a bid date of March 22, 2011 at 10:15 A.M. for one new 2011 Cab Style Cab & Chassis with a one ton rating truck. Upon roll call vote, the following Board members voted "Aye": Klein, McMullen, Brayton, Greder, Morrow and Pierce. Absent: Dannehl. Motion declared carried.

Moved by McMullen and seconded by Klein to recess the regular meeting of the Board of Supervisors at 10:35 A.M. and reconvene as a Board of Equalization. Upon voice vote all Board Members present voted "Aye". None voted "Nay". Motion declared carried.

BOARD OF EQUALIZATION

Chairman Pierce called the Board of Equalization to order in open session. County Assessor Joe Woodward was present.

Moved by McMullen and seconded by Morrow to approve tax list correction 3732 as submitted by County Assessor Joe Woodward. Upon roll call vote, the following Board members voted "Aye": McMullen, Morrow, Brayton, Greder, Klein and Pierce. Absent: Dannehl. Motion declared carried.

Moved by Greder and seconded by Klein to recess the Board of Equalization at 10:37 A.M. and to return to the regular meeting of the Board of Supervisors. Upon voice vote all Board Members present voted "Aye". None voted "Nay". Motion declared carried.

ZONING

Chairman Pierce opened the Zoning Agenda items at 11:00 A.M. Present were Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Melodie Bellamy and Zoning Administrator LeAnn Klein.

Trenton Snow, on behalf of the applicants Perry and Mary Kenney and Kenney Land Corporation, requested the Administrative Subdivision for property described as part in the S ½ of the SW1/4 of Section 34, Township 10 North, Range 17 West of the 6th p.m. Applicants Perry and Mary Kenney were present. No one else was present and Chairman Pierce closed the hearing at 11:02 A.M.

Moved by Klein and seconded by Morrow to approve the Kenney Acres Administrative Subdivision with the following Resolution 2011-11. Upon roll call vote, the following Board members voted "Aye": Klein, Morrow, Brayton, Greder, McMullen and Pierce. Absent: Dannehl. Motion declared carried.

RESOLUTION 2011-11

WHEREAS, Perry and Mary Kenney, and Kenney Land Corp., a Nebraska business corporation, hereinafter referred to as "applicant" filed for an administrative Subdivision to be known as "Kenney Acres", with the Buffalo County Clerk and/or Zoning Administrator, and

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

WHEREAS, on March 8, 2011, this Board conducted a public hearing and finds:

1. The proposed Kenney Acres Administrative Subdivision is located in the 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. 115th Road, a Buffalo County section line open public road abuts the proposed subdivision. The width of that 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 applicants.
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 "KENNEY ACRES", an administrative subdivision being in part of the South half of the Southwest Quarter (S1/2SW1/4) of Section Thirty-Four (34), Township Ten (10), Range Seventeen (17) West of the 6th 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.

Chairman Pierce opened the public hearing for a special use permit filed by Dawson Public Power for a 162' radio tower and communications hut at 11:03 A.M. Ben Mitchell, electrical engineer for Dawson Public Power was present. No one else was present to address the Board and the hearing was closed at 11:05 A.M. Moved by Morrow and seconded by Greder to approve the special use permit with the following Resolution 2011-12. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Brayton, Klein, McMullen and Pierce. Absent: Dannehl. Motion declared carried.

RESOLUTION 2011-12

WHEREAS, application for a special use permit was filed by Dawson Public Power District (DPPD) for property hereinafter described as the "subject property". The purpose of the special use permit was to place a 162 foot radio tower and servicing communications structure for the tower in the AGR District on an existing substation, and

WHEREAS, on February 17, 2011, the Buffalo County Planning and Zoning Commission following public hearing with notice as required recommended approval of such proposed special use permit with no limitations and/or conditions all as set forth in minutes of such Commission which this Board has reviewed, and

WHEREAS, no protest(s) against such special use permit have been filed with the Buffalo County Clerk within seven days of conclusion of public hearing of the Planning and Zoning Commission as allowed under Sec. 11.4, and

WHEREAS, on March 8, 2011, this Board conducted a public hearing considering this special use permit as filed together with all attachments thereto, with the same being incorporated into these minutes by reference thereto, and finds that special use permit as submitted is:

1. 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. Is in accordance with the Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS that application sought by DPPD for special use to reduce minimum lot size for utility usage for a lot described as the subject property is and shall be approved.

BE IT FURTHER RESOLVED THAT the subject property shall be described as:

A tract of land described as follows: Referring to the Southwest corner of the Northwest Quarter (NW ¼) of Section Four (4), Township Eight (8) North, Range Eighteen (18), West of the 6th P.M., Buffalo County, Nebraska, thence easterly on the south line of said Northwest Quarter (NW ¼) a distance of 805.0 feet to the place of beginning; thence continuing easterly on said south line a distance of 300.0 feet to a point; thence with a deflection angle to the left of 90°00' a distance of 233.0 feet to a point; thence westerly parallel with the south line of said Northwest Quarter (NW ¼) a distance of 300.0 feet to a point; thence southerly parallel with the east line of said tract a distance of 233.0 feet to the place of beginning. Containing 1.605 acres more or less of which 0.227 acres more or less are presently being used for road purposes.

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

Chairman Pierce asked if there was anything else to come before the Board at 11:07 A.M. before he declared the meeting adjourned until the regular meeting on Tuesday, March 22, 2011 at 9:00 A.M.

Richard Pierce Chairman
Buffalo County Board of Supervisors

ATTEST:
(SEAL)

Janice I. Giffin
Buffalo County Clerk