

**BUFFALO COUNTY BOARD OF SUPERVISORS  
BUFFALO COUNTY BOARD OF EQUALIZATION  
TUESDAY, SEPTEMBER 10, 2013  
9:00 A.M**

The Buffalo County Board of Supervisors and the Buffalo County Board of Equalization met on Tuesday, September 10, 2013 at 9:00 A.M. and 10:15 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, Kent Greder, Ivan Klein, Sherry Morrow, Dennis Reiter and William McMullen. 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 Reiter and seconded by Biehl to approve the August 27, 2013 Board meeting minutes. Upon roll call vote, the following Board members voted "Aye": Reiter, Biehl, Brayton, Greder, Klein, Morrow and McMullen. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Klein to accept the Clerk of the District Court August 2013 Fee Report and the County Treasurer August 2013 Fund Balance Report. Upon roll call vote, the following Board members voted "Aye": Morrow, Klein, Biehl, Brayton, Greder, Reiter and McMullen. None voted "Nay". Motion declared carried.

**COURTHOUSE RENOVATIONS**

Job Superintendent Joey Thoene and Project Manager Steve Gaasch from Beckenhauer Construction were present to update the Board on the Phases 4-7 Courthouse Renovation Projects. Gaasch presented the Contract Change Order 6 of the Phase 4-7 Courthouse Renovation Projects for the Chairman's signature. This Change Order is a compilation of previously approved Change Order Requests; therefore no action was necessary.

**REGULAR AGENDA**

Chairman McMullen reviewed the following correspondence. Nebraska Association of County Officials sent a copy of the revised open meetings act. Correspondence from NIRMA included information on the Annual Membership Meeting and the nomination information for the election of NIRMA Board members. The Fillmore County Clerk sent information on one of the nominees to the NIRMA Board. Buffalo County Community Partners is requesting a Buffalo County Board of Supervisors member to serve on their Board according to the bylaws of Community Partners. The Nebraska Pipeline Association sent an invitation to a pipeline safety program. Duane and Linda Bond notified the Board that they will be moving from the home that they currently rent from the County. The County Employee Appreciation Picnic has been scheduled for Thursday October 8, 2013 at the American Legion. Chairman McMullen called on each Board member present for committee reports and recommendations.

County Sheriff Neil Miller was present to review the 911 Service Surcharge rates. Moved by Klein and seconded by Brayton to approve the following Resolution 2013-42 to confirm the rate of service. Upon roll call vote, the following Board members voted "Aye": Klein, Brayton, Biehl, Greder, Morrow, Reiter and McMullen. None voted "Nay". Motion declared carried.

**RESOLUTION 2013-42**

**A RESOLUTION CONFIRMING THE RATE OF THE SERVICE SURCHARGE FOR 911 SERVICE COSTS FOR BUFFALO COUNTY, NEBRASKA**

WHEREAS, a governing body incurring costs for 911 service may impose a uniform service surcharge on each telephone number or functional equivalent of service users whose primary place of use is within the governing body's 911 service area; and

WHEREAS, the County of Buffalo has previously established designated 911 and enhanced 911 service areas; and

WHEREAS, the County of Buffalo incurs non-recurring or recurring charges for the installation, maintenance and operation of 911 services; and

WHEREAS, the Buffalo County Board of Supervisors has previously set the uniform surcharge at the rate of \$.65 per month on each telephone number or functional equivalent of service users whose primary place of use is within Buffalo County's designated 911 and enhanced 911 service areas.

NOW, THEREFORE, BE IT RESOLVED that the Buffalo County Board of Supervisors hereby confirms the uniform service surcharge of \$.65 per month on each telephone number or functional equivalent of service users whose primary place of use is within Buffalo County's designated 911 and enhanced 911 service areas is hereby established. Said surcharge was established in 1996 and shall remain in effect until such time as said surcharge is modified by subsequent action of the Buffalo County Board of Supervisors

Moved by Brayton and seconded by Klein to approve the fiscal year 2012-2013 inventory statements filed by all of the County Officials except the Probation office. All inventory statements will be filed with the County Clerk as a public record. The Probation office will have their inventory filed for approval at the next Board meeting on September 24, 2013. Upon roll call vote, the following Board members voted "Aye": Brayton, Klein, Biehl, Greder, Morrow, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Greder to approve the addition of pledged collateral for the Buffalo County Clerk in the amount of \$100,000.00 at the Platte Valley State Bank. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Greder to approve the addition of pledged collateral for the Buffalo County Treasurer in the amount of \$17,000,000.00 at the Platte Valley State Bank. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Greder to approve the addition of pledged collateral for the Buffalo County Treasurer in the amount of \$400,000.00 at the Exchange Bank. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Chairman McMullen announced that the mail services contract decision will be tabled until September 24, 2013.

Moved by Brayton and seconded by Klein to enter into Executive Session to discuss contract negotiations at 9:32 A.M. In addition to Board members responding to roll call, County Attorney Shawn Eatherton was present. Deputy County Attorney Andrew Hoffmeister joined the meeting at 9:39 A.M. Upon roll call vote, the following Board members voted "Aye": Brayton, Klein, Biehl, Greder, Morrow, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Greder and seconded by Reiter to move out of Executive Session at 9:49 A.M. and resume the open meeting. Upon roll call vote, the following Board members voted "Aye": Greder, Reiter, Biehl, Brayton, Klein, Morrow and McMullen. None voted "Nay". Motion declared carried. (Short break in the meeting.)

Chairman McMullen opened the public hearings to approve the 2013-2014 Fiscal Year Budget and approve the property tax requests for fiscal year 2013-2014 at 10:15 A.M.

The Information regarding the need to create a Buffalo County Highway Bridge Buyback Program Fund, Numerical Fund Code #650 was discussed. Moved by Klein and seconded by Brayton that the fund be created under authority of the following Resolution 2013-43. Upon roll call vote, the following Board members voted "Aye": Klein, Brayton, Biehl, Greder, Morrow, Reiter and McMullen. None voted "Nay". Motion declared carried.

#### **RESOLUTION 2013-43**

WHEREAS, Nebraska Legislature passed and approved LB 98 in 2011 (39-1307) providing for a buyback program between the State of Nebraska and Nebraska Counties.

WHEREAS, Buffalo County has signed an agreement with the Department of Roads to participate in this program and plan to receive state money as of March 2014 to be used only for construction, reconstruction, etc. on road projects and these funds cannot be used for routine maintenance.

WHEREAS, it is necessary and proper that Buffalo County create a budgetary fund for the accounting of the receipts and the expenditures of said fund. Fund # 650 was assigned by the State Auditor's Office to the Treasurers and Highway Departments for the "Highway Bridge Buyback Program Fund."

NOW THEREFORE BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS THAT Buffalo County creates a fund for Highway Bridge Buyback Program Fund, to be known as "Highway Bridge Buyback Program Fund" numbered #650 on Buffalo County's Accounting and Budgeting System.

After review by the Budget Committee, it was moved by Morrow and seconded by Greder to approve an additional 1% Board approved increase in the prior year's budgeted restricted funds subject to limitation as allowed by law. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Brayton and seconded by Morrow to authorize petty cash funds with the approval of the following Resolution 2013-44. Upon roll call vote, the following Board members voted "Aye": Brayton, Morrow, Biehl, Greder, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

#### **RESOLUTION 2013-44**

We, the Buffalo County Board of Supervisors, authorize petty cash funds to be operated by the Sheriff's Office in the amount of \$2,500.00; the County Attorney's Office in the amount of \$1,500.00; the Buffalo County Board of Supervisors in the amount of \$16,000.00; the Probation Office in the amount of \$50.00; the Public Defender's Office in the amount of \$2,300.00; the Clerk of the District Court in the amount of \$1,000.00; Veteran's Service Office in the amount of \$10,000.00; the County Court Office in the amount of \$50.00, and Extension in the amount of \$2,000.00.

Carol Dart was present to address the Board about the Kearney/Buffalo County CASA program and their budget request. Dart read a prepared statement regarding the CASA program and the financial needs of that program. Moved by Greder and seconded by Brayton to approve Buffalo County Budget for the fiscal year 2013-2014 with the approval of the following Resolution 2013-45. Upon roll call vote, the following Board members voted "Aye": Greder, Brayton, Morrow, Biehl, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

### **RESOLUTION 2013-45**

#### **RESOLUTION OF ADOPTION AND APPROPRIATIONS**

WHEREAS, a proposed County Budget for the Fiscal Year July 1, 2013 to June 30, 2014, prepared by the Budget Making Authority, was transmitted to the Buffalo County Board of Supervisors on the 10<sup>th</sup> day of September 2013.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Buffalo County, Nebraska as follows:

SECTION 1. That the budget for the Fiscal Year July 1, 2013 to June 30, 2014 as categorically evidenced by the Budget Document is, and the same hereby is, adopted as the budget for Buffalo County for said Fiscal Year.

SECTION 2. That the offices, departments, activities, and institutions herein named are hereby authorized to expend the amounts herein appropriated to them during the fiscal year beginning July 1, 2013 and ending June 30, 2014.

SECTION 3. That the income necessary to finance the appropriations made and expenditures authorized shall be provided out of the unencumbered cash balance in each fund, revenues other than taxation to be collected during the fiscal year in each fund, and tax levy requirements for each fund.

Moved by Greder and seconded by Morrow to approve Property Tax Request for the fiscal year 2013-2014 with the approval of the following Resolution 2013-46. Upon roll call vote, the following Board members voted "Aye": Greder, Morrow, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

### **RESOLUTION 2013-46**

WHEREAS, Nebraska Revised Statue 77-1601.02 provides that the property tax request for the prior year shall be the property tax request for the current year for purposes of the levy set by the County Board of Equalization unless the Governing Body of the County of Buffalo passes by a majority vote a resolution or ordinance setting the tax request at a different amount; and

WHEREAS, a special public hearing was held as required by law to hear and consider comments concerning the property tax request; and

WHEREAS, it is in the best interest of the County of Buffalo that the property tax request for the current year be a different amount than the property tax request for the prior year.

NOW, THEREFORE the Governing Body of the County of Buffalo, by a majority vote, resolves that the 2013-2014 property tax requests be set and as follows:

FUND	2013-2014 Proposed Property Tax Request
General	15,798,935.39
Veteran's Aid	39,444.28
Bond	1,616,024.31 (outside limit)
TOTAL	17,454,403.98

Moved by Brayton and seconded by Morrow to recess the regular meeting of the Board of Supervisors at 10:47 A.M. and reconvene as a Board of Equalization. Upon roll call vote, the following Board members voted "Aye": Brayton, Morrow, Biehl, Greder, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

### **BOARD OF EQUALIZATION**

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

Moved by Greder and seconded by Morrow to approve Tax List Corrections numbered 3905 through 3926 submitted by County Assessor Barber. Upon roll call vote, the following Board members voted "Aye": Greder, Morrow, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Reiter and seconded by Klein to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Sidwell for Evangelical Lutheran Good Samaritan Society Home Health of Central Nebraska on two 2011 Chevrolet Impalas, 2008 Chevrolet Malibu and two 2012 Chevrolet Malibu's. Upon roll call vote, the following Board members voted "Aye": Reiter, Klein, Biehl, Brayton, Greder, Morrow and McMullen. None voted "Nay". Motion declared carried.

Moved by Greder and seconded by Morrow to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Sidwell for Benedictine Sisters on a 2007 Pontiac. Upon roll call vote, the following Board members voted "Aye": Greder, Morrow, Biehl, Brayton, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Klein and seconded by Biehl to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Sidwell for Evangelical Lutheran Good Samaritan Society on a 2010 Ford van. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Greder, Reiter and McMullen. Abstain: Morrow. None voted "Nay". Motion declared carried.

Moved by Greder and seconded by Biehl to approve Motor Vehicle Tax Exemption as indicated on the application by County Treasurer Sidwell for Kearney Family YMCA on a 2008 Buck Dandy trailer. Upon roll call vote, the following Board members voted "Aye": Greder, Biehl, Brayton, Klein, Morrow, Reiter and McMullen. None voted "Nay". Motion declared carried.

Moved by Greder and seconded by Reiter to adjourn the Board of Equalization at 10:54 A.M. Upon roll call vote, the following Board members voted "Aye": Greder, Reiter, Biehl, Brayton, Klein, Morrow, and McMullen. None voted "Nay". Motion declared carried.

## **ZONING**

Chairman McMullen opened the Zoning hearings for Administrative Subdivisions at 11:00 A.M. Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein, Mitch Humphrey, Peggy Garrels and Gary Rouse were present.

Mitch Humphrey and Deputy County Attorney Andy Hoffmeister reviewed both of the following applications concurrently.

Mitch Humphrey on behalf of Peggy E. Garrels, successor trustee of the George L. Rouse, Sr. Revocable Trust, filed a request for an Administrative Subdivision for property described as part of the Northeast of the Southeast Quarter (NE1/4SE1/4) located in Section 1, Township 8 North, Range 15, West of the 6<sup>th</sup> P.M., Buffalo County to be known as Rouse Second Administrative Subdivision.

Mitch Humphrey on behalf of Peggy E. Garrels, successor trustee of the George L. Rouse, Sr. Revocable Trust and Mark L. B. Garrels and Peggy E. Garrels, filed a request for an Administrative Subdivision for property described as part of the Northeast of the Southeast Quarter (NE1/4SE1/4) located in Section 1, Township 8 North, Range 15, West of the 6<sup>th</sup> P.M., Buffalo County to be known as Rouse Third Administrative Subdivision. Chairman McMullen closed the public hearing for both Administrative Subdivisions at 11:27 A.M.

Moved by Brayton and seconded by Morrow to approve the Rouse Second Administrative Subdivision application with the following Resolution 2013-47. Upon roll call vote, the following Board members voted "Aye": Brayton, Morrow, Biehl, Greder, Klein, Reiter and McMullen. None voted "Nay". Motion declared carried.

## **RESOLUTION 2013-47**

WHEREAS, Mitchell Humphrey, Licensed Surveyor, on behalf Peggy E. Garrels, successor Trustee of George L. Rouse, Sr. Revocable Trust, owner, hereinafter referred to as "applicant" has filed for an administrative Subdivision to be known as "ROUSE SECOND 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 September 10, 2013, this Board conducted a public hearing and finds:

The proposed ROUSE ADMINISTRATIVE SECOND SUBDIVISION is located in the Agricultural (AG) Zoning District for Buffalo County, Nebraska. The AG Zoning District requires that lots have a minimum lot size of three (3) acres. Lots One (1) and Two (2) of this subdivision are of insufficient size and non-compliant with the zoning regulations of the Agricultural District.

There is now pending in the Buffalo County Court a legal proceeding to make division of this land to settle an estate. Any judicial creation of this tract would be exempted, as concerns its creation, from Buffalo County's subdivision regulation. The Board desires that rather than judicial action, which could be creation of a north one half and south one half of a parcel of land that now presently exists, that land subdivision of land be created in a manner that is consistent with the subdivision processes. That would be true, even in this situation where the lots as proposed are not now in compliance with the AG District's minimum lot size, but could be compliant in any other type of zoning district. Additionally any residential use of the two proposed lots, as they are now situated in the

AG District, would be prohibited due to 1,000 foot minimum distancing requirement. That is because there are residences located in the Rouse Administrative Subdivision which was land in part owned by an applicant. That would mean that unless zoning map amendment occurs to change is property from the Agricultural District to another zoning district, its uses are severely restricted.

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, excepting two items: (1) it has two lots that are not of sufficient lot size for the zoning district in which it now is situated and (2) this subdivision is part of remnant land following the creation of another subdivision, Rouse Administrative Subdivision, in that it is comprised of less than ten (10) acres. As such, Buffalo County's Zoning Regulations should have required that this should have been subdivided when Rouse Administrative Subdivision was created and it should not have been done in a separate administrative subdivision. That would mean that the proposed Rouse subdivisions should have been presented as one overall large scale subdivision and not done in three separate subdivisions.

The Board does not deem it proper to vacate Rouse Administrative Subdivision due to this oversight in that this plan of development is consistent with Buffalo County's Comprehensive Plan of development. This subdivision probably amounts to a court consent decree for division of the property. A court ordered division of property is exempted from this county's subdivision regulations. This is a unique situation. The Rouse subdivisions are several "Minor Subdivision Changes" in lands that were previously broken up into several metes and bounds lots. What is now proposed is a better plan of development, assuming certain zoning district changes occur that will emulate desired a pattern of harmonious growth and development.

The application for subdivision, which this Board incorporates into this Resolution by this reference to it, states that the present use of the property is Agricultural and that the desired use of the property is Commercial. Implicitly, this infers that the applicant expects and anticipates a change of zoning district for this property.

State Highway #10 abuts the proposed subdivision. It is a section line road. As it is now laid out it fulfills minimum required street widths and no additional right of way dedication is required.

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.

This proposed administrative subdivision should be approved with the provision that there be a use restriction on proposed lots to be created due to the property's now being situated within the AG District.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS in regular session with a quorum present, that the plat of "ROUSE SECOND ADMINISTRATIVE SUBDIVISION", an administrative subdivision being part of the North Half of the Southeast Quarter (N1/2SE1/4) of Section One (1), Township Eight (8), North, Range Fifteen (15), 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.

BE IT FURTHER RESOLVED, that approval of this subdivision is conditioned upon a successful change of zoning district of the lands situated within this subdivision to any zoning district that allows lots to exist at a size indicated in this subdivision.

FURTHER RESOLVED THAT, due to minimum distancing standards of residences in the AG District that no residential use zoning permits shall be authorized for properties within this subdivision.

RESOLVED FURTHER THAT the applicants who were also in attendance at the public hearing and by their application for this subdivision have consented to the terms and conditions placed upon lands within ROUSE SECOND ADMINISTRATIVE SUBDIVISION.

FURTHER RESOLVED THAT A COPY of this resolution, in full, shall accompany the filing of ROUSE SECOND ADMINISTRATIVE SUBDIVISION, when filed it with the Buffalo County Register of Deeds.

Moved by Klein and seconded by Reiter to approve the Rouse Third Administrative Subdivision application with the following Resolution 2013-48. Upon roll call vote, the following Board members voted "Aye": Klein, Reiter, Biehl, Brayton, Greder, Morrow, and McMullen. None voted "Nay". Motion declared carried.

### **RESOLUTION 2013-48**

WHEREAS, Mitchell Humphrey, Licensed Surveyor, on behalf of Mark L.B. Garrels and Peggy E. Garrels, husband and wife, and Peggy E. Garrels, Successor Trustee, of George L. Rouse, Sr. Revocable Trust, owners, hereinafter referred to as "applicant" have filed for an administrative subdivision to be known as "ROUSE THIRD 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 September 10, 2013, this Board conducted a public hearing and finds:

The proposed ROUSE THIRD ADMINISTRATIVE SUBDIVISION is in the Commercial (C) Zoning District for Buffalo County, Nebraska, all as detailed in the Zoning Map Pamphlet and County Zoning Map, and the size of the lot after subdividing complies with the minimum lot size requirements of that Zoning District.

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.

A section line abuts the proposed subdivision, now known as Nebraska State Highway #10. The width of this road as now laid out complies with minimum width standards required by the Buffalo County Subdivision Resolution.

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.

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 "ROUSE THIRD ADMINISTRATIVE SUBDIVISION", an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Fractional Section One (1), Township Eight (8), North, Range Fifteen (15), 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, subject to severed mineral rights of record.

RESOLVED FURTHER, that the that the County Clerk shall make amendment to Buffalo County Zoning District Map originally adopted on or about September 10, 2002, and the Zoning Pamphlet, to reflect that Lot One (1), ROUSE THIRD ADMINISTRATIVE SUBDIVISION, an administrative subdivision being part of the Northeast Quarter of the Southeast Quarter (NE1/4SE1/4) of Fractional Section One (1), Township Eight (8), North, Range Fifteen (15), West of the Sixth Principal Meridian, Buffalo County, Nebraska, is in the Commercial "C" Zoning District and a copy of this resolution shall be filed against the same.

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 11:34 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, September 24, 2013.