

**BUFFALO COUNTY BOARD OF SUPERVISORS  
TUESDAY, DECEMBER 9, 2014  
9:00 A.M.**

The Buffalo County Board of Supervisors met on Tuesday, December 9, 2014 at 9:00 A.M. Chairman McMullen called the meeting to order and led those present in the Pledge of Allegiance. The following Board members responded to roll call: Francis Biehl, Joseph Brayton, Ivan Klein, Sherry Morrow, Dennis Reiter and William McMullen. Absent: Kent Greder. A copy of the acknowledgment and receipt of notice and agenda by the Board of Supervisors is attached to these minutes. Chairman McMullen announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review. County Clerk Janice Giffin took all proceedings hereinafter shown; while the convened meeting was open to the public. County Attorney Shawn Eatherton and Deputy County Attorney Andrew Hoffmeister were present.

**REGULAR AGENDA**

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

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

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

Moved by Morrow and seconded by Brayton to accept the Community Action Partnership of Mid-Nebraska R.Y.D.E. Report for October 2014. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Brayton to approve the following payroll claim submitted by the County Clerk. These claims include the net payroll for the employees and the payroll vendor payments. Upon roll call vote, the following Board members voted "Aye": Morrow, Brayton, Biehl, Klein, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

<b>GENERAL FUND</b>			
NET EMPLOYEE PAYROLL	I	PAY AMOUNT	963.13
RETIREMENT PLANS DIV AMERITAS	I	PREMIUM	130.28
FIRST NATIONAL BANK	T	FEDERAL TAXES	217.35
STATE OF NEBRASKA	T	STATE TAXES	14.00

Chairman McMullen reviewed the following correspondence. Bob Charlesworth sent correspondence to inform the Board about the ongoing issue with Blue Cross Blue Shield of Nebraska and CHI Health Good Samaritan. Blue Cross Blue Shield sent a notice to request that Buffalo County officials send an email to CHI requesting that the parties meet at the negotiation table to resolve the issues between the hospital and the insurance company. State of Nebraska Emergency Management sent notification of the closeout of FEMA Disaster projects 4014 and 1924. Department of Environmental Quality has reviewed the 2013 Disposal Fee Rebate Program and has approved participation in the Program for 2014. Chairman McMullen called on each Board member present for committee reports and recommendations.

**ZONING**

Chairman McMullen opened the Zoning hearings at 9:15 A.M. Zoning Administrator LeAnn Klein was present. Trenton Snow on behalf of Richard Williams filed a request for a zoning map amendment for property described as part of the Southwest Quarter of the Southeast Quarter of Section 20, Township 10 North, Range 18 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska from Agricultural to Agricultural-Residential. Trenton Snow and Richard Williams reviewed the zoning map amendment application. No one else addressed the Board. Chairman McMullen closed the hearing at 9:18 A.M. Moved by Reiter and seconded by Brayton to approve the Zoning Map Amendment application with the following Resolution 2014-70. Upon roll call vote, the following Board members voted "Aye": Reiter, Brayton, Biehl, Klein, Morrow and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

**RESOLUTION 2014-70**

WHEREAS, Trenton Snow, Licensed Surveyor, on behalf of Richard Williams, owner, has applied for zoning map amendment with the Buffalo County Zoning Administrator requesting that the following described real property, hereinafter referred to the "subject property", to-wit:

a tract of land being part of the Southwest Quarter of the Southeast Quarter (SW ¼ SE ¼) of Section Twenty (20), Township Ten (10) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Beginning at the Southwest Corner of the Southeast Quarter of said Section 20 and assuming the South line of said Southeast Quarter as bearing N 89° 21' E and all bearings contained herein are relative thereto; thence N 89° 21' E and on aforesaid South line a distance of 388.0 feet, thence N 04°24' W a distance of 526.5 feet; thence S 89° 21' W parallel with the aforesaid South line a distance of 348.0 feet, more or less, to a point on the West line of said Southeast Quarter; thence southerly on the aforesaid West line to the place of beginning. Containing 4.44 acres, more or less., hereinafter referred to as the "subject property" be changed from the Agricultural "AG" District to the Agricultural Residential "AGR" District, and

WHEREAS, this is solely a zoning map amendment request and the subject property would or could have other land use regulations that would apply to it above and beyond the zoning map amendment sought at this meeting, and

WHEREAS, on November 20, 2014, the Buffalo County Planning and Zoning Commission following public hearing with notice as required recommended approval of such proposed change in zoning on a 7-0 vote with no conditions placed on the proposed map amendment or anyone speaking in opposition to the amendment, and

WHEREAS, on December 9, 2014, this Board conducted a public hearing and considered this Zoning Map Amendment, the minutes of the Planning and Zoning Commission considering this amendment, Buffalo County's Zoning Regulations, and Comprehensive Plan, and finds:

- a. No one voiced opposition against the amendment.
- b. That such change in zoning designation would have minimal adverse effect on surrounding properties.
- c. That then intended uses of the Agricultural Residential District is consistent with property use in the surrounding area.
- d. This amendment is consistent with the growth and development of Buffalo County and the overall Comprehensive Plan adopted by Buffalo County, Nebraska, and
- e. The subject property is situated close to already existing public improvements, such as paved roads and sufficient utilities so that the map amendment with its attendant changes in uses will not cause additional public costs to function effectively.

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

WHEREAS, the votes in favor of adoption of this resolution need only be by majority of members to this Board of Supervisors.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS that application for zoning map amendment to change the subject property from the Agricultural "AG" District to the Agricultural Residential "AGR" District is approved, and

BE IT FURTHER RESOLVED that a copy of this Resolution shall be filed in the Register of Deed's office against the subject property and that the County Clerk shall make amendment to Buffalo County Zoning District Map originally adopted on or about September 10, 2002.

Trenton Snow on behalf of Richard J. & Beverly A. Williams filed a request for a an administrative subdivision for property described as part of the Southwest Quarter of the Southeast Quarter of Section 20, Township 10 North, Range 18 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska to be known as Williams Acres. Trenton Snow reviewed the administrative subdivision application. No one else addressed the Board. Chairman McMullen closed the hearing at 9:21 A.M. Moved by Biehl and seconded by Klein to approve the Administrative Subdivision application with the following Resolution 2014-71. Upon roll call vote, the following Board members voted "Aye": Biehl, Klein, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

### **RESOLUTION 2014-71**

WHEREAS, Trenton Snow, Licensed Surveyor, on behalf of Richard J. and Beverly A. Williams, owners hereinafter referred to as "applicant" have filed for an administrative Subdivision to be known as "WILLIAMS ACRES" with the Buffalo County Clerk and/or Zoning Administrator, and

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

WHEREAS, on December 9, 2014, this Board conducted a public hearing and now finds:

1. The proposed WILLIAMS ACRES is in the Agricultural Residential (AGR) Zoning District for Buffalo County, Nebraska and the size of the lots after subdividing complies with the minimum lot size requirements of that Zoning District Agricultural Residential (AGR) 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. 145th Road is a county maintained open public road that abuts the proposed subdivision. The width of this road after dedication complies with minimum width standards required by the Buffalo County Subdivision Resolution.
4. Title search paperwork has been provided to the Buffalo County Attorney's Office and that office has cleared title as concerns Buffalo County based upon the title search documents delivered to that office by applicant.

5. This proposed administrative subdivision should be approved.

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS in regular session with a quorum present, that the plat of "WILLIAMS ACRES", an administrative subdivision being part of the Southwest Quarter of the Southeast Quarter (SW1/4SE1/4) of Section Twenty (20), Township Ten (10) North, Range Eighteen (18), 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.

Bryan Newcomb filed a request for an amendment of a Special Use Permit that was granted in 2011. This amendment request is for an addition to an existing building for an agriculture service establishment for property described as Lot 3, H.R. Subdivision, a subdivision being part of the North half of the Southwest Quarter of Section 10, Township 9 North, Range 15 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska. Applicant Bryan Newcomb and BD Construction representatives Kent Cordes and Jim Hoppenstedt were present to review the application. Richard Burkey and Helen Burkey addressed the Board in opposition of the special use permit amendment. Chairman McMullen closed the hearing at 10:04 A.M. Moved by Biehl and seconded by Brayton to approve the amendment of this special use permit application with the following Resolution 2011-065A. Upon roll call vote, the following Board members voted "Aye": Biehl, Brayton, Klein, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

### **RESOLUTION 2011-065A**

WHEREAS, Bryan Newcomb, Applicant, has filed an amendment to Application for Special Use Permit with Buffalo County Clerk requesting a change regarding a previously issued special permit in AG District for a commercial use for property described as:

Lot Three (3), H.R. Subdivision, a subdivision being part of the North half of the Southwest Quarter N1/2SW1/4) of Section Ten (10), Township Nine (9) North, Range Fifteen (15) West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska hereinafter referred to as the "subject property", and

WHEREAS, previously this Board had approved a special use permit in Resolution #2011-065 for an agricultural service facility. This amendment requests that the applicant be allowed to add a 100 foot by 90 foot addition to the existing structure on the premises, and

WHEREAS, on November 20, 2014, following public hearing on amendment to the special use permit application, the Buffalo County Planning and Zoning Commission recommended amendment to the previously issued special use permit, with applicant being allowed to add a 100 x 90 foot structure to the existing structure on the premises, and

WHEREAS, on December 9, 2014, the Buffalo County Board of Supervisors held public hearing on amending the previously issued Special Use Permit, and

WHEREAS, only a simple majority is required by this Board to approve this special use permit because no protests against issuance of this amendment to previously issued special permit have been filed, and

WHEREAS, the Board after public hearing and review of the special use application finds:

1. Applicant seeks an amendment to a previously issued special use permit. He is wants to add a 100 x 90 foot building to the existing structure on the subject property.
2. The findings and minutes of the Buffalo County Planning and Zoning Commission regarding consideration and information relating to this application are incorporated into these minutes by this reference as if fully set forth herein in their entirety.
3. Applicant, should this amendment be allowed is still subject to all prior conditions of Resolution #2011-065, unless the terms of that Resolution are specifically altered by this amendment.

WHEREAS, the requested amendment to this previously issued special 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 SUPERVISORS by a majority vote of its members, this Board approves applicants' requested amendment to Resolution #2011-065 as filed with his application incorporated into this Resolution by this reference, subject however to the following:

1. Activities on the subject property shall be limited to agricultural services.

2. Applicants or successors thereto are allowed to add a 100 x 90 foot addition to the existing building in the parameters specified in their application,
3. Other than as mentioned in the preceding paragraph, no additional structure or structures, other than the addition discussed in the foregoing paragraph, is allowed on the subject property

BE IT FURTHER RESOLVED that this Board reserves the power to revoke such special 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 permit have not been complied with, or that any phase thereof has not been completed within the time required under said special permit or any amendment thereto, the Zoning Administrator or any two members of this Board shall report this fact to the County Board, 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 copy of this Resolution shall be filed against the subject property as described above.

Jim Smallcomb from Gibbon Township and Dean Shubert from Elm Creek Township were present for the following agenda items.

Discussion was held concerning when Buffalo County would assume maintenance duties concerning roads now maintained by townships. Deputy County Attorney Hoffmeister indicated that a uniform time for turnover should occur for road management purposes. Although legal townships are dissolved January 8, 2015 by operation of law, it would be a wise idea for management purposes to set a definite countywide time for this transfer to occur. Thereafter, it was moved by Klein and seconded by Reiter that Buffalo County will assume responsibility for maintenance of all roads now maintained by townships effective 12:01 o'clock, A.M., January 1, 2015. Upon roll call vote, the following Board members voted "Aye": Klein, Reiter, Biehl, Brayton, Morrow and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Discussion was given concerning pending litigation involving Elm Creek Township and items sold by this township. Dean Shubert, Chairperson of the Elm Creek Township, discussed various issues with the Board concerning the Elm Creek Township. County Attorney Shawn Eatherton and Deputy County Attorney Hoffmeister also discussed legal issues with the Board. Following this discussion, motion was made by Klein and seconded by Biehl that this Board authorizes the Buffalo County Attorney's Office to add Elm Creek Public School System, as purported purchaser of Elm Creek Township's interest in a machine shed, as party defendant to the pending litigation. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Morrow and McMullen. Abstain: Reiter. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Biehl and seconded by Klein to appoint Randy Vest to the Planning and Zoning Commission for a three year term that will expire on November 30, 2017. Upon roll call vote, the following Board members voted "Aye": Biehl, Klein, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Moved by Brayton and seconded by Biehl to set a date of January 13, 2015 at 3 P.M. for a joint meeting with the Veterans Service Committee. Upon roll call vote, the following Board members voted "Aye": Brayton, Biehl, Klein, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

The Board discussed the request from the Buffalo County Agricultural Association to enter into an interlocal agreement to tear down the house located at 1500 E 34<sup>th</sup> Street, Kearney NE. Supervisor Brayton brought this request forward and it was decided that Buffalo County should not enter into an agreement. No action was necessary.

Moved by Klein and seconded by Biehl to authorize Chairman McMullen to sign the state certification renewal for Buffalo County Highway Superintendent Ron Sklenar. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

Highway Superintendent Ron Sklenar was present for the following Agenda item.

Moved by Klein and seconded by Biehl to place a temporary Stop Sign at the west end of Road No. 5-S on 56<sup>th</sup> Street at the southwest corner of Section 21, T-9-N, R-15-W. This sign will be removed at the completion of the New Cherry Avenue Project. Upon roll call vote, the following Board members voted "Aye": Klein, Biehl, Brayton, Morrow, Reiter and McMullen. Absent: Greder. None voted "Nay". Motion declared carried.

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 11:20 A.M. before he declared the meeting adjourned until the regular meeting at 9:00 A.M. on Tuesday, December 23, 2014.