

MINUTES OF PLANNING & ZONING COMMISSION
AUGUST 17, 2017
BUFFALO COUNTY COURTHOUSE
7:01 P.M.

Chairperson Scott Brady opened the meeting at 7:01 P.M. at the Buffalo County Courthouse in Kearney, NE with a quorum present on August 17, 2017.

Present were: Scott Brady, Austin Gardine, Marlin Heiden, Willie Keep, Richard Skelton, Marc Vacek, Randy Vest, and Loye Wolfe. Absent: Tammy Jeffs. Also attending were Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Kari Fisk, Zoning Administrator LeAnn Klein, and twelve members of the public.

Chairperson Brady 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 we do abide by the Open Meetings Act.

Notice of the meeting was given in advance thereof by publication in the legal newspaper. A copy of the proof of publication is on file in the Zoning Administrator's office. Advance notice of the meeting was also given to the Planning & Zoning Commission and availability of the Agenda was communicated in the advance notice. The agenda is available for anyone wanting a copy of the agenda.

The public forum was opened at 7:01 P.M. Several persons were present, but no one provided any comment. The public forum closed at 7:01 P.M.

Andrew Hoffmeister told the Commission that Lonnie Dickson and his firm had done the original Comprehensive Plan and the updated plan and has been our planner since the beginning of zoning.

Lonnie Dickson, a regional planner with Hanna Keelan Associates, P.C., was present and discussed the Comprehensive Plan and to see some of the trends. Dickson said the census for 2016 is 49,383 and the 2022 projection was 50,047. Buffalo County is about 5-6 years early on population projection. All the small towns and villages are growing also. The rural population is 9,628 for 2016 and there is an increase of 130 people per year in rural areas. Buffalo County is growing at a rate of 546 people per year in the entire County. The projected growth was 351. Buffalo County did the update for the Comprehensive Plan in 2012 and the original Comprehensive Plan was done in 2000.

Dickson said in the original plan, the question was if we wanted to limit the density of homes in the agricultural areas and that is how they came up with the limit of 4 homes per quarter in the agricultural areas.

Hoffmeister asked if the 4 homes per quarter were currently being used in other Counties. Dickson said it was being used in other Counties.

Keep said the three acre sales are affecting the value of agricultural land.

Dickson said do we want the infusion of \$300,000 homes into the tax base.

Hoffmeister showed the future land use map to the Commission.

Dickson said we are promoting commercial use between Kearney and Gibbon along Highway 30 and between Gibbon and Shelton along Highway 30.

Hoffmeister asked what does a comprehensive plan do. Dickson replied a comp plan is a guide how the County is developing. Dickson said the comp plan is the foundation of the zoning regulations.

Brady said things have changed. We are confronted with rural subdivisions.

Dickson said Buffalo County is growing. Farm sizes have changed since the last update. Looking at the years 2007-2012, farms over 1000 acres have decreased -17%, farms with between 500-999 acres have decreased - 24%. Farms between 50-180 acres have also decreased -15%. Farms between 1-9 acres have increased + 21%. Farms between 10-49 acres have increased +91%. Farms between 100-499 acres have increased +41%. The shift has been showing the 1000 acre farms are combining with larger farms.

Brady said the traffic on some of the gravel roads is higher than some of the asphalt roads.

Fisk said the Commissioners have been looking at paving in rural subdivisions. How will that impact development.

Skelton asked if we are going to update the Comp Plan again.

Dickson said they have been updating comp plans early in certain counties. We can do a partial update. Dickson said we need to look at goals and policies.

Hoffmeister and the Commission thanked Dickson for his input.

Chairperson Brady opened the public hearing at 8:00 P.M. for a special use permit submitted by Western Engineering Co., Inc. on behalf of Quenton and Peggy Ondrak etal on the following legal description: The Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, except the following tracts:

1. A strip or parcel of land lying, being and situate in the North Half of the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska described as follows: a strip of land being 25 feet in width, lying between two lines drawn parallel and distant, respectively 50 feet and 75 feet southerly of, measured at right angles to the main track centerline of Burlington Northern Railroad Company, as now located and constructed in, over and across said North Half of the Northeast Quarter of Section 11, bounded on the West by the North line of said North

Half of the Northeast Quarter of Section 11 and bounded on the East by the East line of said North Half of the Northeast Quarter of said Section 11;

2. ROW = 0.141 acres, less 0.116 acres existing ROW=0.025 acres new taking. Beginning at the northeast corner of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, thence 40' south, thence 153.7' west, thence 40' north, thence 153.7' east to the POINT OF BEGINNING;
3. A tract of land being part of the East Half of the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of the Northeast quarter of said Section 11 and assuming the East line of said Northeast quarter as bearing N 00° 25' 05" W and all bearings contained herein are relative thereto; thence N 00° 25' 05" W and on the East line of the Northeast quarter of said Section a distance of 602.62 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the North right-of-way line of Nebraska Highway No. 2; thence N 54° 32' 54" W and on the aforesaid North right-of-way line a distance of 671.5 feet; thence N 49° 36' 21" W and continuing on the North right-of-way line of Nebraska Highway No. 2 a distance of 312.72 feet; thence N 37° 16' 08" E a distance of 123.6 feet; thence S 83° 15' 46" E a distance of 263.3 feet; thence S 62° 10' 41" E a distance of 123.37 feet; thence S 44° 08' 45" E a distance of 313.55 feet; thence S 69° 31' 06" E a distance of 126.95 feet to a point that intersects on the East line of the Northeast quarter of said Section 11; thence S 00° 25' 05" E and on the aforesaid East line a distance of 332.62 feet to the place of beginning. Containing 5.04 acres, more or less;
4. A tract of land located in the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of said Northeast Quarter of Section 11, Township 12 North, Range 15 West; thence northerly on and along the East line of said Northeast Quarter a distance of 557.4 feet to a point on the North Right-of-Way line of Nebraska Highway Number Two; thence with a deflection angle to the Left 52° 18' and on and along said North Right-of-Way line a distance of 380.0 feet; thence Left 02° 52' a distance of 100.1 feet; thence Right 02° 52' a distance of 531.43 feet to the ACTUAL PLACE OF BEGINNING; thence Right 90° 00' and leaving said North Right-of-Way line a distance of 310.7 feet; thence Left 94° 17' a distance of 168.5 feet; thence Right 71° 55' a distance of 81.2 feet; thence Left 28° 33' a distance of 50.3 feet; thence Left 38° 18' a distance of 42.5 feet; thence Right 52° 07' a distance of 152.1 feet; thence Left 44° 22' a distance of 136.1 feet; thence Left 90° 40' a distance of 91.5 feet; thence Right 24° 40' a distance of 294.3 feet; thence Right 18° 47' a distance of 327.55 feet; to a point on the North Right-of-Way line on Nebraska Highway Number Two; thence Left 147° 02' and on and along the North Right-of-Way line a distance of 165.47 feet; thence Right 05° 43' a distance of 100.0 feet; thence Right 11° 19' a distance of 102.0 feet; thence Left 11° 19' a distance of 568.57 feet to the place of beginning. Containing 6.66 Acres, more or less.

Calvin Davidson with Western Engineering Co., Inc. was present and told the Commission they have the bid to re-do the shoulders between Litchfield and Ravenna along Highway 2 in the late fall or early spring. This would be for a six month period with stock piles of sand and gravel. They would also have a temporary asphalt plant at this location.

Wolfe asked where the entrance would be. Davidson said they would be using an existing entrance off Highway 2.

Vacek asked how much time they would be utilizing the property. Davidson said they would be using the property about one month for the actual production of asphalt and the actual use for the stock pile would be six months.

Davidson said if the weather allows, they will be done this fall yet.

Keep asked how much gravel they would be using. Davidson replied they would be using 20,000 tons of gravel.

Heiden asked if there would be any buildings added. Davidson replied there would be no buildings added.

Gardine asked if they would need a culvert for the drive-way. Davidson responded no.

Brady asked how much time it would take. Davidson said it would depend on the weather.

Davidson said there would be about 15 miles they would be re-doing.

Vacek asked about any hazardous materials. Davidson replied it would just be sand and gravel.

Keep asked about the hours of operation. Davidson said it would only be daylight hours.

Wolfe asked how much space they would be using. Davidson said there is 11 acres at this location but they would only be using 6 acres. Davidson said they would control the dust.

Ed Klein was present and the drive-way is directly across the road from the Inness property. He said traffic coming from the west only have a line of sight of 200'.

Davidson said construction signs will be put up to slow traffic down. Ed Klein said he has no objection for a temporary asphalt plant but hazardous materials will be present. He doesn't know why they are putting this across from three residences when there are plenty of other places that they could put it.

Ed Klein went on the internet and he found that asphalt plants cause cancer and he doesn't want to breathe the chemicals. He went to the OSHA website and told the Commission all the side effects. He also went on the EPA website and listed all the concerns.

Delores Inness said her husband was exposed to agent orange when he was in Vietnam and she is concerned with her husband's health and what this asphalt plant can do to him.

Calvin Davidson said they did check out other locations but they couldn't find any other locations. He said they have no blue smoke emission. He also said if fall turns cold, they will

not be doing any work during the winter months. Davidson said they have a new asphalt plant which is a green system. Davidson said he is a third generation of running an asphalt plant and they don't have any health problems.

Ed Klein also said property values would be affected by an asphalt plant. There is a piece of property on the corner of Jasper Road and Highway 2 which would be available. He objects to this being placed directly across the road from these residences. How do we know it's going to be there for only six months. Respect the health of these people that live here.

Brent Bauer lives to the east and he would be willing to rent out his land. If we move the plant to the east, is that enough distance from the residences.

Fisk said that Nebraska Department of Environmental Quality would control the issue of air quality.

Keep asked if we could change the legal description of the permit.

Fisk replied no, they would have to file a new permit.

Davidson said they have a signed contract now with the land owner and time is of the essence in getting this job done.

Chairperson Brady closed the public hearing at 8:30 P.M.

Wolfe has concerns about the closeness of the residences concerning sounds, odor, and traffic.

Keep has concerns about smell but if they do the new process of asphalt milling than he doesn't have concerns.

Skelton said it is just temporary.

Gardine thinks there should be a better location.

Heiden has concerns of the safety of the trucks.

Vacek said the actual time is only one month.

The Commission asked what the start date would be. Davidson replied the tentative start date will be October 1.

A motion was made by Wolfe, seconded by Gardine to deny the special use permit for an asphalt plant for Western Engineering Co., Inc. Voting yes were Wolfe, Gardine, Heiden, and Keep. Voting no: Brady, Skelton, Vacek and Vest. Absent: Jeffs. Motion failed.

Motion was made by Keep, seconded by Skelton to approve this special use permit filed by Western Engineering Co., Inc. on behalf of Quenton and Peggy Ondrak etal on the following

legal description: The Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, except the following tracts:

5. A strip or parcel of land lying, being and situate in the North Half of the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska described as follows: a strip of land being 25 feet in width, lying between two lines drawn parallel and distant, respectively 50 feet and 75 feet southerly of, measured at right angles to the main track centerline of Burlington Northern Railroad Company, as now located and constructed in, over and across said North Half of the Northeast Quarter of Section 11, bounded on the West by the North line of said North Half of the Northeast Quarter of Section 11 and bounded on the East by the East line of said North Half of the Northeast Quarter of said Section 11;
6. ROW = 0.141 acres, less 0.116 acres existing ROW=0.025 acres new taking. Beginning at the northeast corner of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, thence 40' south, thence 153.7' west, thence 40' north, thence 153.7' east to the POINT OF BEGINNING;
7. A tract of land being part of the East Half of the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of the Northeast quarter of said Section 11 and assuming the East line of said Northeast quarter as bearing N 00° 25' 05" W and all bearings contained herein are relative thereto; thence N 00° 25' 05" W and on the East line of the Northeast quarter of said Section a distance of 602.62 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being on the North right-of-way line of Nebraska Highway No. 2; thence N 54°32' 54" W and on the aforesaid North right-of-way line a distance of 671.5 feet; thence N 49° 36' 21" W and continuing on the North right-of-way line of Nebraska Highway No. 2 a distance of 312.72 feet; thence N 37° 16' 08" E a distance of 123.6 feet; thence S 83° 15' 46" E a distance of 263.3 feet; thence S 62° 10' 41" E a distance of 123.37 feet; thence S 44° 08' 45" E a distance of 313.55 feet; thence S 69° 31' 06" E a distance of 126.95 feet to a point that intersects on the East line of the Northeast quarter of said Section 11; thence S 00° 25' 05" E and on the aforesaid East line a distance of 332.62 feet to the place of beginning. Containing 5.04 acres, more or less;
8. A tract of land located in the Northeast Quarter of Section 11, Township 12 North, Range 15 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of said Northeast Quarter of Section 11, Township 12 North, Range 15 West; thence northerly on and along the East line of said Northeast Quarter a distance of 557.4 feet to a point on the North Right-of-Way line of Nebraska Highway Number Two; thence with a deflection angle to the Left 52° 18' and on and along said North Right-of-Way line a distance of 380.0 feet; thence Left 02° 52' a distance of 100.1 feet; thence Right 02° 52' a distance of 531.43 feet to the ACTUAL PLACE OF BEGINNING; thence Right 90° 00' and leaving said North Right-of-Way line a distance of 310.7 feet; thence Left 94° 17' a distance of 168.5 feet; thence Right 71° 55' a distance of 81.2 feet; thence Left 28° 33' a distance of 50.3 feet; thence Left 38° 18' a distance of 42.5 feet; thence Right 52° 07' a distance of 152.1 feet; thence Left 44° 22' a distance of 136.1 feet; thence Left 90° 40' a distance of 91.5 feet; thence Right 24° 40' a distance of 294.3 feet; thence Right 18° 47' a distance of 327.55 feet; to a point on

the North Right-of-Way line on Nebraska Highway Number Two; thence Left 147° 02' and on and along the North Right-of-Way line a distance of 165.47 feet; thence Right 05° 43' a distance of 100.0 feet; thence Right 11° 19' a distance of 102.0 feet; thence Left 11° 19' a distance of 568.57 feet to the place of beginning. Containing 6.66 Acres, more or less.

Voting yes were Keep, Skelton, Brady, Heiden, Vacek, and Vest. Voting no: Gardine and Wolfe. Absent: Jeffs. Motion carried.

Klein said this would be heard by the County Commissioners on September 12, 2017 and notices would again be sent out.

Chairperson Brady opened the next public hearing at 8:40 P.M. for a special use permit submitted by Dane R. Johnson and Kara Johnson for a dog kennel on the following legal description: the South 324.0 feet of the following described tract of land: A tract of land being part of the South Half of the Northwest Quarter (S ½ NW ¼) of Section Thirteen (13), Township Nine (9) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northeast corner of the South Half of the Northwest Quarter of Section 13 and assuming the North line of the South Half of the Northwest Quarter of Section 13 as bearing N 89° 54' 57" W and all bearings contained herein are relative thereto; thence N 89° 54' 57" W and on the North line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,346.84 feet; thence leaving the North line of the South Half of the Northwest Quarter of said Section 13, S 00° 04' 28" E and parallel with the East line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,292.97 feet; thence S 89° 50' 53" E a distance of 1,346.77 feet to a point on the East line of the South Half of the Northwest Quarter of said Section 13, said point being 17.61 feet Northerly from the Southeast corner of the Northwest Quarter of said Section 13, thence N 00° 04' 28" W and on the East line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,294.56 feet to the place of beginning.

Dane and Kara were present and Dane said he owns Apex Retrievers and he trains labs for other people.

Keep asked how long he has been in business. Johnson said he has been in business since 2015.

Vacek asked if he had any plans for expansion. Johnson replied no, not at this time.

Johnson said summer and mid spring are their big times. He can have as many as 45 dogs in the spring and summer and winter he can only have 15-20 dogs. He is only one of three operations in the State of Nebraska.

Skelton asked how Kevin Mansfield business ties in with Johnson's business. Johnson said Mansfield works for him full time.

Fisk asked if they just kennel the dogs here at this site. Johnson replied they run the full business at this location and train the dogs. Fisk replied this falls under the animal husbandry and needs a

rezoning of this property. There's a fine line between. Johnson was unaware he needed a special use permit.

Heiden also asked if he also breed dogs. Johnson replied no.

Currently he has 44 dogs with 35 kennels and 9 dogs are outside. Johnson said he gets the dogs at six months of age when he starts training them.

Fisk told the Commission currently under our zoning regulations, we have either dog breeding or kennels as the classification. Training is not included in this.

Johnson said he is currently licensed with the State of Nebraska as a boarding facility.

Keep asked if the dogs bark. Johnson said they do bark in the mornings when they let them out.

No one spoke in opposition.

Fisk said they can't approve a special use permit if it would require a rezoning of the property. It appears to be a commercial type of business. We have never encountered a situation like this before. We don't have an exact wording for a training facility.

Keep said we don't have traffic to this facility. Johnson agreed he gets phone calls instead.

Fisk said the cleanest way to proceed is to make a code amendment to allow training at this facility.

Chairperson Brady closed the public hearing at 9:00 P.M.

A motion was made by Skelton, seconded by Vest to table this special use permit until the November meeting until the appropriate code amendment can be forwarded to the County Board to allow training for dogs under our zoning regulations submitted by Dane R. Johnson and Kara Johnson on the following legal description: the South 324.0 feet of the following described tract of land: A tract of land being part of the South Half of the Northwest Quarter (S ½ NW ¼)of Section Thirteen (13), Township Nine (9) North, Range Eighteen (18) West of the Sixth Principal Meridian, Buffalo County, Nebraska, more particularly described as follows: Beginning at the Northeast corner of the South Half of the Northwest Quarter of Section 13 and assuming the North line of the South Half of the Northwest Quarter of Section 13 as bearing N 89° 54' 57" W and all bearings contained herein are relative thereto; thence N 89° 54' 57" W and on the North line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,346.84 feet; thence leaving the North line of the South Half of the Northwest Quarter of said Section 13, S 00° 04' 28" E and parallel with the East line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,292.97 feet; thence S 89° 50' 53" E a distance of 1,346.77 feet to a point on the East line of the South Half of the Northwest Quarter of said Section 13, said point being 17.61 feet Northerly from the Southeast corner of the Northwest Quarter of said Section 13, thence N 00° 04' 28" W and on the East line of the South Half of the Northwest Quarter of said Section 13 a distance of 1,294.56 feet to the place of beginning.

Voting yes were Skelton, Vest, Brady, Gardine, Heiden, Keep, Vacek, and Wolfe. Voting no: none. Absent: Jeffs. Motion carried.

Chairperson Brady opened the next public hearing at 9:02 P.M. for a special use permit submitted by Kevin L. Mansfield and Maggie M. Mansfield for a dog breeding establishment on the following legal description: a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section 32, Township 9 North, Range 17 West of the 6th P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of said Section 32 and assuming the East line of the Southeast Quarter of said section as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of the Southeast Quarter of said section a distance of 382.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing NORTH on the aforescribed course a distance of 396.1 feet; thence S 89° 35' W a distance of 375.2 feet; thence S 46° 13' W a distance of 98.8 feet; thence S 10° 10' W a distance of 143.8 feet; thence S 57° 53' 30" E a distance of 334.3 feet; thence S 88° 14' 30" E a distance of 188.8 feet to the Place of Beginning.

Kevin and Maggie Mansfield were present and told the Commission they have a State breeder's license from the State of Nebraska. They currently have six dogs of their own and breed five females and one male over six months of age. They breed 2-3 litters each year with between 16-30 puppies. They also board dogs.

Keep asked where they were located and in what zoning district they were in. They are about one mile west of Odessa and south of Highway 30 and are in the agricultural zoning.

Brady asked if they would be expanding their boarding business. Mansfield replied yes he would.

Skelton said there weren't any close neighbors. Skelton asked how many litters they had per year. Mansfield said they have one per year per dog.

Brady asked if they had a problem in limiting the number of dogs.

Brady asked what kind of dogs they have. Mansfield replied labs.

The dogs are in an expanded shop building. They added on to an existing garage and also added a fence around the building.

No one spoke in opposition.

Brady closed the hearing at 9:10 P.M.

Motion was made by Vacek, seconded by Gardine to approve this application for a special use permit submitted by Kevin L. Mansfield and Maggie M. Mansfield for a dog breeding establishment on the following legal description: a tract of land being part of the Southeast Quarter of the Southeast Quarter of Section 32, Township 9 North, Range 17 West of the 6th

P.M., Buffalo County, Nebraska, more particularly described as follows: Referring to the Southeast corner of said Section 32 and assuming the East line of the Southeast Quarter of said section as bearing NORTH and all bearings contained herein are relative thereto; thence NORTH on the East line of the Southeast Quarter of said section a distance of 382.0 feet to the ACTUAL PLACE OF BEGINNING; thence continuing NORTH on the aforescribed course a distance of 396.1 feet; thence S 89° 35' W a distance of 375.2 feet; thence S 46° 13' W a distance of 98.8 feet; thence S 10° 10' W a distance of 143.8 feet; thence S 57° 53' 30" E a distance of 334.3 feet; thence S 88° 14' 30" E a distance of 188.8 feet to the Place of Beginning with a cap of thirty dogs maximum at any one time.

Voting yes were Vacek, Gardine, Brady, Heiden, Keep, Skelton, Vest, and Wolfe. Voting no: none. Absent: Jeffs. Motion carried

Klein said this would be heard by the County Commissioners on September 12, 2017 at 9:15 A.M. and notices will again be sent out.

Old Business: Moved by Skelton, seconded by Heiden to approve the minutes of the July 20, 2017 as mailed. Voting yes: Skelton, Heiden, Brady, Gardine, Keep, Vacek, Vest, and Wolfe. Voting no: none. Absent: Jeffs. Motion carried.

Other items were discussed.

The next meeting of the Planning & Zoning Commission will be held September 21, 2017 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 9:35 P.M.