

MINUTES OF PLANNING & ZONING COMMISSION  
MARCH 21, 2019  
BUFFALO COUNTY COURTHOUSE  
7:00 P.M.

Chairperson Scott Brady opened the meeting at 7:16 P.M. at the Buffalo County Courthouse in Kearney, NE with a quorum present on March 21, 2019.

Present were: Scott Brady, Marlin Heiden, Tammy Jeffs, Buss Biehl, Randy Vest, and Loye Wolfe

Absent: Willie Keep, Marc Vacek

Also attending were Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Jason Wozniak, and three members of the public.

Notice of the meeting was given in advance thereof by publication in the Kearney Hub, the designated method for giving notice. 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.

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.

The public forum was opened at 7:17 P.M. Several people were present, but no one provided any comment. The public forum closed at 7:18 P.M.

Chairperson Brady opened the public hearing at 7:19 P.M. for recommendation to amend Buffalo County Zoning Regulations as previously adopted to Section 4.02 Relation to adjoining a Highway, road or street system.

Deputy County Attorney Andrew Hoffmeister stated we need to talk about minimum road standards as it relates to rural subdivisions. If roads are built to the Counties minimum standards then the County takes them over. Road Standard vs. Zoning Standard should be looked at. County Commissioners asked me to research what other Counties are requiring. Many counties say they require paving, however when you look at the details they do not. An example that shows a 7-lot subdivision in Hall County. The interior road is by private agreement, which is not paved. This road is privately maintained. Hall County is exploring options and looking at what Buffalo County is doing. Another example is the Merrick and Hall County line where small rural acreage lots exist. Buffalo County is taking grazing land from Ag production but leaving the more valuable irrigated Ag land in crop production. The school districts in Buffalo County should be something to look at. A large portion of the taxable value is coming from residential properties. With the current Ag economy, agricultural land may go down in value. With a half-percent change in the mortgage interest rate, this typically will change the prices of homes. Options of how we plan to proceed are 1. No change, 2. Rural subdivision roads are by private agreement, or 3. Any subdivided land must abut and access a paved road.

Biehl-Are you talking about Lots or Subdivisions to touch paved roads?

Hoffmeister- The subdivision if there is more than 3 lots.

Brady-One issue is the City uses the ETJ to put roads onto the Counties responsibility. Quality of life is a difference of opinion. In my area, we have increased traffic with taxes that continue to rise even though we have more development.

Hoffmeister- Don't make your recommendation based on a weather event that happens every 50 years. If it is a Floodplain regulation, then make a change to the flood plain. An issue in and around Kearney is housing is unaffordable and people have an option with rural housing. You will need to look at the Administrative Subdivision process within the AGR district. In Ag area's I do not think we need to worry about making much of a change to the Administrative Subdivisions. We really want to keep the AG areas agricultural in nature. Keep housing away from the feedlots. If we go the all-paving route, have a requirement of a 100' apron. We should look at the R-1 zoning for areas with high-density housing like Odessa. We will need to do a new comprehensive plan and zoning amendment change. The future land use map of Buffalo County will need to be updated. Currently the yellow areas of map are where we designated more housing. The area along the Plate River needs to be made Rural Conservation. Keep the option available to the farmer to break off the existing house site. The Administrative Subdivision should not be a substitute for subdivisions.

Snow-The Administrative Subdivisions are a good solution for not only existing farmstead properties, but also when a son or grandson wants to come back and farm and needs a place to build a home.

Hoffmeister- The density in the AG area is no homes within 1000 feet of each other and only four per quarter section. In the AG area, I do not like to see land broke off for non-farm residences.

Brady-The theme is that subdivisions are what you want. What is the main difference between Administrative Subdivisions and Subdivisions?

Hoffmeister- Administrative Subdivisions break off land up to three lots with no development plan. A subdivision should have a future land use plan. I am leaning towards having subdivisions next to paving. It will give subdivisions access on a public way with a known standard. With privately maintained roads, you might as well plan on the county doing the maintenance at some point.

Brady-Why? Lincoln County stated they have private maintained roads for subdivisions within their County.

Hoffmeister-I can point to their code that says otherwise. Their board does it by waiver. If you look at the road code it says, if you subdivide land and roads are built and meet your minimum standards, it is a public road. Some of the zoning people I have talked with are not aware of the statute. They know the zoning code not road statute. Roads are not free to maintain or construct.

Biehl-If we say attached to a hard surfaced road then build your interior roads to County standards is there a state statute that says county has to take care of those roads.

Hoffmeister- Yes statute is in Chapter 39, they say maintenance. Before we had zoning and subdivision regulations our roads department had minimum standards before they took over the road. Maintenance means will keep plow the snow, scraping. Discussion on SID process and Glenwood corners is the only one left in Buffalo County. Also stated we need at AGR on west side of Kearney and a different AGR on east side of Kearney. The topography is different in each area and will develop in a different manner. Maintenance means the County will remove snow and blade the roads.

Biehl-What are we being asked to do?

Hoffmeister-What steps can this County take to limit our expense in subdivisions. Homes are welcomed and the school districts need them. On the other side, should we tighten this up?

Wolfe-But if we have a need for housing where do you go?

Hoffmeister- We need affordable housing. Have you realtors done any studies?

Biehl-On the comprehensive plan it states keep your development close to other ones that already exist.

Hoffmeister- Also keep your AG areas predominately AG in nature.

Brady- If you talk about aesthetics who likes cars driving by every 10 to 15 minutes. From the standpoint of safety, maintenance or quality of life issues.

Hoffmeister- If you live in an AGR district you can expect a neighbor right next door. In areas within the City ETJ, you can expect a certain amount of development.

Snow-If you do require subdivisions to access a paved road, you are changing that AGR area to be around a half mile of any road with paving.

Hoffmeister- We do have an R-1 zoning that could be used in areas.

Snow-Your AGR can go down to an acre and half.

Hoffmeister- It can go down to 1 acre with community sewer. No one typically uses it. Maybe we should go down to a half acre and encourage them to be together.

We do need to define what road maintenance is. It needs to be added to our subdivision ordinance. Up to about 8 years ago, we had been adding about 1 mile of pavement to County roads per year. Our conclusion is concrete in long run is better.

Snow- I think the zoning and subdivision regulations are working in the current structure. If you try to manage each individual situation, it will not happen. If you go, the paving route and allow access through a subdivision than you will have half-mile long roads in each subdivision for access.

Hoffmeister- Half section line roads should be looked at in future development and safety situations. In the ETJ zoning district the roads have to be built to RL2 standards. The more stringent of the two applies. If County says paving for interior roads, then for County to accept maintenance on the road, the developer would have to pave them. If any part of a quarter falls within the City or Village in the ETJ district then that City or Village has jurisdiction on subdivision regulations.

Slack- We have some unique instances that present problems. We have people that like living in the county. They just do not like the roads that get them there. At some point they need to accept where the property is located. My thought is privatize the interior roads. Private agreement or HOA. Let the subdivision take charge of it.

Jeffs- We had a person last meeting tell us the opposite and say you do not want to let the public be in charge of the roads.

Slack-There has to be strong leadership with the HOA. It has to be set up from the beginning of the development. When is the last time the County and City got together and had a Planning and Zoning meeting?

Biehl-Didn't you say if roads are built to minimum standards the county takes them over.

Hoffmeister- In our current zoning regulations and state law that is true. You could do private agreements.

Slack- Roads are sold to the HOA to allow ingress and egress to properties. The HOA sets up who and how the road is taken care of and how money is handled.

Snow- What about the liability of the road?

Hoffmeister- Every County I have looked at says County may step in, but I have not seen that. I have never seen how they collect money on a failed HOA.

Snow-So will road be dedicated or an easement.

Hoffmeister- I do not like seeing the easements. They tend to become roads. Then they can be forced to County if use as a public road for 10 years.

Wolfe-What about the site that is quarter mile of pavement and is a good site for development?

Tschetter- With the requirement of paving will the County increase the frequency of paving roads otherwise you extremely limited to where a subdivision can go.

Hoffmeister- County is getting pressure to pave some additional roads like Dove Hill and 56<sup>th</sup> Street west of the landfill.

Tschetter- With option of privatization of roads will owner or developer get any kickbacks on taxes?

Hoffmeister-No. The County will also tax the roads.

Wolfe-The private agreement should have an exit plan.

Brady- I have trouble with encumbering the County with additional responsibilities when we cannot take care of what we got. That really bothers me. Maintenance of existing roads sometimes needs to take precedence over adding new additional responsibilities.

Biehl-If we make a recommendation tonight what does the county vote have to be.

Hoffmeister-Simple majority

Slack- When I read this in the paper I was mad at Andy about it. I am concerned what this will do with residential acreage properties throughout the County. The more I think about it I do not want the County to add additional maintenance and increase taxes, but I see an issue is the 2-mile ETJ area.

Wolfe- We have subdivisions outside the ETJ area with issues.

Slack-Gibbon and Shelton only have a paved road that leads to I-80 so have limited areas to expand. In Gibbon Shiers Estates on the west side of town has become a successful subdivision.

Brady- If I remember right we have turned down two subdivisions in the prior year.

Chairperson Brady closed the public hearing at 9:05 P.M.

A motion was made by Biehl, seconded by Vest to recommend to access to development type subdivisions off a hard surfaced road and not be able to access through another subdivision.

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

A motion was made by Wolfe, seconded by Jeffs to recommend interior roads on development type subdivisions be private roads built to public standards and consider having an HOA and/or a private agreement for maintenance.

Voting yes: Vest, Wolfe, Heiden, Jeffs, and Vest  
Voting no: Biehl  
Abstain: None  
Absent: Keep, and Vacek.  
Motion carried.

A motion was made by Jeffs, seconded by Heiden to recommend coming up with a definition of road surface maintenance.

Voting yes: Wolfe, Biehl, Heiden, Vest, Jeffs, and Brady  
Voting no: None  
Abstain: None  
Absent: Keep, and Vacek.  
Motion carried.

Old Business: Moved by Heiden, seconded by Biehl to approve the minutes of the February 21, 2019 as mailed.

Voting yes: Brady, Biehl, Heiden, Jeffs, Vest, and Wolfe  
Voting no: none.  
Abstain: None  
Absent: Keep, and Vacek. Motion carried.

Other items discussed.

Comments on the NPZA conference that was held in Kearney March 6, 7 and 8, 2019.

The next meeting of the Planning & Zoning Commission will be as needed. If items come in may be on April 18, 2019 at 7:00 P.M.

Chairperson Brady adjourned the meeting at 9:40 P.M.