

MINUTES OF PLANNING & ZONING COMMISSION
JUNE 17, 2021
BUFFALO COUNTY COURTHOUSE
7:00 P.M.

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.

Chairperson Scott Brady opened the meeting at 7:00 p.m. with a quorum present on June 17, 2021.

In Attendance: Kurt Schmidt, Francis Biehl, Marc Vacek, Willie Keep, Loye Wolfe, & Scott Brady, and Randy Vest.

Tammy Jeffs was absent.

Quorum was met.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Zoning Administrator Dennise Daniels, Sheriff Neil Miller, along with a few members of the public.

Chairperson Brady announced The Open Meetings Act and agendas were available if anyone wished to have one.

The public forum was opened at 7:01 p.m. The public forum closed at 7:01 p.m.

Public Hearing. 5(a)

Chairperson Brady opened Agenda Item 5(a) at 7:04 p.m. regarding Section 10.22, Buffalo Zoning Regulations, ensuring compliance with applicable rural structures and the 2012 IFC Section 510 Emergency Responder Radio Coverage, interconnectivity needs of emergency personnel and services.

Deputy County Attorney Andrew Hoffmeister stepped forward to present and review this amendment. He stated that this particular amendment was brought forward because, in July 2019, the State of Nebraska signed a law that states that an engineer or architect needs to certify that a proposed structure will allow radio services to permeate the structure and that the construction of the structure is acceptable by the State of Nebraska Fire Marshall standards. Deputy County Attorney Hoffmeister invited Sheriff Neil Miller to explore the amendment further.

Sheriff Neil Miller stepped forward and presented the need for this code amendment. The Buffalo County Sheriff's Office signed a contract for state-of-the-art emergency services radio system, toward the beginning of this year. He explained that the new radio system will have 95% coverage across the 1,000 square miles of Buffalo County. Currently, the Buffalo County

Sheriff's Office is using an analog conventional system, which will be transferred to a digital, trunked radio system.

With the new system, certain building designs, materials, and sometimes topography, can obstruct radio waves that emergency personnel use to communicate. He stated that, with such an important upgrade to our emergency personnel services, Buffalo County should consider requiring new construction conform to this amendment. He stressed that previously-constructed structures would be reviewed on a case-by-case basis to bring up to the new code. However, at this time, they are just looking forward to new construction.

Sheriff Miller provided some examples of structures that have no radio access. In the case of structures that do not allow the radio waves to permeate the structure, these owners will need to purchase a bi-directional amplifier, which would remediate emergency personnel radio coverage in the structure. In most instances, the structures, which primarily would house/entertain large crowds, were the ones that needed the most compliance. These particular structures are already required to have radio coverage from the panel of the fire alarm back to the radio system.

Chairperson Brady requested clarification on the reason for the amendment. Deputy County Attorney Hoffmeister confirmed that this particular amendment will cover radio interconnectivity issues, as well as having an engineer's certification that the structure complies with International Fire Code. The engineer or architect would certify two things: generally approved architectural design standards and the compliance of emergency purposes, dependent on the size.

Vice-Chairperson Keep asked why the proposed code, regarding multi-family-type structures was situated in the amendment, when they are not allowed in any of Buffalo County's Zoning Districts. Deputy County Attorney Hoffmeister stated that The Commission could certainly remove it this portion of the proposed code, but it was added based on the verbiage of the state code.

Deputy County Attorney Hoffmeister reviewed some of the code's particulars.

Chairperson Brady asked what kind of equipment was needed to bring a structure into compliance. Sheriff Miller stated that they need to purchase a BDA, a Bi-Directional Amplifier, which is similar to a repeater-type system. Sheriff Miller stated that it is much cheaper to install this particular equipment during construction of a structure. Chairperson Brady asked how it is activated and Sheriff Miller explained a number of factors could affect it. He described that only certain structures are going to need this type of equipment: structures that will have large crowds or structures with public access.

Mr. Biehl asked if the steel in the structure was the primary deterrent of the emergency personnel radio waves and Sheriff Miller identified glass, with the energy-efficient film, as the main issue.

Sheriff Miller stated that the City of Kearney has adopted this amendment and the density between Buffalo County and the City of Kearney was reviewed and considered. He wants The Commission to know that the primary concern of the Sheriff's Office is not to detriment growth, but to ensure public safety.

Chairperson Brady asked if the other municipalities in Buffalo County would be adopting the same amendment. Sheriff Miller stated that, once the Buffalo County Planning and Zoning Commission has recommended adoption for this amendment, he would be making presentations to all the communities in Buffalo County, requesting their adoption, as well.

Chairperson Brady asked what it costs to purchase the equipment for remediation. Sheriff Miller reviewed the different examples for costs, dependent on the size of the structure. Deputy County Attorney Hoffmeister stated that the cost of the remediation equipment could be negated, if it is considered at the time that a Zoning Permit is submitted to the County.

Chairperson Brady asked about enforcement of the proposed amendment, without a building inspector. Deputy County Attorney Hoffmeister stated that the certification of the engineer or architect would be the enforcement to ensure safety and compliance.

Discussion ensued that safety was the top priority of Buffalo County.

Sheriff Miller stated that he foresees the new radio station to go live on November 1, 2021. He further explained that the Buffalo County Highway Department will also be using the system, and they are attempting to get other governmental entities involved with the system as well, such as Kearney Public Schools, including the school buses.

Secretary Wolfe inquired if any retrofitting would be essential for the buses, to bring the existing systems up to spec for the new radio. Sheriff Miller affirmed that all buses will be entirely equipped for the new system and that all private and public schools will have panic alarms installed in their rooms, as well.

Chairperson Brady closed the discussion on this agenda item at 7:55 p.m.

Motion was by Secretary Wolfe, seconded by Mr. Vest, to recommend favorably the proposed code amendments ensuring compliance with applicable rural structures and the 2012 IFC Section 510 Emergency Responder Radio Coverage, interconnectivity needs of emergency personnel and services to the Buffalo County Board of Commissioners.

Mr. Vacek asked Sheriff Miller if the emergency radio signal was different than cell phone signal. Sheriff Miller stated that they are similar, but do have one major difference. The maximum power a cell phone can put out is ½ of 1 watt. The radio system will do 8 times that, which allows less towers and more coverage. Both cell phones and the radios will operate within the 800 MHz band.

Mr. Schmidt asked if existing cell phone repeaters would repeat emergency personnel signals. Sheriff Miller said that the answer could vary.

Chairperson Brady asked if the county had considered requiring one piece of equipment for an entire subdivision. Sheriff Miller reiterated that wooden structures, such as residences, were not their primary concern; the structures that could potentially have a large losses of life or in largely topographic areas were the principal reason for the proposed amendment/

Secretary Wolfe voiced her concern regarding the multi-family verbiage in the proposed code. Deputy County Attorney Hoffmeister reiterated that portion was brought from state code and The Commission could remove it or revisit it later.

Chairperson Brady asked if the City of Kearney adopted this amendment and Deputy County Attorney Hoffmeister stated that they adopted several portions of this code.

Chairperson Brady asked if this code would be applicable in the extra-territorial jurisdiction and Deputy County Attorney Hoffmeister confirmed.

Chairperson Brady asked for any additional questions.

Chairperson Brady closed the public hearing at 7:55 p.m.

Vice-Chairperson Keep inquired where this particular provision will be placed in Buffalo County Regulations and Deputy County Attorney Hoffmeister showed that will be situated under Buffalo County Zoning Regulations, Section 10.22.

Discussion ensued regarding exemptions and requirements of the proposed amendment.

Moved by Secretary Wolfe and seconded by Mr. Vest to recommend favorably the adoption of the proposed code amendment, as presented, to the Buffalo County Board of Commissioners.

Voting yes: Biehl, Keep, Schmidt, Vacek, Vest, Wolfe, & Brady.

Voting no: None.

Abstain: None.

Absent: Jeffs.

Public Hearing. 5(b)

Chairperson Brady opened Agenda Item 5(b) at 8:02 p.m. regarding Code Amendments of Buffalo County Zoning Regulations, including revisions of and/or additions to the following Sections: Section 3.3161 and Section 8.3, along with Section 5.12 (6) and Section 5.14 (18) Agriculture (AG) District, Section 5.22 (3) and Section 5.24 (13) Rural Conservation (RC) District, Section 5.32 (9) and Section 5.34 (18) Agricultural – Residential (AGR) District, Section 5.52 (16) and Section 5.54 (8) Commercial (C) District, and Section 5.62 (34) and Section 5.64 (5) Industrial (I) District, regarding signage as it relates to Definitions, Prerequisites, Permitted Principal Uses and Permitted Special Uses.

Deputy County Attorney Andrew Hoffmeister also presented this code amendment. He introduced a member of the public, Albert Loeffelholz. Recently, Mr. Loeffelholz had requested a permit for the replacement of a cemetery sign that had been removed during a recent highway-widening project. Mr. Loeffelholz provided testimony on how heavily regulated signage is along the highway.

Deputy County Attorney Hoffmeister began highlighting the proposed amendment.

Chairperson Brady asked Deputy County Attorney Hoffmeister how electronic/LED billboards will be handled with this proposal. Deputy County Attorney Hoffmeister stated that the state

highways would regulate those; however, billboards are covered in this amendment. Discussion occurred regarding billboards, their costs and locations.

Chairperson Brady and Vice-Chairperson Keep requested clarification regarding illumination requirements from Deputy County Attorney Hoffmeister. They expressed concerns of distracted night driving with consideration given to heavily-illuminated billboards. Deputy County Attorney Hoffmeister stated illumination is not specifically reviewed in this proposal, due to the state's heavy regulations.

Chairperson Brady stated that he believed the proposed amendment appeared to be all-encompassing, but would be adaptive for future amendments.

Vice-Chairperson Keep proposed a word change in Section 8.32, in the second sentence: "Change the word 'any' to 'only'."

Deputy County Attorney Hoffmeister stated that this amendment is important to ensure that lines of vision are not blocked by signage, because it is becoming more prominent and needs to be more regulated.

Vice-Chairperson Keep asked if Class II signs were commercial-type signs and Deputy County Attorney Hoffmeister confirmed. He stated that it is a(n) advertisement (billboard)-type design.

The 50-foot setback requirement was discussed. Chairperson Brady confirmed that all signage, along a road, requires a 50-foot setback. Vice-Chairperson Keep requested clarification of where the 50-foot setback begins. Deputy County Attorney Hoffmeister clarified that it is 50-foot beyond where the right-of-way ends. Deputy County Attorney reminded The Commission that some signs could be closer with this amendment, but would need the Highway Superintendent's review, and any other relevant parties, to safely ensure the vision is not obstructed.

Chairperson Brady closed the discussion on this agenda item at 8:24 p.m.

Motion was by Mr. Biehl, seconded by Mr. Schmidt, to recommend favorably the adoption of the Code Amendment as presented, except replacing the word "any" in Section 8.32 with the word "only", to the Buffalo County Board of Commissioners.

Voting yes: Keep, Schmidt, Vacek, Vest, Wolfe, Brady, & Biehl.

Voting no: None.

Abstain: None.

Absent: Jeffs.

Public Hearing. 5(c)

Chairperson Brady opened Agenda Item 5(b) at 8:25 p.m. for Code Amendments of Buffalo County Zoning Regulations regarding clarification and requirements of accesses, including revisions of and/or additions to the following sections: Section 3.3130, Section 3.3133, Section 3.3169, Section 3.3181, Section 5.12 (6), Section 5.16, Section 5.22 (2), Section 5.27, Section 5.32 (2), Section 5.36, Section 5.57, & Section 5.66, **AND** Code Amendments to Buffalo County Subdivision Regulations, regarding clarification and requirements of accesses, including

revisions of and/or additions to the following sections: Section 2.13, Section 2.23, Section 2.31, Section 2.34, Section 2.35, Section 4.02, Section 1.05, Section 1.06, and Section 4.12.

Deputy County Attorney Hoffmeister, again, presented this amendment. He summarized this amendment, explaining that all lots will abut the road and it will provide more consistency to Buffalo County Regulations.

He highlighted several of the proposed amendments and reviewed that the minimum frontage of a lot. It was proposed that all lots should front with a minimum of 10 feet in the AG (Agriculture), AGR (Agricultural – Residential), and RC (Rural Conservation) Districts. Vice-Chairperson Keep proposed a 25-foot frontage minimum width to be more conducive for emergency vehicles and snow plows. Chairperson Brady agreed. Vice-Chairperson Keep stated that the proposed 10-foot minimum width was too narrow, and he wished to propose a 25-foot minimum lot width.

Deputy County Attorney Hoffmeister continued to review the amendment and stressed the importance of having lots “abut the road”.

Vice-Chairperson Keep asked Deputy County Attorney Hoffmeister about changing the number of residences per quarter. Deputy County Attorney Hoffmeister stated that would be reviewed during the Comprehensive Plan Review.

Deputy County Attorney Hoffmeister reviewed the remainder of the proposed amendment. He stated that in the AG (Agriculture), AGR (Agricultural – Residential), and RC (Rural Conservation) Districts should be changed to reflect the proposed 25-foot minimum lot, as well, if The Commission wished to make that change.

“The Greens at Prairie Hills First” plat was studied to ensure consistency in minimum lot frontages.

Vice-Chairperson Keep proposed an additional word change: adding “a”, in Section 1.05, “...abuts, before and after subdivision, a dedicated and maintained public street(s)...”

Chairperson Brady closed the discussion on this agenda item at 8:55 p.m.

Motion was made by Vice-Chairperson Keep, seconded by Mr. Biehl, to recommend favorably the adoption of the Code Amendments of Buffalo County Zoning Regulations regarding clarification and requirements of accesses, including revisions of and/or additions to the following sections: Section 3.3130, Section 3.3133, Section 3.3169, Section 3.3181, Section 5.12 (6), Section 5.22 (2), Section 5.32 (2), Section 5.57, & Section 5.66, **AND** Code Amendments to Buffalo County Subdivision Regulations, regarding clarification and requirements of accesses, including revisions of and/or additions to the following sections: Section 2.13, Section 2.23, Section 2.31, Section 2.34, Section 2.35, Section 1.05, Section 1.06, and Section 4.12, as well as adding the word “a” to Section 1.05, to the Buffalo County Board of Commissioners.

Voting yes: Keep, Schmidt, Vacek, Vest, Wolfe, Brady, & Biehl.

Voting no: None.

Abstain: None.

Absent: Jeffs.

An additional motion was recommended to capture Vice-Chairperson Keep's recommendation of a 25-foot minimum lot width in the place of the recommended 10-foot minimum: Buffalo County Zoning Regulations Section 5.16 (Agriculture, AG), Section 5.27 (Rural Conservation, RC), Section 5.36 (Agricultural – Residential, AGR) Districts, **AND** to include the 25-foot minimum lot width in Section 4.02, Buffalo County Subdivision Regulations.

Motion was by Vice-Chairperson Keep, seconded by Mr. Vest, to recommend favorably the adoption of the Code Amendment regarding a 25-foot minimum lot width, in place of the presented 10-foot minimum lot width: Section 5.16 (Agriculture, AG), Section 5.27 (Rural Conservation, RC), Section 5.36 (Agricultural – Residential, AGR) Districts, **AND** to include the 25-foot minimum lot width in Section 4.02, Buffalo County Subdivision Regulations to the Buffalo County Board of Commissioners.

Voting yes: Schmidt, Vacek, Vest, Wolfe, Biehl, & Keep.

Voting no: None.

Abstain: None.

Absent: Jeffs.

Old Business

Minutes

Motion was made by Secretary Wolfe, seconded by Mr. Vacek, to approve the minutes of the April 15, 2021, meeting, as presented.

Voting yes: Vacek, Vest, Wolfe, Biehl, Keep, & Schmidt.

Voting no: None.

Abstain: None.

Absent: Jeffs.

Motion carried.

New Business

Report on Previous Hearings

Zoning Administrator Daniels provided a report on the previous hearings from the April 15, 2021, Planning and Zoning Meeting. Linger's Subdivision Vacation, Swearingen Acres Administrative Subdivision, and the code amendment for "Structure" were all approved by the Board of Commissioners on May 11, 2021.

Swearingen Acres Administrative Subdivision was reviewed with the new signage amendment in mind.

Chairperson Brady and Deputy County Attorney Hoffmeister reviewed the process and determination of the Comprehensive Plan with The Commission. Deputy County Attorney Hoffmeister revealed that Hanna:Keelan, Associates, P.C. was awarded the project. Discussion ensued on moving forward with The Comprehensive Plan.

New Business, Correspondence & Other Business

Zoning Administrator Daniels notified The Commission of the Annexations of Stoneridge Tenth Addition and Fountain Hills Thirteenth Addition.

She also highlighted the following ETJ correspondences, with the submitted letters, in response, to those proposed subdivisions: Millennial Estates Fifth and 4 Suns Subdivision.

Zoning Administrator Daniels provided a copy of the Dawson County Planning and Zoning Notice regarding code amendments.

She notified The Commission of the Nebraska Planning and Zoning Association Conference date as September 15, 16, & 17. She wanted The Commission to consider the registration in advance, if possible.

Zoning Administrator Daniels let The Commission know that The Board of Commissioners approved the contract to Hanna:Keelan, Associates P.C. at the June 8, 2021, Meeting.

Next Meeting

The next meeting will be conducted July 15, 2021, if needed.

Adjourn

Chairperson Brady adjourned the meeting at 9:26 p.m.