

MINUTES OF PLANNING AND ZONING COMMISSION  
MARCH 21, 2024  
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 and 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 7:01 P.M. on March 21, 2024.

In Attendance: Tammy Jeffs, Randy Vest, Scott Stubblefield, Francis "Buss" Biehl, Marc Vacek, Loye Wolfe, and Scott Brady.

Absent were the following members: Kurt Schmidt and Willie Keep.

Also attending were: Deputy County Attorney Andrew Hoffmeister, Deputy County Attorney Josiah Davis, and Zoning Administrator Dennise Daniels. A few members of public were present.

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

The public forum was opened at 7:02 P.M. The public forum closed at 7:02 P.M.

Chairperson Brady announced the procedure and etiquette for the upcoming public hearings.

**Public Hearing. 5(a)**

Chairperson Brady opened the public hearing for Agenda Item 5(a) at 7:03 P.M. regarding an Application for Special Use Permit, filed by Kelly McCoy, of Paulsen, Inc., on behalf of Pamela Kim Triplett, Trustee of the Pamela Kim Triplett Revocable Trust dated June 22, 2018, to operate a sand/gravel quarry and a portable concrete production pit, on tax parcel 520128000, described as Part of Government Lot 8 and Government Lot 9, and Part of the North Half of the Southwest Quarter, South of Interstate 80, situated in Section Nine (9), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, AND North of the County Line, situated in Section Sixteen (16), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Kelly McCoy, of Paulsen, Inc. stepped forward to present the application, on behalf of Kim Triplett, Trustee, of the Pamela Kim Triplett Revocable Trust dated June 22, 2018. Mr. McCoy explained that they intend to start a gravel pit in the proposed area. Although Paulsen, Inc., has contracted with The Nebraska Department of Transportation and Koss Construction Company to work on the interstate project from Odessa to Elm Creek, it would be ideal if the operation could

remain continuous after the completion of the project. He explained the hours of operation would be from 7:00 a.m. to 8:00 p.m. The later operational hours would, most likely, be required due to ensuring enough time to stockpile gravel for the projected start date of July 5, 2024. He added, that the project will require 4,000 to 5,000 tons of material a day and as it sits now, the projected output of the proposed pit would produce between 1,500 to 2,000 tons a day.

Deputy County Attorney Hoffmeister inquired what entry would be used for the proposed project. Mr. McCoy, using the projected GIS image, stated that the entry and exit would be the same western entry/exit that is being used for the property. He explained that the concrete ready-mix plant will be set up near the entrance and they will pump on the southern edge of the pit.

Deputy County Attorney Hoffmeister asked if the applicant intended to dredge, make and/or crush concrete at the proposed site and Mr. McCoy confirmed. Mr. Jay Sporer stepped forward and testified that his company will be in charge of crushing and stockpiling the concrete and that application will be considered next on the agenda.

Mr. Vest queried Mr. McCoy to confirm the entry of the pit would be the western property line, which is gated and locked; Mr. McCoy confirmed and explained that it was the intent to avoid county roads and utilize access roads where necessary.

Mr. Brent Schake, a member of the public in attendance, residing at 20545 Sartoria Road, Amherst, Nebraska, questioned if the proposed gravel pit would be the primary producer of gravel for the Elm Creek to Odessa interstate project or if other pits would be used and Mr. McCoy confirmed the proposed pit would be the primary producer, adding it would be only for the interstate project. Mr. McCoy added some grant money came forth to do the interstate from Odessa to Kearney and they may be interested in bidding that job, as well.

Mr. Todd Trampe, a member of the public in attendance, asked if Paulsen, Inc. intended to pump on the southern edge of the pit and pump to the north edge of the pit; Mr. McCoy confirmed.

Mr. Vest inquired if the entry/exit point would be wide enough for the entry and exit of trucks and Mr. McCoy confirmed.

Deputy County Attorney Hoffmeister asked if the loaded trucks would have a right-hand turn and Mr. McCoy confirmed.

Mr. Trampe inquired if the applicant would be above the gate and Mr. McCoy confirmed.

Mr. Trampe queried how much the pond size would increase and Mr. McCoy stated it would be enlarged by about 10 acres over a 2-year period.

Mr. Trampe asked if the pond would be enlarged to the south and not to the east; Mr. McCoy stated he was working with the Army Corp of Engineers, regarding wetlands to the south of the pit and they aren't allowed to work in that wetland area. Wetland areas were discussed.

Secretary Wolfe inquired the projected time limit on the proposed project and Mr. McCoy stated, approximately two years. She, then, asked if they were approved for the Kearney to Odessa project, and how much longer would they need to remain operational; Mr. McCoy answered that they would need an extra year.

Deputy County Attorney Hoffmeister inquired if the proposed area was inventoried in the Annual Review Special Use Permits List and Zoning Administrator Daniels stated it was not.

Deputy County Attorney Hoffmeister inquired if Mr. McCoy intended to have a more permanent use than just the proposed projects; Mr. McCoy stated, they intended to stay longer, if granted permission.

Discussion was had regarding the increased costs and need for building supplies.

Mr. Schake requested confirmation that the permit being discussed was for a gravel pit only, and Deputy County Attorney Hoffmeister confirmed. Mr. Schake asked how long it would be operational and Deputy County Attorney Hoffmeister explained that it appeared the applicant intended to operate permanently.

Mr. Trampe asked Mr. McCoy if Paulsen, Inc, had purchased Rick Follmer's pits and Mr. McCoy confirmed.

Chairperson Brady asked if a time limit needed to be set and Deputy County Attorney Hoffmeister advised, it appeared the applicants intended to have a permanent pit.

Deputy County Attorney Hoffmeister asked if the applicant was certain two years was long enough to complete the job and Mr. McCoy stated he thought it was applicable. Deputy County Attorney Hoffmeister counselled it may need to be extended to three years, to avoid the need for an additional public hearing, assuming the applicant was operating within the required parameters for this special use permit. Mr. McCoy agreed and asked if they should consider four years for future projects.

Chairperson Brady requested confirmation that The Commission needed to consider a permanent gravel pit. Deputy County Attorney Hoffmeister added The Commission, also, needed to consider concrete batch plant and concrete crushing. Discussion occurred regarding the procedural requirements for the interstate project.

Mr. Jay Sporer, the second applicant, spoke. He confirmed that Paulsen, Inc. is requesting a permit for dredging in a gravel pit and for a temporary ready-mix concrete plant. The second agenda item, he added, is for crushing and stockpiling concrete for the interstate project.

Deputy County Attorney Hoffmeister provided advisement regarding conditions for the special use requirements.

Chairperson Brady asked if the concrete batch plant should have a deadline for completion and Deputy County Attorney Hoffmeister stated that The Commission could place an end date. Mr.

McCoy explained that once the interstate project is complete, then the concrete plant will be removed.

Chairperson Brady asked Mr. McCoy if he intended to utilize the concrete plant after the completion of the project and Mr. McCoy stated he did not.

Discussion occurred regarding previous gravel pits.

Ms. Jeffs asked if Mr. McCoy would need additional lighting to work after standardized hours and Mr. McCoy testified, he didn't believe so.

Mr. Trampe asked how many days of the week the gravel pit would be operational and Mr. McCoy stated it would be open six days a week.

Mr. Trampe asked about hours of operation and Mr. McCoy answered, it would depend. Deputy County Attorney Hoffmeister advised that an hour limitation should not be imposed on a time-sensitive, contracted project through the State of Nebraska.

Deputy County Attorney Hoffmeister advised the following conditions be placed on the special use permit: a permanent gravel pit subject to annual review and entranceway may be subject to approval by the state engineer or applicable county staff.

Deputy County Attorney Hoffmeister asked Mr. McCoy if a sign was posted with the address at the entrance of the proposed pit and Zoning Administrator Daniels stated there was not.

Secretary Wolfe stated that she believed the gravel pit and the concrete plant should operate no longer than 4 years.

Mr. Trampe articulated concern regarding the length of the time period. Deputy County Attorney Hoffmeister advised The Commission is still under discussion.

Chairperson Brady asked for clarification of where the 4-year maximum would be placed. Deputy County Attorney explained the gravel pit is being discussed as for an indefinite amount of time and the concrete batch plant is being discussed to have a maximum life of 4 years.

Deputy County Attorney Hoffmeister asked Mr. Sporer if 4 years would be enough to sell the crushed concrete. Mr. Sporer explained that his application would be discussed in detail under the second public hearing, but if his special use permit is approved, there will be a concrete signed between Mr. Sporer's company and Ms. Triplett through May, 2028. Mr. Sporer explained that, with the need, in the Kearney area, the intent is to sell it within the 4 years.

Deputy County Attorney asked if Mr. Sporer if he objected to allow his testimony be included in Paulsen, Inc.'s public hearing. Mr. Sporer did not object. Chairperson Brady had no objections to allow only testimony as part of this public hearing.

Mr. Schake inquired if the product doesn't sell and Mr. Sporer explained his business has been in operation for 62 years and has sold concrete in 3 states; he assured Mr. Schake that the inventory has always sold in a timely fashion.

Mr. Schake asked if the product is advertised and Mr. Sporer testified it is marketed. Mr. Vacek, also, added that Mr. Sporer has put on his application, that the land will be reclaimed back to existing condition and reseeded.

Chairperson Brady inquired if anyone wished to speak in opposition to the dredging. No one spoke.

Chairperson Brady inquired if anyone wished to speak as a proponent of the dredging. Mr. Trampe expressed concern of how much larger the pond will get. Deputy County Attorney Hoffmeister stated the applicant intends to stay 50 feet from any property line. The 50-foot setback provision was discussed.

The wetland areas were discussed. At this time, Mr. Owen Johnson, of Paulsen, Inc., residing at 25180 South Snell Canyon, Brady, Nebraska, also, spoke on behalf of Paulsen, Inc.

Mr. Trampe asked if Paulsen, Inc. would dredge in the pasture and Mr. McCoy explained Ms. Triplett will not allow dredging in the pasture.

Mr. McCoy inquired if Mr. Trampe was concerned about flooding and Mr. Trampe expressed concern regarding the access to his property. He, then, asked if Paulsen, Inc. purchased the mineral rights and Mr. McCoy confirmed. Mr. Trampe stated he was concerned that Paulsen, Inc. would dredge on top of the hill, in the pasture. Ms. Pamela Triplett, of Kearney, Nebraska, identified herself. She explained she is the landowner and has not approved any other areas for dredging.

Chairperson Brady asked Deputy County Attorney Hoffmeister if the special use permit included Ms. Triplett's entire tract and he confirmed.

Discussion occurred regarding other gravel pits and crushed concrete sites.

Chairperson Brady inquired if The Commission had concerns regarding the proposed gravel pit. No one spoke.

Chairperson Brady asked if The Commission had concerns regarding the temporary ready-mix plant. No one spoke. Chairperson Brady asked if The Commission wished to impose a time limit on it. Ms. Jeffs recommended 4 years.

Chairperson Brady inquired if anyone else wished to speak. No one spoke.

Chairperson Brady closed the public hearing at 7:57 P.M.

Motion was made by Ms. Jeffs, seconded by Mr. Biehl, to recommend favorably Application for Special Use Permit, filed by Kelly McCoy, of Paulsen, Inc., on behalf of Pamela Kim Triplett, Trustee of the Pamela Kim Triplett Revocable Trust dated June 22, 2018, to operate a sand/gravel quarry and a portable concrete production pit, on tax parcel 520128000, described as Part of Government Lot 8 and Government Lot 9, and Part of the North Half of the Southwest Quarter, South of Interstate 80, situated in Section Nine (9), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, AND North of the County Line, situated in Section Sixteen (16), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to The Buffalo County Board of Commissioners, with the following conditions: the gravel pit will be approved as permanent, but subject to annual review by The Board of Commissioners, the portable concrete pit will allowed for a maximum of 4-year basis, 911 address signage is required, entry access to state or county highway approved by the appropriate state engineer or county staff, a 50-foot setback from any property line, and all areas must be restored to its original state.

Upon roll call vote, the following Board members voted “Aye”: Biehl, Jeffs, Vacek, Vest, Wolfe, Brady, and Stubblefield.

Voting “Nay”: None.

Abstain: None.

Absent: Keep and Schmidt.

Motion carried.

#### **Public Hearing. 5(b)**

Chairperson Brady opened the public hearing for Agenda Item 5(b) at 8:03 P.M. regarding an Application for Special Use Permit, filed by Jay Sporer, of Sporer Land Development, Inc., on behalf of Pamela Kim Triplett, Trustee of the Pamela Kim Triplett Revocable Trust dated June 22, 2018, to operate a Crushed Concrete Processing/Storage Site, on part of tax parcel 520128000, described as Part of Government Lot 8 and part of Government Lot 9, and Part of the North Half of the Southwest Quarter, South of Interstate 80, situated in Section Nine (9), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska.

Mr. Jay Sporer, of Sporer Land Development, stepped forward to present this application. Mr. Sporer confirmed that he has been contracted by The State of Nebraska for his business to remove and crush the concrete from the interstate project to move to retail markets. Mr. Sporer explained that he has been provided access to Wildwood Road to stockpile concrete on the proposed tract of land.

Mr. Sporer testified that he keeps inventory on the same jobsite and it is gone within five years.

Deputy County Attorney Hoffmeister inquired if Mr. Sporer’s proposed five-year termination date included the removal of all inventory and Mr. Sporer confirmed and added that the land will be restored to its previous condition and the landowners’ satisfaction.

Mr. Schake asked if Wildwood Road was a county road and Deputy County Attorney Hoffmeister confirmed.

Mr. Sporer testified that he spoke with John Maul, Buffalo County Highway Superintendent, and he said that his company would improve Wildwood Road. Mr. Trampe expressed concern that, with the narrow width of that road, and allowing heavy trucks to traverse it, the road will be destroyed. Deputy County Attorney Hoffmeister recommended that Mr. Sporer enter into a road maintenance agreement for the restoration or improvement of Wildwood Road. Mr. Sporer stated that he would consider it and he prided himself on improving roads that, both facilitate their operation and appease other users of the road.

Chairperson Brady inquired how Mr. Sporer markets the inventory. Mr. Sporer explained that the actual crushing process is completed onsite. He has staff that market and sell the product, but his company will, often, offer delivery. He stated they work 5 days a week, but will rarely work 6 days a week.

Mr. Trampe asked what operational hours would be considered and Mr. Sporer explained they normally operate from 7:00 a.m. to 7:00 p.m.

Chairperson Brady asked how the inventory is sold and Mr. Sporer explained that it is sold per ton.

Chairperson Brady asked if a scale would be provided onsite and Mr. Sporer confirmed.

Mr. Vacek inquired if Wildwood Road would be Mr. Sporer's only access to the proposed tract of land and Mr. Sporer clarified that he has requested permission from Nebraska Department of Roads to use their lot for access, in lieu of using Wildwood Road, to avoid removing trees. Mr. Vacek asked if Mr. Sporer intended to use the western access from Odessa Road and Mr. Sporer said he would rather not use the landowner's personal access for his commercial needs.

Chairperson Brady inquired if Mr. Sporer projected how much concrete would be stockpiled and Mr. Sporer estimated that he will have four acres of the eight acres filled.

Chairperson Brady asked if Mr. Sporer would sell the product to both commercial uses, as well as county or city users; Mr. Sporer confirmed.

Mr. Biehl inquired if Mr. Sporer is, also, doing the Lexington to Overton project. Mr. Sporer stated he did not, but did complete the project from Brule, Nebraska to Ogallala, Nebraska. He explained that his quality of work would show on that stretch of road.

Mr. Trampe expressed concern regarding the trucks on the one-lane road, Wildwood Road. Mr. Sporer explained that they will widen it and improve it, so there will be safe traversing for all parties.

Deputy County Attorney Hoffmeister advised that if Mr. Sporer wished to change or improve the road, then a Road Maintenance Agreement will need to be signed.

Chairperson Brady inquired if anyone wished to speak in opposition of the proposed special use permit. No one spoke.

Chairperson Brady asked if anyone wished to speak in favor of the proposed special use permit.

Mr. Schake testified he was mostly concerned about Wildwood Road and appreciated Mr. Sporer improving it.

Chairperson Brady closed the public hearing at 8:16 P.M.

Chairperson Brady asked if any of The Commission members wished to speak.

Mr. Vacek expressed concern about whether Nebraska Department of Transportation would provide permission for Mr. Sporer to use their lot as access. He inquired the timeline on receiving permission from Nebraska Department of Transportation to use their tract for access to the proposed lot and Mr. Sporer stated a couple of days.

Additional conditions were discussed and agreed on by The Commission: all inventory must be removed by the end of 5 years, 911 address signage is required, entry access to state or county highway approved by the appropriate state engineer or county staff, and the applicant will need to enter into a Road Maintenance/Improvement Agreement and restore the land to its original condition.

Motion was made by Mr. Biehl, seconded by Mr. Vest, to recommend favorably Application for Special Use Permit, filed by Kelly McCoy, of Paulsen, Inc., on behalf of Pamela Kim Triplett, Trustee of the Pamela Kim Triplett Revocable Trust dated June 22, 2018, to operate a sand/gravel quarry and a portable concrete production pit, on tax parcel 520128000, described as Part of Government Lot 8 and Government Lot 9, and Part of the North Half of the Southwest Quarter, South of Interstate 80, situated in Section Nine (9), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, AND North of the County Line, situated in Section Sixteen (16), Township Eight (8) North, Range Seventeen (17) West of the Sixth Principal Meridian, Buffalo County, Nebraska, to The Buffalo County Board of Commissioners, with the following conditions: all inventory must be removed by the end of 5 years, 911 address signage is required, entry access to state or county highway approved by the appropriate state engineer or county staff, the applicant will need to enter into a Road Maintenance/Improvement Agreement, and restoration of land to original condition.

Upon roll call vote, the following Board members voted "Aye": Stubblefield, Vest, Biehl, Vacek, Jeffs, Wolfe, and Brady.

Voting "Nay": None.

Abstain: None.

Absent: Keep and Schmidt.

Motion carried.



**Public Hearing. 5(c)**

Chairperson Brady opened the public hearing for Agenda Item 5(c) at 8:24 P.M. regarding a Code amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following sections: Section 5.14, Permitted Special Uses of the Agriculture (AG) District, Section 5.24 Permitted Special Uses of the Rural Conservation (RC) District, Section 5.34, Permitted Special Uses of the Agricultural – Residential (AGR) District, Section 5.54, Permitted Special Uses of the Commercial District, and Section 5.64, Permitted Special Uses of the Industrial (I) District regarding mineral extraction.

Deputy County Attorney Hoffmeister presented the proposed code amendment as the following:

“Amend The Buffalo County Zoning Regulations, with renumbering as necessary, to amend the following language:

Mineral extraction, which shall include the following: oil wells, sand, dirt and/or gravel extraction and quarries accomplished through the use of water and aggregate pumping machinery and/or earth moving surface equipment. (Resolution 3-24-09).

in the following sections:

Section 5.14, Permitted Special Uses of the Agriculture (AG) District  
Section 5.24, Permitted Special Uses of the Rural Conservation (RC) District  
Section 5.34, Permitted Special Uses of the Agricultural – Residential (AGR) District  
Section 5.54, Permitted Special Uses of the Commercial District (C) (**Add Provision**)  
Section 5.64, Permitted Special Uses of the Industrial (I) District”.

Deputy County Attorney advised that the proposed amendment provides clarification on what is allowed with mineral extraction.

Chairperson Brady closed the public hearing at 8:31 P.M.

Motion was made by Secretary Wolfe, seconded by Mr. Vacek, to recommend favorably Code amendments to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following sections: Section 5.14, Permitted Special Uses of the Agriculture (AG) District, Section 5.24 Permitted Special Uses of the Rural Conservation (RC) District, Section 5.34, Permitted Special Uses of the Agricultural – Residential (AGR) District, Section 5.54, Permitted Special Uses of the Commercial District, and Section 5.64, Permitted Special Uses of the Industrial (I) District regarding mineral extraction.

Upon roll call vote, the following Board members voted “Aye”: Vest, Biehl, Vacek, Jeffs, Wolfe, Stubblefield, and Brady.

Voting “Nay”: None.

Abstain: None.

Absent: Keep and Schmidt.

Motion carried.

The Planning Commission adjourned for a five-minute break at 8:31 p.m. and called The Commission back to order at 8:38 P.M.

**Workshop Session. 6(a)**

Chairperson Brady announced Item 6(a) at 8:38 P.M. and opened discussion for revision of the Buffalo County Zoning and Subdivision Regulations as part of the Buffalo County Comprehensive Plan, or the general plan for the improvement and development of the county outside of the jurisdiction of any city or village, as required per Neb. Rev. Stat. §23-174.06.

Zoning Administrator Daniels stated that she wished to review the revisions that were proposed at the February 15, 2024 meeting to ensure The Planning Commission found the revisions to be acceptable. The Commission found those variations to be acceptable.

The Planning Commission reviewed Section 5.14, regarding the verbiage for temporary concrete and/or asphalt projects.

Zoning Administrator Daniels updated The Commission that Livestock Confinement Regulations to Section 6.6, instead of Section 6.4 throughout the document. The Commission found those changes acceptable.

The Commission discussed Livestock Confinement Operations and the signatures of dwellings, in lieu of surface landowners.

A member of the public requested the opportunity to speak.

Zoning Administrator Daniels advised that she advertised as a public hearing.

Deputy County Attorney Hoffmeister counselled it would be The Chair's discretion to allow public comment.

Chairperson Brady permitted the member to comment. Mr. Cory Banzhaf, of 28430 128<sup>th</sup> Road, Kearney, Nebraska, stepped to the podium. Mr. Banzhaf requested The Commission consider who was established first: a residence or a livestock confinement, when proposing code amendments.

Deputy County Attorney Hoffmeister advised The Commission is increasing setbacks for residences, as well as requiring waivers from the proposed livestock confinement operator.

Mr. Banzhaf expressed concern of the inability to acquire signatures from all dwellings within the setback area around his livestock confinement area and Deputy County Attorney Hoffmeister advised the area located around Mr. Banzhaf's livestock confinement area has created land use conflicts, where urbanization is colliding with agricultural.

Mr. Banzhaf asked if The Commission would consider a livestock matrix, as recommended by The State of Nebraska. Deputy County Attorney Hoffmeister recounted that the signatures are a huge mathematical component to the matrix. He explained that the required numbers would never be satisfied because the signatures weigh so heavily, 35 points, on the overall calculations. Mr. Banzhaf explained that alternate setbacks could be considered. Deputy County Attorney Hoffmeister stated the total number would never be satisfied because the signatures are not accumulated.

Mr. Banzhaf asked when the class sizes were proposed and Deputy County Attorney Hoffmeister explained The Commission has talked about it during several different meetings. Mr. Banzhaf expressed concern regarding the proposed class sizes.

Discussion occurred regarding special use permit requirements for livestock confinement operations versus permitted principle uses and hypothetical situations were reviewed.

Mr. Banzhaf expressed concerns regarding the special use permitting process for expansion and the proposed setbacks.

Deputy County Attorney Hoffmeister asked Mr. Banzhaf how many background feeders are involved in Mr. Banzhaf's operation. Mr. Banzhaf responded, none. He testified that he is the one doing the background feeding.

Deputy County Attorney Hoffmeister inquired how many cattle are in Mr. Banzhaf's feed yard from Buffalo County. Mr. Banzhaf responded that he wasn't sure.

Discussion occurred regarding the definition of livestock confinement operations at the state of county levels.

Deputy County Attorney Hoffmeister asked how many people are employed at Mr. Banzhaf's livestock confinement operation and Mr. Banzhaf responded he has six employees, but three are women who do clerical and administrative work.

Deputy County Attorney Hoffmeister asked how much corn is fed out of his operation and Mr. Banzhaf responded, 60 bushels per animal, but is dependent on the size of the animal.

Deputy County Attorney Hoffmeister questioned Mr. Banzhaf what steps he's taken for odor elimination and Mr. Banzhaf responded pen cleanliness, spraying, etc.

Deputy County Attorney Hoffmeister asked where Mr. Banzhaf spreads the manure and Mr. Banzhaf explained, it is sprayed on his adjacent cropland. He added that the measures he has taken for odor control is completely dictated by The State of Nebraska.

Discussion occurred regarding the need for manure and the ability to resell and reuse.

Secretary Wolfe asked Mr. Banzhaf if the geographical location of applying manure was necessary and Mr. Banzhaf replied it was necessary. He added that it has to be applied on a land base within a six-mile radius of the operation.

Mr. Banzhaf described that the State of Nebraska conducts grid sampling of the operator's land to ensure each applicant owns enough surface acres to remain environmentally acceptable as part of the application process.

Deputy County Attorney Hoffmeister questioned how dead animals are handled and Mr. Banzhaf stated they are rendered, but have been composted.

Deputy County Attorney Hoffmeister asked how far Mr. Banzhaf was from the nearest rendering plant and Mr. Banzhaf stated his closest was Lexington.

Mr. Vacek asked if there was an age limit on the rendering plant and Mr. Banzhaf stated 30 months of the animal, due to potential contamination of mad cow disease.

Deputy County Attorney Hoffmeister asked how many monitoring wells Mr. Banzhaf had on-site and Mr. Banzhaf responded, three. Discussion occurred regarding the state regulations on monitoring wells.

Deputy County Attorney Hoffmeister queried Mr. Banzhaf, what setbacks were acceptable to him and Mr. Banzhaf responded he would like to see the setback table from the 2004 Buffalo County Zoning Regulations. He testified that he believes the table is more indicative of similar counties.

Discussion occurred regarding the difference between confining cattle and pigs and their atmospheres.

Deputy County Attorney Hoffmeister referenced the census maps that were prepared by the zoning administrator and board administrator, described as Exhibit A and Exhibit B. The number of residences, census data, and soil types was discussed.

Mr. Biehl asked Mr. Banzhaf was his recommendation was moving forward and Mr. Banzhaf explained he would like to see a change for ease of application using the Livestock Matrix. Referencing the map, there should be areas "designated as safe zones" for livestock confinement operations. Discussion occurred regarding the pros and cons of the Livestock Matrix.

Mr. Stubblefield asked Zoning Administrator Daniels to project the 2004 class sizes on the wall for The Commission. Zoning Administrator Daniels projected the 2004 class sizes and the Commission discussed the changes from 2004 through current date.

Discussion occurred regarding existing livestock confinement operations and how the proposed code affects existing operations.

Chairperson Brady said he was concerned about residential housing and the agricultural sector to live harmoniously. Chairperson Brady queried what Mr. Banzhaf thought was the best way to handle this situation and Mr. Banzhaf recommended using the livestock matrix.

Secretary Wolfe explained that the livestock matrix does not, necessarily, capture all the good, and necessary factors that need to be considered when a livestock confinement operation is permitted, such as being on a hill and proper drainage. Mr. Banzhaf agreed.

Deputy County Attorney Hoffmeister counselled that, if a deviation from existing regulations needed to occur, the request needed to be heard by The Buffalo County Board of Adjustment.

Discussion occurred regarding how the proposed regulations will affect existing livestock confinement operations and the livestock friendly designation.

Mr. Banzhaf asserted he was concerned regarding the proposed class sizes and would like The Commission to reconsider using the setbacks from the 2004 Buffalo County Zoning Regulations.

Deputy County Attorney Hoffmeister referenced Exhibit A and Exhibit B and advised, as population increases, the signatures are harder to acquire by any livestock confinement operator.

Discussion occurred regarding how livestock has evolved.

Chairperson Brady thanked Mr. Banzhaf for his testimony.

Mr. Banzhaf implored The Commission to reconsider the setbacks because they, as proposed, are stricter.

Chairperson Brady described The Commission was concerned about how increased traffic and the odor affects the rest of Buffalo County.

Deputy County Attorney Hoffmeister presented an immediate code amendment to be considered by The Planning Commission, which would be an amendment to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following section, Section 9.42, Procedures for Requesting a Variance, regarding notice requirements and deadlines to schedule hearing.

“Buffalo County Zoning Regulations, Section 9.42 amending language generally shown by underlining as additions and strikethrough as deletion, as reflected below:

~~“9.42 The Chairperson of the Board shall set a hearing within thirty (30) days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten (10) days prior to the actual hearing. NOTICE The Board shall also notify provide notice to the interested parties ten (10) days prior to the hearing date, in the case of which includes the hearing date, time and place of the hearing. The prescribed method of giving notice, unless otherwise specifically changed by the action being taken, shall be as follows:~~

**A. Adjoining landowners:** Notice(s) for any public hearing shall be sent to owners of record who have property three hundred (300) or less feet from outside borders of tract(s) and/or if streets or roads abut the property that is the subject of the action extending three hundred (300) feet from the street frontage of such opposite lots measured from the opposite side of the road, sought to be vacated at least ten (10) days before the Commission and County Board public hearing(s). Receipt of such notice is not mandatory or required as a condition precedent to any such public hearing.

**B. Publication** Notice of the public hearings shall also be given by publication of notice of said hearing one time at least ten (10) days prior to such hearing in a daily newspaper having a general circulation in the City of Kearney and Buffalo County.

**C. Property shall be described** For notices to adjoining landowners and by publication, the notice(s) for shall clearly describe the plat or portion thereof to be considered at the public hearing and state the time and place of the meetings of the Commission and The Board of Commissioners at which the consideration and adoption of the resolution will be voted upon.

**D. Posting on the property:** Notice of such hearing shall also be posted ten (10) days in advance of the public hearing(s) concerning the property in a conspicuous place on or near the property in sign form to seeking action in the public hearing.”

Chairperson Brady closed the discussion on this agenda item at 10:16 P.M.

Motion was made by Mr. Vest, seconded by Mr. Vacek, to recommend favorably the code amendment to The Buffalo County Zoning Regulations, with renumbering as necessary, in the following section, Section 9.42, Procedures for Requesting a Variance, regarding notice requirements and deadlines to schedule a hearing, as presented, to the Buffalo County Board of Commissioners.

Upon roll call vote, the following Board members voted “Aye”: Wolfe, Jeffs, Vacek, Biehl, Vest, Stubblefield, and Brady.

Voting “Nay”: None.

Abstain: None.

Absent: Keep and Schmidt.

Motion carried.

The Commission discussed possible amendments to the proposed regulations or possible approval of the proposed regulations.

### **Old Business**

### **Minutes**

Motion was made by Mr. Stubblefield, seconded by Ms. Jeffs, to approve the minutes of the February 15, 2024 meeting, as presented.

Upon roll call vote, the following Board members voted “Aye”: Vacek, Jeffs, Wolfe, Stubblefield, Vest, Biehl, and Brady.

Voting “Nay”: None.

Abstain: None.

Absent: Keep and Schmidt.

Motion carried.

### **New Business**

#### **Report on Previous Hearings**

Zoning Administrator Daniels provided a report from the February 15, 2024, Planning Commission Meeting. The proposed preliminary plat for “Roubicek Subdivision”, was heard and approved by The Board of Commissioners on March 12, 2024.

Zoning Administrator Daniels reviewed the proposed subdivisions “Arbor View Fourth” and “Oak Park Center Fourth”, along with the proposed letter, to the city of Kearney. The Commission had no concerns regarding either letter.

#### **Next Meeting**

The next meeting will be April 18, 2024. Zoning Administrator Daniels notified The Commission that they would have a regular meeting to review a special use permit application for a dirt extraction business.

Chairperson Brady updated The Commission on topics discussed at the Annual Planning Conference.

#### **Adjourn**

Chairperson Brady adjourned the meeting at 10:44 P.M.

---

Scott Brady, Chairperson  
Buffalo County Planning Commission

---

Loye Wolfe, Secretary  
Buffalo County Planning Commission