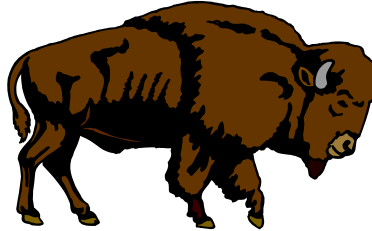


Buffalo County Board of Supervisors
BUFFALO COUNTY COURTHOUSE
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REGULAR MEETING
BUFFALO COUNTY BOARD OF SUPERVISORS
TUESDAY, JUNE 10, 2003
9:00 A.M.

Regular meeting of the Buffalo County Board of Supervisors was held at 9:00 a.m. on Tuesday, June 10, 2003.

Chairman McMullen led the County Board and audience in the Pledge of Allegiance. Chairman McMullen called the regular meeting to order with the following Board members responding to roll call: Greg Barney, Horace Dannehl, Ivan Klein, Timothy Loewenstein, William McMullen, Sherry Morrow and Richard Pierce. Absent: None.

Posting and publishing gave notice of the meeting in advance, thereof. Notice of the meeting was simultaneously given to all members of the Board of Supervisors; and availability of the agenda was communicated in the advance notice and in the notice to the Board of Supervisors of this meeting. Said agenda was also furnished to all area news media. A copy of the acknowledgment and receipt of notice and agenda by the Board of Supervisors is attached to these minutes. County Clerk Judy Jobman took all proceedings hereinafter shown while said meeting was open to the public. County Attorney Shawn Eatherton and Deputy County Attorney Andrew Hoffmeister were present.

Chairman McMullen called for the Citizen's Forum as per the agenda. Chris Hunnicutt was present to discuss her concerns with North Avenue N to 69th, and to present a petition that was signed by residents and citizens who use the road. After discussion the matter was turned over to the Highway Committee for review further stating they will provide a response within a month.

Gary Streeks from Blue Cross and Blue Shield was present to answer questions and update the county board concerning the premiums and answer questions concerning the 2003-2004 contract.

After discussion concerning our health care insurance, it was moved by Barney, seconded by Morrow to remain with Blue Cross and Blue Shield of Nebraska for the next fiscal year with the 12%

increase in health premiums, 7.5 % increase in dental premiums at the proposed premiums amounts and current level of deductions and authorize County Board Chairman William McMullen to sign on the Board's behalf. Upon roll call vote, the following Board members voted "Aye": Barney, Morrow, Dannehl, Klein, Loewenstein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Wayne Homan, USDA Animal Damage Control agent discussed the contract renewal with the Board members.

Following discussion it was moved by Loewenstein, seconded by Pierce to enter into the contract with USDA Animal Damage Control for a three year term in the amount of \$11,931 per year, which is a 7% increase from the contract signed three years ago. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Pierce, Barney, Dannehl, Klein, Morrow and McMullen. None voted "Nay". Absent: None. Motion declared carried.

At 9:30 A.M. Chairman McMullen called for the bid letting of asphalt concrete surfacing on Project Nos. Project Nos. C10 (820) Cottonmill Avenue, Airport Road, C10 (819) Lowell Road; C10 (818) 340th and Keystone Road; C10 (814) 370th Road and C10 (813) Navaho Road followed by bid opening for one new 3-point mounted brush chopper. Assistant Highway Superintendent Phil Dixon and Stan Johnson from Miller & Associates were present as County Clerk Judy Jobman opened each bid and read them aloud. The following companies submitted bids for the asphalt concrete surfacing: Simon Contractors, North Platte, Nebraska; Western Engineering, Harlan, IA; Constructors, Inc., Lincoln, Nebraska; Paulsen Inc., Cozad, Nebraska and Werner Construction Co. Hastings, Nebraska. The bids were turned over to the Road committee and with the assistance of Stan Johnson of Miller and Associates a recommendation to the County Board will be made at a later date. Chairman of the Highway Committee Richard Pierce then called for the bid letting of one new 3-point mounted brush chopper. The following companies submitted bids Murphy Tractor, Grand Island, Nebraska and Kearney Implement, Kearney, Nebraska. The bids were turned over to the Road committee and a recommendation to the County Board will be made at a later date.

Moved by Barney seconded by Morrow to recess the regular meeting of the Board of Supervisors at 9:55 A.M. and reconvene as a Board of Equalization for the purpose of approving motor vehicle tax exemptions; to set date for property valuation protests and to extend homestead exemption filing deadline. Upon roll call vote, the following Board members voted "Aye": Barney, Morrow, Dannehl, Klein, Loewenstein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

-BOARD OF EQUALIZATION-

Chairman McMullen called the Board of Equalization to order in open session. County Treasurer Jean Sidwell was present.

Moved by Loewenstein, seconded by Pierce to approve the renewal applications for motor vehicle tax exemption of International Church of the Four Square Gospel on a 1994 Plymouth Voyager van; New Life Assembly on a 1995 E350 Ford Bus, 1997 Ford Econoline van, 2000 and 2001 Ford bus and a 2003 Chevrolet bus; Mid-Nebraska Individual Services on a 1995 2 door Toyota Tercel, 1999 Ford Winstar Van, 1992 Ford Aerostar van, 1995 2 door Ford Contour, 1992 Dodge minivan, 1995 Ford full size van and a 1999 Ford Winstar van; Lincoln Greater NE Chapter of the Alzheimer's Association on a 1995 Oldsmobile Cierra LS; Faith United Methodist Church on a new purchase of a 1999 GMC 1 ton van. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Pierce, Barney, Dannehl, Klein, Morrow and McMullen. None voted "Nay". Absent: None. Abstain: Klein on Mid-Nebraska Individual Services. Motion declared carried.

Moved by Loewenstein, seconded by Dannehl to open property valuation protest hearings on June 24, 2003 at 11:30 A.M. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Dannehl, Barney, Klein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Joe Woodward requested that the date for the homestead exemption be extended to July 31, 2003.

After discussion, it was moved by Pierce, seconded by Dannehl to allow the extension of homestead exemption filings through July 31, 2003. Upon roll call vote, the following Board members voted "Aye": Pierce, Dannehl, Barney, Klein, Loewenstein, Morrow and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Moved by Klein, seconded by Loewenstein to recess the Board of Equalization at 10:03 A.M. and return to the regular meeting of the Board of Supervisors. Upon roll call vote, the following Board members voted "Aye": Klein, Loewenstein, Barney, Dannehl, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

-REGULAR MEETING--BOARD OF SUPERVISORS-

Chairman McMullen called the regular meeting to order in open session.

The Board members reviewed minutes from Tuesday, May 27, 2003 and Friday May 30, 2003.

It was moved by Klein, seconded by Dannehl to approve the minutes of May 27, 2003 and May 30, 2003 with the following correction to the May 27, 2003 minutes. That the name of "Allen" Johnson should be amended to state "Eldon" Johnson in the discussion of Esther Shannon's Special Use Permit. Upon roll call vote, the following Board members voted "Aye": Klein, Dannehl, Barney, Loewenstein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Current correspondence was discussed.

Notice was received from Two Rivers Public Health Department advising of an Open House in honor of their one year anniversary on Friday, June 20, 2003 from 9:30 a.m. until 11:00 a.m. in Holdrege, Nebraska; the Department of Roads notice of Public Open House forums in Western Nebraska concerning Federal Funding available for 2004; NIRMA (Nebraska Intergovernmental Risk Management Association) an incident analysis for Buffalo County for the 3rd Quarter of 2002-2003 and from Mike Zgud, Health and Human Services a notice of the next Bloodmobile on September 24, 2003.

The County Board reviewed the Nebraska Veterans Aid and Buffalo County Veteran Aid monthly reports for May and the May fund balance report submitted by the County Treasurer.

Moved by Dannehl, seconded by Klein to accept the reports. Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, Barney, Loewenstein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Moved by Klein, seconded by Dannehl to approve the Public Official Bond for Craig E. Nutter for Secretary Treasurer of the Gibbon Rural Fire District for the term July 19, 2003 through July 19, 2004. Upon roll call vote, the following Board members voted "Aye": Klein, Dannehl, Barney, Loewenstein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Sheriff Neil Miller was present to answer questions concerning the Homeland Security Grant application.

After discussion, it was moved by Loewenstein, seconded by Klein to authorize County Board Chairman William C. McMullen to sign the letter and application for the Homeland Security Grant. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Klein, Barney, Dannehl, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Two applications for Special Designated License to serve alcohol were reviewed.

Moved by Morrow, seconded by Dannehl to approve the application for Special Designated License for Steve and Joni Paulsen to serve alcohol for a wedding reception to be held at Sup's Northwood Lodge on June 28, 2003 from 5:00P.M until 1:00A.M. Upon roll call vote, the following Board members voted "Aye": Morrow, Dannehl, Barney, Klein, Loewenstein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Mike Kelliher as the event Supervisor for an event he wishes to hold on July 4, 2003, was present to answer questions concerning the Special Designated License application of Copperfields. After discussion the application was turned over to the Law Committee for further review. The County Board will hold a Special meeting on Tuesday, June 17, 2003 at 9:00A.M. to hear the Law Committees recommendation and state their decision.

Various committee reports were given.

Planning and Zoning Administrator, LeAnn Klein was present for zoning discussion of the Special Use Permit for Neil Koster and the Change in zoning for Dottie Campbell.

At 10:30 A.M. Chairman McMullen stated with regard to the Special Use Permit for Neil Koster there was imperfect notice given therefore, the Koster Special Use permit will be continued until June 24, 2003 at 10:30A.M. allowing for proper notice.

Chairman McMullen then called for discussion on the Dottie Campbell change in zoning.

Dottie Campbell was present to request a change in zoning from AG to AGR on a tract of land in the north one-half of section 25 from the Board. Mitch Humphrey, County Surveyor was present to answer questions from the Board and to provide a more precise legal description, clarifying the number of acres being rezoned.

Moved by Dannehl, seconded by Klein to approve the following Resolution:

RESOLUTION 2003-19

WHEREAS, Dottie Campbell has Applied for Change of Zoning from AG to AGR for real estate hereinafter described with such application being filed with the Buffalo County Clerk and/or Zoning Administrator, and

WHEREAS, on May 15, 2003 the Buffalo County Planning and Zoning Commission following public hearing with notice as required recommended approval of such proposed change in zoning on a 5-0 vote, and

WHEREAS, no protest(s) against such amendment have been filed with the Buffalo County Clerk within 14 days of conclusion of public hearing of such Commission as allowed under Sec. 11.4, and

WHEREAS, on May 27, 2003 this Board conducted a public hearing considering this rezoning request and finds that such change in zoning designation would have minimal adverse affect on surrounding properties, is consistent with property use in the immediately surrounding area, and is consistent with overall comprehensive plan adopted by Buffalo County, Nebraska,

WHEREAS, the votes in favor of adoption of this resolution exceeds two-thirds majority of members to this Board of Supervisors,

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS that application for change in zoning from AG to AGR by Dottie Campbell for the following described real estate shall occur and the Buffalo County Zoning Map originally adopted on or about September 10, 2002 be amended and the Official Zoning Map be changed to reflect this amendment with such real estate being more particularly described as:

A tract of land being part of the South Half of the Northwest Quarter (S1/2 NW1/4) of Section Twenty-five (25), Township Ten (10) North, Range Sixteen (16) West of the Sixth Principal Meridian, Buffalo County, Nebraska, being more particularly described as follows: Referring to the

Southwest Corner of the South Half of the Northwest Quarter of Section 25 and assuming the South line of the South Half of the Northwest Quarter of said Section 25 as bearing S 89°52'08" E and all bearings contained herein are relative thereto; thence S 89°52'08" E and on the South line of the South Half of the Northwest Quarter of said Section 25 a distance of 60.45 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning being a point on the East Right-of-Way line of a tract of land deeded to the State of Nebraska Department of Roads as described on Warranty Deed filed at Instrument No. 2003-2014 and filed in the Buffalo County Register of Deeds office on February 14, 2003; thence leaving the aforesaid East Right-of-Way line S 89°52'08" E and continuing on the South line of the Northwest Quarter of said Section 25 a distance of 901.78 feet, more or less, to a point on an existing fence line, said point being 1688.67 feet Westerly from the Southeast Corner of the South Half of the Northwest Quarter of said Section 25; thence N 00°31'59" W on the aforesaid existing fence line a distance of 1323.59 feet to a point on the North line of the South Half of the Northwest Quarter of said Section 25, said point also being 1683.3 feet Westerly of the Northwest Corner of the South Half of the Northwest Quarter of said Section 25; thence N 89°52'58" W and on the North line of the South Half of the Northwest Quarter of said Section 25 a distance of 638.31 feet; thence S 00°51'04" E a distance of 187.0 feet; thence N 89°50'27" E a distance of 150.0 feet; thence S 00°41'06" E a distance of 273.0 feet; thence N 89°54'51" W a distance of 411.20 feet to a point on the East Right-of-Way line of the aforesaid tract of land deeded to the State of Nebraska Department of Roads; thence S 01°21'33" W and on the East Right-of-Way line of the aforesaid tract of land deeded to the State of Nebraska Department of Roads a distance of 90.99 feet; thence leaving the East Right-of-Way line of the aforesaid tract of land deeded to the State of Nebraska Department of Roads S 89°51'38" E a distance of 264.55 feet; thence S 00°45'53" E a distance of 300.0 feet; thence N 89°48'42" W a distance of 267.62 feet to the place of beginning. Containing 21.81 acres, more or less.

Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, Barney, Loewenstein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Moved by Loewenstein, seconded by Dannehl to enter into an Executive Session at 11:10 A.M. to discuss personnel issues as the Buffalo County Personnel Appeal and Review Board. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Dannehl, Barney, Klein, Morrow, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Moved by Morrow, seconded by Loewenstein to move out of Executive Session at 11:25 A.M. and return to an open session of the County Board sitting as the Buffalo County Personnel Appeal and Review Board. Upon roll call vote, the following Board members voted "Aye": Morrow, Loewenstein, Barney, Dannehl, Klein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

After the Board came out of Executive session at 11:25 a.m., Chairman McMullen identified Tina Kardell as a person who had filed an appeal of an employment decision under the Buffalo County Personnel Appeal and Review Board Statement of Purpose and Rules and Regulations, stating that she had requested the appeal in a timely manner. McMullen acknowledged that Judy Jobman, County Clerk,

gave notice of hearing scheduled for 11:00 a.m. on June 10, 2003, in the County Board Room to Ms. Kardell by certified and regular mail, and acknowledged that Ms. Kardell was not in appearance at the designated time and place. Mr. McMullen requested at the time further information from William T. Wright, legal counsel retained by the Board, to assist the Board and provide guidance with regard to Ms. Kardell's appeal. Mr. Wright advised that:

1. He had received over the course of the last several weeks a number of documentary items and written statements of position by Tina Kardell in support of her position that her termination by the Buffalo County Attorney's office was unfair;

2. That Ms. Kardell had requested of Mr. Wright to submit written information only to the Appeal Board and to allow her witnesses to submit written information only with regard to why she was terminated and why the termination was unfair;

3. That Mr. Wright and County Clerk Jobman had advised the appellant in writing on behalf of the Board that written statements or positions alone in lieu of appearance either in person or by counsel at noticed hearing were not consistent with the Buffalo County Personnel Appeal and Review Board Statement of Purpose and Rules and Regulations, which state in pertinent part that appellant's "failure to appear in person or by counsel shall be presumed to be a waiver of further hearing";

4. That Mr. Wright had advised the appellant of his opinion that her failure to appear in person or by legal counsel would constitute a waiver of further hearing and appeal;

5. That Judy Jobman, County Clerk and Coordinator of the Buffalo County Personnel Appeal and Review Board, had also advised the appellant in writing of Mr. Wright's opinions;

6. That the appellant had requested in writing a continuance of the hearing in this matter and that Chairman McMullen and Ms. Jobman had each in writing advised the appellant of the decision of Chairman McMullen that the reasons given for the requested continuance did not constitute "good cause" as required by the Buffalo County Personnel Appeal and Review Board Statement of Purpose and Rules and Regulations, and that her motion for continuance was denied; and

7. That Ms. Kardell was neither present personally or by counsel, and that her right to further hearing and appeal, under the Buffalo County Personnel Appeal and Review Board Statement of Purpose and Rules and Regulations, is therefore presumed to be waived.

Mr. McMullen, acknowledging the absence of the appellant either in person or by counsel at the appointed time and place, held that the appellant's right to further hearing and appeal has been waived.

Moved by Morrow, seconded by Loewenstein to enter into an Executive Session at 11:30 A.M. to discuss personnel issues and pending litigation. Upon roll call vote, the following Board members voted "Aye": Morrow, Loewenstein, Dannehl, Barney, Klein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Moved by Morrow, seconded by Loewenstein to enter into an Executive Session at 11:30 A.M. to discuss personnel issues, contract negotiations and pending litigation. Upon roll call vote, the following Board members voted "Aye": Morrow, Loewenstein, Dannehl, Barney, Klein, Pierce and McMullen. None voted "Nay". Absent: None. Motion declared carried.

Supervisor Morrow was excused from the remainder of the meeting.

Moved by Loewenstein, seconded by Klein to move out of Executive Session at 12:10 P.M. and return to an open session of the County Board. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Klein, Barney, Dannehl, Pierce and McMullen. None voted "Nay". Absent: Morrow. Motion declared carried.

Chairman McMullen declared the meeting adjourned at 12:11 P.M. until the special meeting on Tuesday, June 17, 2003 at 9:00 A.M. and instructed County Clerk Judy Jobman to publish notice for the same according to Nebraska law.