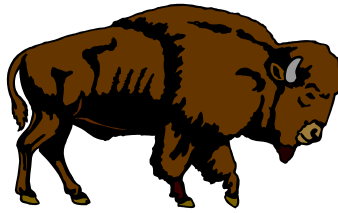


Buffalo County Board of Supervisors
BUFFALO COUNTY COURTHOUSE
P.O. Box 1270 . Kearney, NE 68848-1270
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REGULAR MEETING
BUFFALO COUNTY BOARD OF SUPERVISORS
TUESDAY, AUGUST 10, 2004
9:00 A.M.

Regular meeting of the Buffalo County Board of Supervisors was held at 9:00 A.M. on Tuesday, August 10, 2004.

Chairman Pierce led the County Board and audience in the Pledge of Allegiance. Chairman Pierce 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 and 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 was present.

Chairman Pierce called for the Citizen's Forum as per the agenda. Scott Foutch, Betty Jo Armagost and Peg Nyffeler were present to discuss their concerns with possible appointees to the Cottonmill Advisory Board and Dave Townsend was present to discuss the possibility of paving Avenue N Road outside of the City limits.

The Board members reviewed minutes from Thursday, July 22, 2004 and Tuesday, July 27, 2004. There being no additions or corrections to the minutes, it was moved by Loewenstein, seconded by McMullen to approve the minutes of July 22, 2004 and July 27, 2004. Upon roll call vote, the following Board members voted "Aye": Loewenstein, McMullen, Dannehl, Klein and Pierce. None voted "Nay".

Abstain Barney and Morrow as they were absent from those meetings. Absent: None. Motion declared carried.

The County Board received thank you cards from Steve McCormick with regard to the thankless position the board has with regard to Property Protest Hearings; Nicki Gausman, The S.A.F.E. Center thanking the Board for their support and offering her hope for monetary support in the 2004-2005 budget and from Deputy County Clerk Joyce Kowalewski thanking the Board for the gift card and sympathy they extended at the loss of her father. Letters were received from the City of Kearney with notice and map for a hearing on the Redevelopment Plan for Redevelopment Area #7; Adams County with regard to travel policies; Union Pacific Railroad of their proposed abandonment and discontinued service of the Kearney Industrial Lead from Milepost 3.01 to the end of the line at Milepost 3.75, a distance of 0.74 miles near Kearney, Buffalo County, Nebraska; newsletter from Nebraska Workforce Development; e-mail clarification from Deann Haeffner of the State Auditors Office with regard to the Homeland Security money and the need to remit to the County Treasurer for payment by claim process and from James M. Inhofe, Chairman of the United States Senate Committee on Environment and Public Works regarding the letter he received from the Buffalo County Board regarding the I-80 exit and bypass project in Kearney.

The County Board reviewed the County Veteran's Aid Report, NE Veterans Aid and the Treasurer's monthly fund balance reports for the month of July.

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

Various committee reports were given.

County Treasurer Jean Sidwell submitted the following resolution to the Board for approval.

RESOLUTION 2004-27

BE IT RESOLVED that the County Treasurer having presented a list of delinquent Personal Property taxes and persons owing same to the County Board of Supervisors, with the request that the taxes be placed on an inactive status, and stating that Distress Warrants have been certified for the collection of said taxes to the Sheriff of Buffalo County for two or more years and said taxes are uncollectible; and having stated that the inactive tax list is reviewed annually and if taxes are found to be collectible, Distress Warrants are again issued against the persons for a collection of said taxes, all of which, being in accordance with Nebraska Statutes in such cases, the

County Board of Supervisors hereby authorize the transfer of said taxes to an inactive status. Sec.77-1738.

Moved by Dannehl, seconded by Loewenstein to approve the foregoing resolution and authorize Chairman Pierce to sign on behalf of Buffalo County. Upon roll call vote, the following Board members voted "Aye": Dannehl, Loewenstein, Barney, Klein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Klein, seconded by Barney to set a public hearing date for the Pleasanton/Ravenna Rural Fire District redistricting Petition for September 14, 2004 at 9:30 A.M. and instruct County Clerk Judy Jobman to publish notice. Upon roll call vote, the following Board members voted "Aye": Klein, Barney, Dannehl, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Supervisor Loewenstein discussed the Nebraska Public Service Commission rules regarding the presentation of testimony at the upcoming public hearing reference 211 service to Buffalo County. He was advised by PSC staff that it would be necessary for Buffalo County to present their testimony in person, allowing cross examination following the testimony. Due to scheduling conflicts Loewenstein moved, seconded by McMullen to authorize Chairman Pierce to verbally present Loewenstein's testimony on behalf of Buffalo County at the Public Service Commission hearing on United Way's application to provide 211 service to Buffalo County on August 18, 2004 at 10:00 A.M. Loewenstein then amended his motion, accepted by seconding Supervisor McMullen to add "In addition permission shall be granted to the Public Service Commission to forward a copy of the written testimony composed by Loewenstein and to be presented by Pierce to the United Way as a courtesy prior to the hearing." Upon roll call vote, the following Board members voted "Aye": Loewenstein, McMullen, Barney, Dannehl, Klein, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Loewenstein, seconded by Morrow to authorize Chairman Pierce to sign on behalf of Buffalo County the Interlocal agreements for Cooperative Training between Buffalo County, the City of Kearney, Educational Service Unit 10 (ESU10), Kearney Public Schools and the University of Nebraska-Kearney. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Morrow, Barney, Dannehl, Klein, McMullen and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Barney, seconded by Dannehl to suspend the rules and allow input from those in attendance the opportunity to address the board a maximum of five minutes with regard to the Cottonmill Rural Improvement District Advisory Board. Upon roll call vote, the following Board members voted

"Aye": Barney, Dannehl, Klein, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay".

Absent: None. Motion declared carried.

In addition to Scott Foutch, Betty Jo Armagost and Peg Nyffeler, Jim Armagost, Andy Hanson, Marc Whitacre and Attorney Ron Tvrdik addressed the board with their concerns mainly concerning the possible appointees to the Cottonmill Rural Improvement District Advisory Board.

After much discussion, it was moved by Dannehl, seconded by McMullen to amend the previous motion they made on July 27, 2004 to appoint Dan Welch, Andy Hanson, Marc Whitacre, Jim Armagost and Joe Grubb to the Cottonmill Rural Improvement District Advisory Board and replace Joe Grubb with Peg Nyffeler. Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, and McMullen. Voting "Nay": Barney, Loewenstein, Morrow and Pierce. Absent: None. Motion declared failed for lack of a majority.

Moved by Dannehl, seconded by McMullen to withdraw their original motion.

Moved by Barney, seconded by Morrow to appoint Jim Armagost, Scott Foutch, Peg Nyffeler, Andy Hanson and Marc Whitacre to the Cottonmill Rural Improvement District Advisory Board. Upon roll call vote, the following Board members voted "Aye": Barney, Morrow, Dannehl, Klein, Loewenstein, McMullen and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Klein seconded by Dannehl to reappoint Dennis Farrell, Gibbon, Nebraska and Ann Bosshamer, Amherst, Nebraska to serve on the Zoning Adjustment Board per State Statute 23-168.01 for a three year appointment commencing September 9, 2004. Upon roll call vote, the following Board members voted "Aye": Klein, Dannehl, Barney, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Loewenstein, seconded by Dannehl to accept the floodplain engineering study of P & M Subdivision, (a subdivision being part of Government Lot 4 located in the NW ¼ of Section 9, Township 8 North, Range 14 West of the 6th P.M.) completed by Miller & Associates of Kearney, Nebraska on May 14, 2004, as the best and most current data for all elevation issues related to the surveyed area. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Dannehl, Barney, Klein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Ron Ridgeway of Miller & Associates Consulting Engineers was present to request the partial vacation of Windy Meadows Subdivision and approval of the preliminary and final plat into Windy Meadows Second Subdivision.

After discussion it was moved by Loewenstein, seconded by Dannehl to sign the following resolution:

RESOLUTION 2004-28

John H. Allan and Connie L. Allan, husband and wife, have petitioned this Board to vacate as platted real estate a parcel of real estate described as:

Lots One (1) through Six (6) (inclusive), Block One (1); Lot One (1) and Lots Five (5) through Eleven (11) (inclusive), Block Two (2); all of 95th Street and that part of Windy Meadows Road, lying north of the South line of Lot Six (6), Block One (1), all located in part of Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section Seven (7), Township Nine (9) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska

As the same was filed of public record on April 22, 2002 in Inst 2002-3909 of the records of the Buffalo County Register of Deeds, and

It appears that such persons are the only parties claiming any right, title, or interest of record to such parcel,

NOW THEREFORE, be it resolved by the Buffalo County Board of Supervisors that a parcel of platted real estate described as:

Lots One (1) through Six (6) (inclusive), Block One (1); Lot One (1) and Lots Five (5) through Eleven (11) (inclusive), Block Two (2); all of 95th Street and that part of Windy Meadows Road, lying north of the South line of Lot Six (6), Block One (1), all located in part of Windy Meadows Subdivision, a subdivision being part of the South Half of the Northeast Quarter of Section Seven (7), Township Nine (9) North, Range Fifteen (15) West of the Sixth Principal Meridian, Buffalo County, Nebraska as the same was filed of public record on April 22, 2002 in Inst.2002-3909 of the records of the Buffalo County Register of Deeds,

Should be and hereby is vacated as a platted parcel of real estate upon the real estate records of Buffalo County.

A copy of this Resolution shall be filed with the Register of Deeds upon parcel(s) affected.

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

Chairman Pierce stated approval of the preliminary and final plat into Windy Meadows Second Subdivision will be tabled until the next meeting allowing Miller & Associated Consulting Engineers time to make some changes to the plat and requested they provide a copy of their floodplain study to the Buffalo County Floodplain Administrator.

Moved by McMullen, seconded by Dannehl to recess the regular meeting of the Board of Supervisors at 11:01 A.M. and reconvene as a Board of Equalization for discussion and approval of tax list corrections and renewal applications for motor vehicle tax exemptions. Upon roll call vote, the following Board members voted "Aye": McMullen, Dannehl, Barney, Klein, Loewenstein, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

-BOARD OF EQUALIZATION-

Chairman Pierce called the Board of Equalization to order in open session.

Moved by Klein, seconded by Dannehl to approve the tax list corrections 2121 to 2129 as submitted. Upon roll call vote, the following Board members voted "Aye": Klein, Dannehl, Barney, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Dannehl, seconded by Barney to approve the renewal applications for motor vehicle tax exemption of Sinsinawa Dominicans on a 1996 Chevrolet Corsica, 1995 Chevrolet Cavalier and a 2002 Toyota Corolla; The Evangelical Lutheran Good Samaritan Society on a 1995 Ford bus, 1992 GMC Sierra pickup and a 2002 Ford cutaway van; and for Boy Scout Troop #36 on a 2001 S&H enclosed trailer. Upon roll call vote, the following Board members voted "Aye": Dannehl, Barney, Klein, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Moved by Barney, seconded by Dannehl to recess the Board of Equalization at 11:03 A.M. and return to the regular meeting of the Board of Supervisors. Upon roll call vote, the following Board members voted "Aye": Barney, Dannehl, Klein, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

- REGULAR MEETING -

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

Planning and Zoning Administrator, LeAnn Klein was present at 11:06 A.M. Chairman Pierce called for the public hearing for Change in Zoning. Trenton Snow of Miller & Associates was present on behalf of Francis Vavra to answer any questions or concerns about the change in zoning request. No one was present at the Public Hearing to offer any opposition.

After discussion and review of the information presented, at 11:10 A.M. Pierce closed the public hearing.

Moved by Barney, seconded by Morrow to approve the following Resolution:

RESOLUTION 2004-29

WHEREAS, Francis M. Vavra 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 July 14, 2004 the Buffalo County Planning and Zoning Commission following public hearing with notice as required recommended approval of such proposed change in zoning on a unanimous vote with the condition that no more than two residence be allowed on each of the subject property, further described as:

a tract of land located in the Northeast Quarter of Section 11, Township 10 North, Range 17 West of the 6th p.m., Buffalo County Nebraska, described as follows: Beginning at the Northwest corner of the Northeast Quarter of said section and assuming the north line of said Northeast Quarter as bearing East and all bearings contained herein are relative thereto; thence East on the North line of Northeast Quarter of said section a distance of 1026.0 feet; thence S 00° 28' E a distance of 557.22 feet; thence S 61° 44' W a distance of 22.3 feet; thence N58° 33' 30" W a distance of 194.65 feet; thence N 40° 10' W a distance of 348.7 feet; thence N 86° 42' 30" W a distance of 90.4 feet; thence S 46° 33' 30" W a distance of 138.0 feet; thence S 83° 01' W a distance of 52.25 feet; thence S 76° 19' W a distance of 387.0 feet to a point on the West line of the Northeast Quarter of said section; thence N 00° 14' W and on the aforesaid West line a distance of 387.35 feet to the place of beginning. Containing 8.184 acres, more or less, of which 0.777 acres more or less, are presently being used for road purposes.

And

WHEREAS, no protest(s) against such amendment have been filed with the Buffalo County Clerk within seven (7) days after conclusion of public hearing of such Commission as allowed under Sec. 11.4, rather than protests, written approval and/or waivers for such request were submitted by adjoining landowners as given at public hearing on the issue, and

WHEREAS, on August 10, 2004 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 needs to be solely a simply majority of this Board and does not need to exceed 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 Francis M. Vavra for the above-described real estate shall occur, subject to the condition that a maximum of two residences be allowed on the subject parcel above-described.

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

Thereafter Chairman Pierce opened the Public Hearing at 11:12 A.M. on the proposed amendments to Buffalo County Zoning Regulations as recommended for adoption to the Buffalo County Board of Supervisors by the Buffalo County Planning and Zoning Commission. Following public hearing on such amendments with no public comment, at 11:22 A.M. Chairman Pierce closed the public hearing. It was moved by McMullen, seconded by Barney, that the following Resolution be adopted concerning the proposed amendments:

RESOLUTION 2004-30

WHEREAS, ON July 14, 2004 the Buffalo County Planning and Zoning Commission held a public hearing concerning various amendments to Buffalo County's Zoning Regulations and recommended by unanimous vote that this Board approved such proposed amendments, and

WHEREAS, no protests have been filed against such proposed amendments that were timely and properly filed with the Buffalo County Clerk,

NOW THEREFORE, be it resolved by the Buffalo County Board of Supervisors that the following amendments are adopted with amending language as shown, and the relevant sections amended shall read as follows:

5.16 MINIMUM LOT REQUIREMENTS

1. The minimum lot area for AG uses shall be three (3) acres. By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems. All improved uses, other than general farming, ranging, pasturing, etc, shall be adjacent to an improved county road (above minimum maintenance road).
2. Single Family Dwelling, Lot Size:
 - (A) 3 acres, with the placement of a maximum of four single family dwellings per U.S. Government surveyed quarter section, adjacent to an improved road (above minimum maintenance road), at a minimum distance of 1,000 feet between dwellings located in same quarter section. Such 1,000 feet between dwelling requirement and four single family dwelling per quarter section limitation may be relaxed by zoning administrator when such proposed single family dwelling meets all other zoning requirements, and said lot is shown by a recorded plat or deed recorded with the Buffalo County Register of Deeds to have been owned separately and individually from adjoining tracts of land prior to date of adoption of this ordinance.
 - (B) Existing farmsteads of 3 acres or more not previously subdivided as of the date of adoption of the zoning ordinance as defined in the zoning regulations can be subdivided into two parcels, the minimum size of one of said parcels shall not be less than 3 acres. Legally existing parcels which are less than 3 acres, as of the effective date of the zoning regulations (January 1, 2003) without a residence may have a single family dwelling constructed, but must obtain a zoning permit.

5.34 PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AGR Agricultural Residential District if a special permit for such use has been obtained in accordance with Article 6 of these regulations:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry or horticultural services;
2. Cemeteries, crematories, mausoleums and columbarium;
3. Child care center;
4. Radio and television towers and transmitters;
5. Camp grounds;
6. Wind generating systems;
7. Commercial kennels;
8. Public and private charitable institutions;
9. Greenhouses and nurseries;
10. Animal clinics, animal hospitals and veterinarian services; and
11. Mobile home parks.
12. Mini storage facilities (Resolution 5-27-03)
13. Parks and recreational areas owned and/or occupied by private agencies. (Resolution 10-10-03)
14. Airports (Resolution 10-10-03)
15. Public utilities and utility distribution systems

5.36 MINIMUM AREA AND YARD REQUIREMENTS:

1. The minimum lot area for AGR uses shall be 3 acres*. All improved uses, other than general farming, ranching, pasturing, etc, shall be adjacent to an improved county road (above minimum maintenance road).
2. Yard requirements are as follows:
 Front Yard: There shall be a minimum front yard of not less than a depth of fifty (50) feet measured from the right-of-way line.
 Rear Yard: There shall be a minimum rear yard of fifteen (15) feet or unless abutting an improved county road, state or federal highway, then the minimum rear yard shall be fifty (50) feet.

*When a proposed subdivision utilizes a shared or "community" drinking water and sewage system the minimum lot area may be reduced to one (1) acre subject to review and compliance by the Nebraska Department of Health.

3-acre minimum in a proposed and approved subdivision may be reduced to 70,000 square feet subject to review and compliance by Nebraska Department of Health and approval of County Board.

By special permit this lot size may be reduced for Public Uses: Including fire stations, public elementary and high schools, public utilities and utility distribution systems.
and

RESOLVED FURTHER, that copies of Buffalo County's Zoning Regulations shall be republished and website changed to reflect the Board's adoptions of these amendments.

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

Moved by Klein seconded by Dannehl that the following Resolution be adopted concerning the proposed amendments:

RESOLUTION 2004-31

WHEREAS, ON July 14, 2004 the Buffalo County Planning and Zoning Commission held a public hearing concerning various amendments to Buffalo County's Zoning Regulations and recommended by unanimous vote that this Board approved such proposed amendments, and

WHEREAS, no protests have been filed against such proposed amendments that were timely and properly filed with the Buffalo County Clerk,

NOW THEREFORE, be it resolved by the Buffalo County Board of Supervisors that the following amendments are adopted with amending language as shown, and the relevant sections amended shall read as follows:

5.32 PERMITTED PRINCIPLES USES AND STRUCTURES: The following shall be permitted as uses by right:

1. General farming, including hobby farming or animal raising, excluding any expansion of existing or development of Class III or larger livestock confinement facilities/operations as defined in Section 3.46 and classified in Section 6.4.
2. Single family, ranch, and farm dwellings adjacent to improved road, meaning a road above county minimum maintenance road classification or public street within approved subdivision, including ranch and farm dwellings; ~~and one additional on farm/ranch single/two family dwellings for the purpose of housing relatives or permanent agriculture workers,~~ in addition single family dwellings must be located minimum distances from a livestock confinement facility/operation in conformance with Section 6.4 not of the same

- property;
 - 3. Irrigation and flood control projects;
 - 4. Child care homes;
 - 5. Parks and recreational areas owned and/or occupied by public agencies; (Resolution 10-10-03)
 - 6. Community buildings and/or facilities owned and/or occupied by public agencies;
 - 7. Public and/or private schools;
 - 8. Churches, places of worship, and cemeteries; and
 - 9. Bed and Breakfast.
- and

RESOLVED FURTHER, that copies of Buffalo County's Zoning Regulations shall be republished and website changed to reflect the Board's adoptions of these amendments.

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

Moved by Loewenstein, seconded by Dannehl to deny 11.3 of the proposed zoning amendments and return them to the Planning and Zoning committee for clarification of the language of the individual roles of the County Board and Planning and Zoning Committee in the procedure for the consideration and adoption of any such proposed amendments.

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

Moved by Dannehl, seconded by Klein to enter into an Executive Session at 11:28 A.M. to discuss contract negotiations. Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, Barney, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Absent: Pierce. Motion declared carried.

Moved by Loewenstein, seconded by Klein to move out of Executive Session and return to an open session of the County Board meeting at 11:37 A.M. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Klein, Barney, Dannehl, McMullen, Morrow and Pierce. None voted "Nay". Absent: None. Motion declared carried.

Chairman Pierce declared the meeting adjourned at 11:38 A.M. until the next regular meeting on Tuesday, August 24, 2004 at 9:00 A.M. and instructed County Clerk Judy Jobman to publish notice for the same according to Nebraska law.