

**BUFFALO COUNTY BOARD OF SUPERVISORS  
BUFFALO COUNTY BOARD OF EQUALIZATION  
TUESDAY, JUNE 9, 2009  
9:00 A.M.**

The Buffalo County Board of Supervisors and the Buffalo County Board of Equalization met on Tuesday, June 9, 2009 at 9:00 A.M. and 10:15A.M. Chairman Pierce called the meeting to order and led those present in the Pledge of Allegiance. The following Board members responded to roll call: Horace Dannehl, Kent Greder, Ivan Klein, Timothy Loewenstein, William McMullen, Sherry Morrow and Richard Pierce. Chairman Pierce announced that in accordance with Section 84-1412 of the Nebraska Revised Statutes, a current copy of the Open Meetings Act is available for review and is posted at the back of the Board Room.

Posting and publishing gave notice of the meetings in advance, thereof. Notice of the meetings was simultaneously given to all members of both Boards; and availability of the agenda was communicated in the advance notice and in the notice to both Boards 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 members is attached to these minutes. County Clerk Janice Giffin took all proceedings hereinafter shown while said meeting was open to the public. County Attorney Shawn Eatherton was present.

Chairman Pierce called for Citizen's forum and Ginger Axtell addressed the Board about dogs at large in Odessa. Axtell presented a written report and a copy of that is on file with the County Clerk. After discussion, County Attorney Eatherton explained that there were no laws to enforce the dogs at large issue because Odessa is not an incorporated village. In order for there to be laws of enforcement, the village would need to incorporate as a first step. Also present for Citizen's forum was Head Start Director Lois Butler. Butler explained that Head Start is applying for an Early Head Start Program that would serve pregnant women, infants and toddlers. Authorization of Chairman to sign a letter of support for the Early Head Start Program is on the Agenda later in the meeting today.

**CONSENT AGENDA**

Chairman Pierce inquired if there was anything which needed to be removed from the Consent agenda. There was nothing to be removed therefore; Chairman Pierce declared the General County Business listed below approved without further hearing.

**GENERAL COUNTY BUSINESS**

1. Approve minutes for June 2, 2009
2. Accept reports
  - Detention Center May 2009 Report
  - County Treasurer May 2009 Fund Balance Report
  - Clerk of the District Court May 2009 Report

**JUSTICE CENTER PROJECT**

Joe Beckenhauer and Bill Barritt from Beckenhauer Construction were present for updated reports and discussion. Moved by Dannehl and seconded by Morrow to approve Change Order Request 8 for Phase 1C of the Construction project. This request will move the Boiler for code coherence due to electrical changes in Change Request 3. Upon roll call vote, the following Board members voted "Aye": Dannehl, Morrow, Greder, Klein, Loewenstein, McMullen and Pierce. Motion declared carried.

Moved by Dannehl and seconded by Klein to approve Change Order Request 26 for Phase 1B of the Construction project. This request changes Fire sprinkler heads and piping in the basement, kitchen and laundry. Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, Greder, Loewenstein, McMullen, Morrow and Pierce. Motion declared carried.

Moved by Loewenstein and seconded by Morrow to approve Change Order Request 27 for Phase 1B of the Construction project. This request is changes to the Tilt Skillet Water Line. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Morrow, Dannehl, Greder, Klein, McMullen and Pierce. Motion declared carried.

Moved by Dannehl and seconded by Klein to approve Change Order Request 28 for Phase 1B of the Construction project. This request is modifications to the basement EOC. Upon roll call vote, the following Board members voted "Aye": Dannehl, Klein, Greder, Loewenstein, McMullen, Morrow and Pierce. Motion declared carried.

Moved by Loewenstein and seconded by Greder to approve Change Order Request 29 for Phase 1B of the Construction project. This request will allow for the louvers to be controlled and operated by the Guard on duty through the

Security Electronics. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Greder, Dannehl, Klein, McMullen, Morrow and Pierce. Motion declared carried.

Moved by Greder and seconded by Morrow to approve Change Order Request 30 for Phase 1B of the Construction project. This request is for interlock activity room louvers. Upon roll call vote, the following Board members voted "Aye": Greder, Morrow, Dannehl, Klein, Loewenstein, McMullen and Pierce. Motion declared carried.

### **REGULAR AGENDA**

Chairman Pierce reviewed the following correspondence with the Board. Blue Cross Blue Shield of Nebraska sent information on their newly redesigned health and wellness website. The Central Platte Natural Resources District sent their newsletter. The Goodwill Industries sent a Stakeholders Satisfaction Survey. B2 Environmental Inc sent the pre-demolition visual inspection asbestos report. Chairman Pierce then called on each Board member present for committee reports and recommendations. Supervisor Loewenstein reported that at the last meeting he made a motion to renew the health insurance contract with NACO Blue Cross Blue Shield and that it was brought to his attention after the meeting that he had a conflict of interest since he serves on the NACO Board. Supervisor Loewenstein discussed this with Frank Daley, Executive Director of Nebraska Accountability and Disclosure Commission and has since filed a conflict of interest form with the State Agency and the County Clerk. Daley indicated that the action will not need to be repealed but Supervisor Loewenstein should recuse himself from further health insurance discussions. Supervisor McMullen also reported that the Road Committee has been working diligently on the 62<sup>nd</sup> Street road issues.

At 9:45 A.M. Chairman Pierce turned the Public Hearing to authorize the transfer of the Community Development Block Grant (CDBG) Reuse Funds over to Vice Chairman Dannehl. Chairman Pierce disclosed that he and Supervisor Loewenstein sit on the Economic Development Board and that they will recuse themselves from the discussion and decision. Jonathan Krebs, Chairman of the Economic Development Council and Kirk Stocker, Director of Utilities for the City of Kearney were present. County Attorney Eatherton asked about the Board's authority on the transfer of the Reuse funds to Grant funds. After discussion the public hearing was closed at 10:05 A.M. Moved by Morrow and seconded by Greder to approve the transfer of the CDBG Reuse funds, based on verification from the State Department of Economic Development and subsequent review of the County Attorney. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Dannehl, Klein and McMullen. Abstain: Loewenstein and Pierce. Motion declared carried.

Moved by McMullen and seconded by Morrow to authorize Chairman Pierce to sign a letter of support for the Early Head Start program. Discussion was held during Citizen's forum. Upon roll call vote, the following Board members voted "Aye": McMullen, Morrow, Dannehl, Greder, Klein, Loewenstein and Pierce. None voted "Nay". Motion declared carried.

The Board then considered Petition to vacate alley situated in the unincorporated Village of Odessa, Buffalo County, Nebraska situated generally between Grant and Webb Streets, lying north of U.S. Highway #30 and vacated Odessa Street, all described in more detail in the following deliberations. Supervisor Loewenstein requested that consideration of the vacation request be separated into two vacation parcels, one consisting of alley abutting Lots 83, 84, 88, and 89 of Original Town of Odessa and the both consisting of alley abutting Lots 86, 86, and 87 of Original Town of Odessa, an unincorporated Village in Buffalo County, Nebraska. The Chairperson asked if such procedure was agreeable to all Supervisors present. None objected to this bifurcation and the matter proceeded to further discussion.

Moved by Greder and seconded by Loewenstein to adopt the following Resolution 2009-37 approving partial vacation. Upon roll call vote, the following Board members voted "Aye": Greder, Loewenstein, Dannehl, Klein, McMullen, Morrow and Pierce. None voted "Nay". Motion declared carried.

### **RESOLUTION 2009-37**

WHEREAS, a Petition to vacate a road, alley, or other public way has been properly filed for the following described road, alley, and/or public way:

Alley lying abutting Lots 83, 84, 88, and 89 together with any alley in vacated Odessa Street lying north and east of the northwest corner of Lot 89 in Original Village of Odessa, Buffalo County, Nebraska.

And,

WHEREAS, the Buffalo County Highway Superintendent has made a study and has recommended that said that portion of the road be vacated; and

WHEREAS, offer was made by Buffalo County to relinquish this road to Odessa Township and this Township has not responded within the statutory limit and thereby has declined to accept this road should Buffalo County vacate or abandon this road; and

WHEREAS, by prior Resolution, this Board established May 27, 2009 at 10:00 o'clock, a.m. as the date and time for public hearing for this Board to consider whether this alley should be abandoned or vacated with notice as provided by law, and

WHEREAS, publication of Notice for the public hearing to consider the proposed vacation or abandonment has occurred with publication for three consecutive weeks and notice of the public hearing also given no less than two weeks in advance of the hearing to owners of land adjoining the road to be vacated or abandoned by register or certified mail, and

WHEREAS, on May 27, 2009 this Board conducted a public hearing to consider vacation or abandonment of this alley or portion thereof should occur. No one present objected to vacation or abandonment to this portion of the alley sought to be vacated. All owners of all property adjacent to this portion of the road asked that this part be vacated or abandoned.

WHEREAS, at conclusion of the public hearing held May 27, 2009 the Board set June 9, 2009 at 10:00 o'clock a.m., the first public hearing following the public hearing, as date and time for decision by this Board, as an agenda item, to consider and take action to vacate or abandon or refuse vacation or abandonment of this portion of alley as described above as in the judgment of this board and the public good may require, and

WHEREAS, the Buffalo County Board of Supervisors finds that:

1. The County Road Superintendent has recommended vacation or abandonment of this portion of the alley.
2. The Odessa Township Board when offered this portion of the alley did not accept this road.
3. The portion of alley as described above sought to be abandoned is not within the zoning jurisdiction of the zoning jurisdiction of a city of the metropolitan, primary, or first class.
4. All necessary public publications and notices to adjoining landowners have been given.
5. From and since 1985 the owners of lots adjacent to the supposedly vacated alley abutting Lot 83 and 84 have built fencing in the middle of the alley and acted for all intents and purposes as if that portion of the alley was vacated.
6. Examination of the public records for the 1985 proceedings was reviewed by the Board. The petition then before the Board, Highway Superintendent's report, and the minutes of June 4, 1985 solely refer to alley abutting Lots 83 and 84. The published notice references alley abutting all lots in such block. The resolution of vacation stated that the closing of "All of that portion of the alley Lots Eight-three (83) and Eighty-four (84), inclusive, in the Village of Odessa . . ." With the vacation being "subject to approval of Gerry O'Rourke" who then owned Lot 86. Because of this conditional language in the vacation resolution, that the petition then before the Board together with the Highway Superintendent's report solely concerned only Lots 83 and 84, the indefinite description of the alley, and the publication included all lots on the block, the Board believes that it should clearly state that this portion of the alley was and is now vacated together with vacated portion of Odessa Street that abuts this alley.
7. No conditions or reservations should be retained by the public as concerns this road if it is vacated or abandoned, other than the continued occupation of any public utilities that now occupy the public right-of-way.
8. No public purpose would be served to keep this portion of the alley open.

NOW THEREFORE BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS BY ADOPTION OF THIS RESOLUTION BY A NO LESS THAN A TWO-THIRDS MAJORITY VOTE that the above described public road shall be and hereby is vacated and abandoned by the County of Buffalo, State of Nebraska and that it shall revert to private ownership to the owner(s) of the adjacent real estate, one-half on each side thereof, subject however to the continued occupation, if any, of any public utility now occupying the now abandoned and vacated road.

RESOLVED FURTHER that Certified Copy of this Resolution shall be filed on public records of Lots 83, 84, 88, and 89 together with any alley in vacated Odessa Street lying north and east of the northwest corner of Lot 89 in Original Village of Odessa, Buffalo County, Nebraska.

After adoption of the foregoing Resolution approving vacation and abandonment, Loewenstein moved and Greder seconded that the following Resolution 2009-38 be adopted reflecting this Board denial of part of alley sought to be vacated and abandoned in the Petition before the Board. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Greder, Dannehl, Klein, and Morrow. Voting "Nay": McMullen and Pierce. Motion declared carried.

### **RESOLUTION 2009-38**

WHEREAS, a Petition to vacate a road, alley, or other public way has been properly filed for the following described road, alley, and/or public way:

Alley lying abutting Lots 85, 86, and 87 in Original Village of Odessa, Buffalo County, Nebraska.  
And,

WHEREAS, the Buffalo County Highway Superintendent has made a study and has issued reservations concerning adequate and convenient access to back side of Lot 85 if this alley is vacated, and

WHEREAS, offer was made by Buffalo County to relinquish this road to Odessa Township and this Township has not responded within the statutory limit and thereby has declined to accept this road should Buffalo County vacate or abandon this road; and

WHEREAS, by prior Resolution, this Board established May 27, 2009 at 10:00 o'clock, a.m. as the date and time for public hearing for this Board to consider whether this alley should be abandoned or vacated with notice as provided by law, and

WHEREAS, publication of Notice for the public hearing to consider the proposed vacation or abandonment has occurred with publication for three consecutive weeks and notice of the public hearing also given no less than two weeks in advance of the hearing to owners of land adjoining the road to be vacated or abandoned by register or certified mail, and

WHEREAS, on May 27, 2009 this Board conducted a public hearing to consider vacation or abandonment of this alley or portion thereof should occur. One adjacent landowner, owner of Lot 85 objected to vacation or abandonment to this portion of the alley sought to be vacated because she desires access to the western portion of Lots 84 and 85 for propane tank and private sewer maintenance. All other owners of all property adjacent to this portion of the road asked that this part be vacated or abandoned.

WHEREAS, at conclusion of the public hearing held May 27, 2009 the Board set June 9, 2009 at 10:00 o'clock a.m., the first public hearing following the public hearing, as date and time for decision by this Board, as an agenda item, to consider and take action to vacate or abandon or refuse vacation or abandonment of this portion of alley as described above as in the judgment of this board and the public good may require, and

WHEREAS, the Buffalo County Board of Supervisors finds that:

1. The County Road Superintendent stated reservations concerning convenient access to interior portions of lots in question.
2. Sec. 39-1729 Rev.Stat.Neb. provides: "The right of reasonable convenient egress and ingress from lands or lots, abutting on an existing street or road, may not be denied except with the consent of the owners of such lands or lots, or with the condemnation of such right of access to and from such abutting lands or lots."
3. Convenient access to Lots 84 and 85, now owned by the objecting party would be impaired if the portion of the alley that abuts Lot 85 were closed.
4. That the Petition to Vacate and Abandon this portion of the alley as described above in this Resolution should be denied.

Moved by Dannehl and seconded by McMullen to recess the regular meeting of the Board of Supervisors at 10:30 A.M. and reconvene as a Board of Equalization. Upon voice vote all Board Members present voted "Aye". None voted "Nay". Motion declared carried.

### **BOARD OF EQUALIZATION**

Chairman Pierce called the Board of Equalization to order in open session. County Treasurer Jean Sidwell and County Assessor Joe Woodward were present. Moved by Loewenstein and seconded by Greder to approve the renewal application for motor vehicle tax exemption as indicated on the application by County Treasurer Jean Sidwell for Catholic High School of Kearney on the following vehicles: 1999 Chevrolet Suburban, 1998 Chevrolet Suburban and two 1997 Chevrolet Suburbans. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Greder, Dannehl, Klein, McMullen, Morrow and Pierce. Motion declared carried.

Moved by Morrow and seconded by Greder to approve the renewal application for motor vehicle tax exemption as indicated on the application by County Treasurer Jean Sidwell for New Life Assembly on the following vehicles: 1995 Ford Club Wagon, 1997 Ford Econoline, 2000 Ford Econoline, 2003 Chevrolet Cutaway, 2006 Cargo trailer, 1996 Enclosed trailer, 1996 Ford Bus and 2001 Ford Bus. Upon roll call vote, the following Board members voted "Aye": Morrow, Greder, Dannehl, Klein, Loewenstein, McMullen and Pierce. Motion declared carried.

Moved by McMullen and seconded by Dannehl to approve tax list corrections 3576 through 3592 submitted by County Assessor Joe Woodward. Upon roll call vote, the following Board members voted "Aye": McMullen, Dannehl, Greder, Klein, Loewenstein, Morrow and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce opened the Tax Exemption Hearing for the First Evangelical Church at 10:37 A.M. Council Treasurer, Terry Volker was present. No one else was present to oppose the exemption and Chairman Pierce closed the hearing at 10:39 A.M. Moved by Klein and seconded by Greder to approve the exemption on parcel 605872000. Upon roll call vote, the following Board members voted "Aye": Klein, Greder, Dannehl, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce opened the Tax Exemption Hearing for the First Christian Church of Elm Creek. Tom Swartley, the Church minister was present. No one else was present to oppose the exemption and Chairman Pierce closed the hearing. Moved by Morrow and seconded by McMullen to approve the exemption on parcel 480395000. Upon roll call vote, the following Board members voted "Aye": Morrow, McMullen, Dannehl, Greder, Klein, Loewenstein and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce opened the Tax Exemption Hearing for the Prince of Peace Catholic Church. Father Mike McDonald was present. No one else was present to oppose the exemption. The Church has purchased the land for future construction and the period of exemption was for the 2009 calendar year. No church activities have been conducted on this land. Chairman Pierce closed the hearing at 10:45 A.M. Moved by McMullen and seconded by Morrow to deny the

exemption on parcel 560330100 until the land use is for religious purposes. Upon roll call vote, the following Board members voted "Aye": McMullen, Morrow, Dannehl, Greder, Klein, Loewenstein and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce opened the Tax Exemption Hearing for the Good Samaritan Hospital. Brenda Dunkel, Finance Manager of Good Samaritan Hospital was present. No one else was present to oppose the exemption and Chairman Pierce closed the hearing. Moved by Loewenstein and seconded by McMullen to approve the exemption on the following parcels: 040189100, 601886000, 601890000, 601892001, 601995000, 602479000, 602479001, 602479007, 602502000, 604044001, 605043245, 605741000, and 605783000. Upon roll call vote, the following Board members voted "Aye": Loewenstein, McMullen, Dannehl, Greder, Klein, Loewenstein and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce opened the Tax Exemption Hearing for the Christian Heritage Children's Home. Greg Nicklas, Founder and CEO was present. No one else was present to oppose the exemption and Chairman Pierce closed the hearing. Moved by Morrow and seconded by Loewenstein to approve the exemption on parcel 560006016. Upon roll call vote, the following Board members voted "Aye": Morrow, Loewenstein, Dannehl, Greder, Klein, McMullen and Pierce. None voted "Nay". Motion declared carried.

Moved by Loewenstein and seconded by Greder to extend the Homestead Exemption filing date to July 20, 2009 as recommended by Assessor Joe Woodward. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Greder, Dannehl, Klein, McMullen, Morrow and Pierce. None voted "Nay". Motion declared carried.

Moved by Morrow and seconded by Dannehl to recess the Board of Equalization at 10:55 A.M. and to return to the regular meeting of the Board of Supervisors. Upon voice vote all Board Members present voted "Aye". None voted "Nay". Motion declared carried.

## **REGULAR AGENDA**

Moved by Klein and seconded by Greder to approve the renewal of the Employee vision insurance plan with Ameritas Group. This plan provides for employee voluntary participation at employee expense to be administered through the Buffalo County payroll system. Supervisor Loewenstein recused himself from the discussion. Upon roll call vote, the following Board members voted "Aye": Klein, Greder, Dannehl, McMullen, Morrow and Pierce. Abstain: Loewenstein. None voted "Nay". Motion declared carried.

Moved by Greder and seconded by Dannehl to approve the tax refund request submitted by County Treasurer Jean Sidwell for Grand West LLC in the amount of \$241.02. Upon roll call vote, the following Board members voted "Aye": Greder, Dannehl, Klein, Loewenstein, McMullen, Morrow and Pierce. None voted "Nay". Motion declared carried.

Chairman Pierce recused himself from the R.Y.D.E. discussion and turned the Agenda item over to Vice Chairman Dannehl. Moved by McMullen and seconded by Morrow to approve the contract signed by R.Y.D.E. to lease the Buffalo County owned property known as the former U.S. Army Reserve Center. Upon roll call vote, the following Board members voted "Aye": McMullen, Morrow, Dannehl, Greder, Klein and Loewenstein. Abstain: Pierce. None voted "Nay". Motion declared carried.

County Sheriff Neil Miller discussed the 2009 ARRA BYRNE Justice Assistance Grant and requested authorization of an interlocal agreement with the City of Kearney. Moved by Loewenstein and seconded by Greder to authorize Chairman Pierce to sign the interlocal agreement with the City of Kearney. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Greder, Dannehl, Klein, McMullen, Morrow and Pierce. None voted "Nay". Motion declared carried.

Discussion followed on the approval of Buffalo Creek Road Concrete Paving Improvements Certificate. Miller and Associates sent this request for payment and Chairman's approval. Decision will be later on in this meeting after more details are received.

## **ZONING**

The first item on the Zoning Agenda was the discussion and decision on the special use permit request by Mark Meyer and Onion Crest, LLC. for aircraft hangars with residences on a tract of land being part of the E1/2 of the W1/2 of Section 8, Township 9 North, Range 16 West of the 6<sup>th</sup> p.m., Buffalo County, Nebraska. Present for discussion were Deputy County Attorney Melodie Bellamy and Zoning Administrator LeAnn Klein. The public hearing on this special use permit was held on April 14, 2009. Melodie Bellamy reviewed the findings and facts of the application. Supervisor Loewenstein stated that he would be more comfortable if the number of hangars and residences were reduced from sixteen to four. After Board discussion, it was moved by Loewenstein and seconded by Morrow to table the decision until June 23, 2009 at 11:00 A.M. This public hearing will be reopened with new evidence only to be heard. Supervisor McMullen excused himself before the

motion was on the floor. Upon roll call vote, the following Board members voted "Aye": Loewenstein, Morrow, Dannehl, Greder and Pierce. Voting "Nay": Klein. Absent: McMullen. Motion declared carried.

Chairman Pierce opened the public hearing at 11:33 A.M. for a Zoning Map Amendment request from Blackhat Express/Gary Freeland. This zoning map amendment requests a change of zoning from Agricultural to Industrial and Commercial to Industrial. Present for this hearing was Deputy County Attorney Andrew Hoffmeister, Zoning Administrator LeAnn Klein and Paul Fredrickson for the applicant. (Supervisor McMullen returned to the Board room for this hearing.) No one else was present to address the Board and the hearing was closed at 12:01 P.M. Moved by Greder and seconded by McMullen to approve the following Resolution 2009-39 to amend the Zoning Map. Upon roll call vote, the following Board members voted "Aye": Greder, McMullen, Dannehl, Klein, Loewenstein, Morrow and Pierce. None voted "Nay". Motion declared carried.

### **RESOLUTION 2009-39**

WHEREAS, Gary Freeland, acting for Blackhat Express filed application with the Buffalo County Clerk and/or Zoning Administrator requesting for Zoning Map amendment. Such application requests a change of roughly 26-acres now zoned Agricultural (AG) and approximately Five (5) acres now zoned Commercial to Industrial (I) district for real estate hereinafter described as "subject property", and

WHEREAS, on May 21, 2009 the Buffalo County Planning and Zoning Commission following public hearing with notice as required recommended approval of such proposed Zoning Map amendment by a 9-0 vote, and

WHEREAS, no protest(s) against such zoning map amendment have been filed with the Buffalo County Clerk within 7 days of conclusion of public hearing of such Commission as allowed under Sec. 11.4, and

WHEREAS, on June 9, 2009 this Board conducted a public hearing considering this request to amend zoning map and finds:

Minutes of Planning and Zoning meeting and application together with attachments as submitted should be and hereby are incorporated herein in their entirety as if set forth herein.

The subject property consists of two contiguous lots described as one lot on the application. One lot is comprised of five acres and is in the Commercial (C) District. It is situated in the northeast portion of subject property. This five acre parcel together with an approximately 26-acre parcel abutting it now in the Agricultural District as described on the application and is referred to as the "subject property" in this Resolution. The subject property abuts Shelton Road on its east side. Shelton Road is a hard surfaced, all weather road. The north boundary of the subject property is 56<sup>th</sup> Road, an improved County road, maintained to RL-3 standards. Situated to the west of the West Parcel is a two-tracked railroad, running generally northwest to southeast. That adjacent to the subject property on its south side is land used for general agricultural purposes although it is comprised of one parcel of land, one approximately 3.0 acres. The subject property is in the northwest quadrant of the Shelton Interstate 80 interchange.

Applicant has submitted to the Board an initial plan of development for the subject property. The Board appreciates such planning, but knows that applicant is not bound by such plans if the zoning map is amended. A zoning map amendment from AG and C to I District allows all permissible uses in the Industrial (I) Zoning District.

The Buffalo County Planning and Zoning Commission suggested no conditions to be placed upon the property as a condition to amend zoning map.

5. The requested zoning map amendment and the uses that would follow would have minimal adverse affect on surrounding properties with consideration given to properties. The subject property abuts a two-tracked railroad that already is an industrial use. Also the subject property is close to U.S. Interstate Highway 80, a high traffic roadway. The closest residence is about 250 yard north from the subject property.

6. The request for zoning map amendment for the subject property is consistent with the overall comprehensive plan adopted by Buffalo County, Nebraska. The subject property is close to all-weather roads and has easy access to already existing transportation. More intensive use can occur on the subject property with minimal expenditure of public funds.

WHEREAS, this Board has reviewed Applicant's application for zoning map amendment and incorporates such application into this resolution as if fully set forth herein as the same is filed with the County Clerk and/or Zoning Administrator, and

WHEREAS, the votes need for adoption of this resolution need only be by a simple majority of members to this Board of Supervisors, and

NOW THEREFORE, BE IT RESOLVED BY THE BUFFALO COUNTY BOARD OF SUPERVISORS that application for zoning map amendment change zoning district from Agricultural (AG) and Commercial (C) to Industrial (I) District as requested by applicant for the following described real estate known as the "subject property" is approved, and

BE IT FURTHER RESOLVED that the Buffalo County Zoning Map originally adopted on or about September 10, 2002 shall be amended to reflect adoption of this resolution and copy of this resolution shall be filed against the subject property, and

BE IT FURTHER RESOLVED that the "subject property" is and shall be described as:

A tract of land being located in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section Twenty-Six (26), in Township Nine (9) North, of Range Thirteen (13), West of the 6th p.m., in Buffalo County, Nebraska, more particularly described as being the West 654.05 feet of the East 694.05 feet of the North 333.0 feet of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  of said Section, AND recommend approval of zoning map amendment from Agricultural to Industrial on a tract of land being part of the Northeast Quarter of the Northeast Quarter (NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  ), part of Government Lot Two (2) and accretion land abutting Government Lot 2, all in Section Twenty-Six (26), in Township Nine (9) North, of Range Thirteen (13), West of the 6th P.M., in Buffalo County, Nebraska, more particularly described as follows: Referring to the Northeast Corner of Section 26 and assuming the North line of said Section 26 as bearing N 89° 57'39" W and all bearings contained herein are relative thereto; thence N 89°57'39" W and on the North line of said Section 26 a distance of 694.05 feet to the ACTUAL PLACE OF BEGINNING, said place of beginning also being on the West line of the East 694.05 feet of said Section 26; thence continuing N 89°57'39" W and on the North line of said Section 26 a distance of 1818.05 feet to a point on the Northerly line of a tract of land deeded to the Union Pacific Railroad Company as described on the Warranty Deed filed at Inst. 98-9790 filed on December 31, 1998 in the Office of the Buffalo County Register of Deeds; thence S 63°55'57" E and on the Northerly line of the aforesaid tract of land deeded to the Union Pacific Railroad Company a distance of 1164.47 feet to a point of curvature; thence on a 3919.72 foot radius curve to the right and continuing on the Northeasterly line of said tract of land deeded to the Union Pacific Railroad Company an arc distance of 791.69 feet to a point being S 58°08'37" E a chord distance of 790.34 feet from the previously described point; thence leaving said Northerly line N 73°08'08" E a distance of 790.91 feet to a point on the West Right-of-Way line of Highway Link 10-D (Shelton Road), said point also being 40.0 feet Westerly of as measured at right angles from the East line of said Section 26; thence N 00°06'54" W and on the West Right-of-Way line of Highway Link 10-D (Shelton Road) a distance of 364.30 feet to a point being 40.0 feet Westerly of as measured at right angles from the East line of said Section 26, said point also being on the South line of the North 333.0 feet of said Section 26; thence N 89°57'27" W and on the South line of the North 333.0 feet of said Section 26 a distance of 654.05 feet to the Southwest Corner of the East 694.05 feet of the North 333.0 feet of said Section 26; thence N 00°06'54" W on the West line of the East 694.05 feet of said Section 26 a distance of 333.0 feet to the place of beginning. Containing 26.06 acres, more or less, of which 1.34 acres, more or less, are presently being used for road purposes on the North side.

Chairman Pierce returned to the Agenda item that was previously discussed regarding the Buffalo Creek Road Pavings Improvement. County Board Administrator Lynn Rauner reported that this certificate of approval is typically routed through the Road Department and it is a request for payment and authorized signature of approval. Moved by McMullen and seconded by Morrow to approve the Buffalo Creek Road Pavings Improvements Certificate. The Road Department will submit the claim for payment. Upon roll call vote, the following Board members voted "Aye": McMullen, Morrow, Dannehl, Greder, Klein, Loewenstein and Pierce. None voted "Nay". Motion declared carried.

At 12:05 P.M Chairman Pierce asked if there was anything else to come before the Board before he declared the meeting adjourned until Tuesday, June 23, 2009 at 9:00 A.M. Chairman Pierce instructed County Clerk Janice Giffin to publish notice for the same according to Nebraska law.