

Seward County Board of Commissioners

September 1, 2015

State of Nebraska)
County of Seward) ss.

A regular meeting of the Seward County Board of Commissioners was convened in open and public session at 8:30 a.m. on September 1, 2015 in the Commissioner's room at the Seward County Courthouse. Notice of the meeting was posted on the Courthouse bulletin board and on the Commissioner's room door. The agenda for all meetings is kept continually current and is available for public inspection at the County Clerk's Office during normal business hours. The agenda is held open until one business day prior to the meeting for appearance before the Board. The Board of Commissioners has the right to modify the agenda to include items of an emergency nature only at such public meeting.

The Seward County Board of Commissioners convened on September 1, 2015 at 9:00 a.m.

Present:	Chairman:	Roger E. Glawatz
	Members:	Mike Luebbe, Gene Gausman, Whitney Fleischman
	County Clerk:	Sherry Schweitzer
Absent:	Member:	Diana Garske

The Chairman noted that the public meeting information is posted as required by law and available for public distribution if requested.

The Pledge of Allegiance was recited.

Those officials present for the monthly meeting with the Commissioners were Curt Parrack, Marilyn Hladky, Jeff Baker, Kathy Ruzicka, Mike Janssen, Michaela Tuttle, Krista Foote, Sidney Butler, Sheila Beins, Joe Yocum, Tina Marroquin, Wendy Elston & Sherry Schweitzer.

Moved by Luebbe and seconded by Fleischman to approve the minutes of August 25, 2015.

Affirmative Vote: Luebbe, Fleischman, Gausman, Glawatz Motion Carried

Commissioners Reports:

Commissioner Luebbe reported he attended a meeting involving a possible new company to Seward, worked with the Road Dept. on some projects, and attended the Active Shooter Training.

Commissioner Gausman reported he attended a Retirement Event for the Deputy Emergency Manager, an Active Shooter Training, looked at some roads, and attended a Planning & Zoning Commission Meeting.

Commissioner Fleischman had no report.

Commissioner Glawatz reported he attended the Active Shooter Training, received constituent calls, worked on SENDD business, and met with County Attorney.

Mike Janssen presented information for awarding the Evidence Building Addition. He said that the cheaper bid submitter could not start until next year but the bid submitted for approximately \$3,000 more could start in Sept. He said he wouldn't give a recommendation due to price vs. time of start.

Moved by Fleischman and seconded by Luebbe to award the bid to Jason Rasmussen for the \$35,253.50.

Affirmative Vote: Fleischman, Luebbe, Gausman, Glawatz

Motion Carried

Moved by Fleischman and seconded by Luebbe to adopt Resolution 3195 in regard to additional Pledged Securities for the County Clerk.

**Resolution # 3195 of the
Seward County Board of Commissioners**

WHEREAS, The Jones National Bank & Trust Company desires to pledge extra securities to cover

deposits for the County Clerk in their Imprest Account, and

WHEREAS, Seward County desires to have full protection for their deposits.

NOW, THEREFORE BE IT RESOLVED that The Jones National Bank & Trust Company is

allowed to pledge the following securities:

\$1,000,000.00 FHLMC Bond Cusip No. 3134G3JM3
Receipt No. 60028060

Dated this 1st day of September, 2015.

Motion by: Fleischman

Seconded by: Luebbe

Aye: Whitney Fleischman, Michael Luebbe, Eugene Gausman & Roger Glawatz

Attest: Sherry Schweitzer, Seward County Clerk

Affirmative Vote: Fleischman, Luebbe, Gausman, Glawatz

Motion Carried

Dean Uhlenberg of Beckenhauer Construction presented Change Order # 1 for the Justice Center Project in the amount of -111,322.00 and gave some information concerning it.

Dean Uhlenberg also stated that there have been some weather delays.

Commissioner Garske is present at 9:10 a.m. as she was at a meeting.

Moved by Fleischman and seconded by Gausman to authorize the Chairman sign the Change Order # 1 CPR-001 for the Justice Center Project in the amount of -111,322.00 for the Justice Center.

Affirmative Vote: Fleischman, Gausman, Luebbe, Garske, Glawatz

Motion Carried

Uhlenberg also introduced Mark Jeratrowsky who is a Supervisor on site.

Sandy Morrissey and Rose Hood-Buss of the Region V Prevention Coalition gave an annual update on the organization's activities.

Michaela Tuttle, HR Director brought the Personnel Board's recommendation of changing the Overtime Policy to permit accumulating Overtime Hours from 90 to 40. After much discussion, the Commissioners decided to leave the current 90 limit in place.

Janssen was present to talk about air conditioning at the West Wing. He stated the outside unit for the Air Conditioner for the East side of the building needed repairs. Costs will be in the area of \$6,000 and he asked the Commissioners if the amount could come out of the Commissioners Building & Sinking Fund. The Commissioners agreed to said request.

The Commissioners discussed the budget.

Becky Paulsen, Zoning/Weed Administrator presented 2 plats for the Commissioners consideration.

Moved by Fleischman and seconded by Luebbe to adopt Resolution No. 3196 to create McCullough acres in the SW ¼ of Section 24, Township 9 North Range 3 East of the 6th p.m.

RESOLUTION NO #3196 OF THE SEWARD COUNTY BOARD OF COMMISSIONERS

WHEREAS, Wayne A Embrey, and Olivia M Embrey, have applied for a Short Form Plat Subdivision of property owned by them, and described as a tract of land in the North West 1/4 of the South West 1/4 of Precinct O, Section 24, Township 9N, Range 3E, Seward County, Nebraska, and

WHEREAS, The subdivision shall be called MCCULLOUGH ACRES, and

WHEREAS, The Seward County Planning Commission held a meeting on August 31st, 2015 to consider the Short Form Plat, and

WHEREAS, the Planning Commission recommended Approval of the MCCULLOUGH ACRES Short Form Plat with a vote of 7 For, 0 against, and 0 Absent and Not Voting, and

WHEREAS, X No one appeared to oppose the subdivision

____ Individuals appeared to oppose the subdivision

X No one appeared to support the subdivision

____ Individuals appeared to support the subdivision

____ Individuals appeared without commitment, and

THEREFORE BE IT RESOLVED that the Seward County Board of Commissioners do hereby Approve X , Deny _____ the MCCULLGH ACRES Short Form Plat with Resolution NO: 3196 .

Dated this 1st day of September, 2015.

Motion by: Fleischman

Seconded by: Luebbe

Aye: Whitney Fleischman, Michael Luebbe, Eugene Gausman, Diana Garske & Roger Glawatz

Attest: Sherry Schweitzer , Seward County Clerk

Affirmative Vote: Fleischman, Luebbe, Gausman, Garske, Glawatz Motion Carried

Moved by Luebbe and seconded by Garske to adopt Resolution No. 3197 in regard to creating Dishman Acres in the NE ¼ of Section 22 Township 12 North Range 4 East of the 6th p.m.

RESOLUTION NO #3197 OF THE SEWARD COUNTY BOARD OF COMMISSIONERS

WHEREAS, Tyler B. Dishman and Amy J. Dishman , have applied for a Short Form Plat Subdivision of property owned by them, and described as a tract of land in the East 1/2 of the North East 1/4 of Precinct A, Section 22, Township 12N, Range 4E, Seward County, Nebraska, and

WHEREAS, The subdivision shall be called DISHMAN ACRES, and

WHEREAS, The Seward County Planning Commission held a meeting on August 31st, 2015 to consider the Short Form Plat, and

WHEREAS, the Planning Commission recommended Approval of the DISHMAN ACRES Short Form Plat with a vote of 7 For, 0 against, and 0 Absent and Not Voting, and

WHEREAS, X No one appeared to oppose the subdivision

Individuals appeared to oppose the subdivision
 No one appeared to support the subdivision
 Individuals appeared to support the subdivision
 Individuals appeared without commitment, and

THEREFORE BE IT RESOLVED that the Seward County Board of Commissioners do hereby Approve , Deny the DISHMAN ACRES Short Form Plat with Resolution NO: 3197.

Dated this 1st day of September, 2015.

Motion by: Luebbe

Seconded by: Garske

Aye: Michael Luebbe, Diana Garske, Whitney Fleischman, Eugene Gausman, & Roger Glawatz

Attest: Sherry Schweitzer, Seward County Clerk

Affirmative Vote: Luebbe, Garske, Gausman, Fleischman, Glawatz Motion Carried

Moved by Garske and seconded by Luebbe to authorize the Chairman to sign the NEMA Letter authorizing Georgia Stockley as the Authorized Representative for the Federally Declared Disaster # 4225.

Affirmative Vote: Garske, Luebbe, Gausman, Fleischman, Glawatz Motion Carried

The Commissioners recessed at 10:20 a.m.

The Commissioners re-convened at 10:30 a.m.

Moved by Luebbe and seconded by Garske to open the Public Hearing at 10:30 a.m. for a Proposed Nudity Ordinance relating to the subjects and lewd or lascivious behavior and public nudity.

Affirmative Vote: Luebbe, Garske, Gausman, Fleischman, Glawatz Motion Carried

No one spoke at said hearing in opposition or in support of said ordinance.

Moved by Fleischman and seconded by Luebbe to close said public hearing at 10:40 a.m.

Affirmative Vote: Fleischman, Luebbe, Gausman, Garske, Glawatz Motion Carried

Chairman Glawatz read the proposed ordinance by title.

Moved by Garske and seconded by Luebbe to suspend the requirement that the Nudity Ordinance, relating to the subjects and lewd or lascivious behavior and public nudity, be read by title on 3 different days.

Affirmative Vote: Garske, Luebbe, Fleischman, Gausman, Glawatz Motion Carried

Wendy Elston, Seward County Attorney read the Ordinance in its entirety and as listed below:

ORDINANCE NO. _____

AN ORDINANCE TO ESTABLISH A LAW REGARDING PUBLIC NUDITY; TO ESTABLISH A PENALTY AND PROVIDE A METHOD OF ENFORCEMENT; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Neb. Rev. Stat. §23-104, the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers;

WHEREAS, pursuant to Neb. Rev. Stat. §23-103, the powers of the County as a body are exercised by the Seward County Board of Commissioners ("County Board");

WHEREAS, it is the intent of the County Board to enact a Public Nudity Ordinance;

WHEREAS, pursuant to Neb. Rev. Stat. §23-187, the County may regulate, through an ordinance, violations of the public peace and good order of the County by public nudity; and,

WHEREAS, the Seward County Board has held a public meeting on the matter, after giving due notice as required by law.

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF THE COUNTY OF SEWARD, NEBRASKA:

SECTION 1. Statement of Intent:

It is the intent of this Ordinance to promote the public peace and order of the County. It is the intent of the County to prohibit the exploitation of human nudity for the purpose of advertising, selling, or otherwise promoting the economic interests of any type of business enterprise. It is also the intent of the County to further the government's interest in avoiding the harmful secondary effects of this activity such as prostitution, sexual assaults, criminal activity, degradation of women, and other activities which break down family structure. This prohibition is not intended to extend to any expression of opinion or the performance of a bona fide play, ballet, or drama protected by the First Amendment to the Constitution of the United States or by Article I, §5 of the Constitution of the State of Nebraska. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on exercises of free speech that are protected by the First Amendment.

SECTION 2. Definitions: For purposes of this Ordinance, and where not inconsistent with the context of a particular section, the defined terms, phrases, word, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future-tense, words used in the plural number include words in the singular number and words in the singular number include words in the plural number. The word "shall" is always mandatory, and not merely directory.

- a) **Nude, nudity, or a state of nudity** means the showing of the human male or female genitals or pubic area with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering on any part of the areola and nipple, or the showing of covered male genitals in a discernibly turgid state.
- b) **Public place** means all spaces owned by or open to the general public, whether or not an admission or cover charge is levied for entrance thereto; and public streets, sidewalks, alleys, or other public thoroughfares, and areas in or such close proximity thereto, as to be observed by the public traveling on such street, sidewalk, or other thoroughfare.

SECTION 2. Nudity, Prohibited:

It shall be unlawful for a person to, knowingly or intentionally, in a public place or in any place open to the public, appear nude or in a state of nudity.

SECTION 3. Sexual Contact, Prohibited:

- a) It shall be unlawful for any employee or performer (including amateur performers) in any business or commercial establishment

to have any sexual contact with any other employee, performer, person, or patron for gratuity, pay or other remuneration, direct or indirect, or in conjunction with or as part of any performance or entertainment in any business or commercial establishment.

- b) It shall be unlawful for any person or patron to have sexual contact with any employee or performer in any business or commercial establishment.
- c) For the purposes of this section, sexual contact shall mean the intentional touching between a person, patron, a performer, or employee involving contact by or with a patron's, performer's, or employee's sexual organ, buttock(s), or breast(s), whether covered or not, or kissing, when such contact can reasonably be construed as being for the purpose of sexual arousal or sexual gratification of either party or any observer.
- d) It shall be unlawful for any person purposely or knowingly to solicit, induce, or attempt to induce another person to engage in an act or acts prohibited hereunder.
- e) It shall be unlawful for the owner, lessee, proprietor, or manager of any business or commercial establishment to knowingly allow any person on the premises of such business or commercial establishment to engage in an act or acts prohibited hereunder.

SECTION 4. Exceptions:

- a) No person shall be in violation of this Ordinance for breastfeeding a child.
- b) This Ordinance shall not apply to children under the age of five years old.
- c) No person shall be in violation of this Ordinance for appearing nude or in a state of nudity in any dressing/changing room, locker room, restroom facility, or hospital, clinic, or other similar medical facility in which appearing nude or in a state of nudity is necessary for health-related purposes.
- d) No person shall be in violation of this Ordinance for appearing nude or in a state of nudity in the presence of a licensed physical therapist, licensed massage therapist, licensed athletic trainer, or licensed cosmetologist, engaged in performing the functions authorized under the license held.
- e) This Ordinance shall not apply to models that are part of a nude modeling studio that is part of a proprietary school licensed by the State of Nebraska; or a college or junior college or university supported entirely or in part by public taxation; or a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or part by taxation.
- f) This Ordinance shall also not apply to the exhibition, presentation, showing or performance of any play, ballet, drama, tableau, production or motion picture in any theater, concert hall, art center, museum, school, institution of higher learning or other similar establishment which is primarily devoted to such

exhibitions, presentations, shows or performances as a form of expression of opinion, communication, speech, ideas, information, art or drama.

SECTION 5. Penalty:

Any person found to be in violation of this Ordinance shall be guilty of a crime, punishable by a maximum of a five hundred dollar fine.

SECTION 6. Effective Area:

This Ordinance is effective in Seward County, Nebraska including any unincorporated towns or villages, but it shall not be effective within the corporate boundaries of Beaver Crossing, Bee, Cordova, Garland, Goehner, Milford, Pleasant Dale, Seward, Staplehurst, and Utica; nor shall it be effective within the area outside of the corporate boundaries of Beaver Crossing, Bee, Cordova, Garland, Goehner, Milford, Pleasant Dale, Seward, Staplehurst, and Utica in which those cities have been granted and are exercising powers by ordinance on a similar subject matter.

SECTION 7: Effective Date:

This Ordinance shall take effect and be in force fifteen days after its passage, approval, and publication, as provided by law.

Passed and Adopted this _____ day of _____, 2015.

Chairperson

Attest:

County Clerk

Chairman Glawatz is absent at 11:27 a.m.

Known items on the agenda for Board of Equalization on September 8, 2015 are as follows:

- 8:30 a.m. Convene and announce Open Meetings Law
- Pledge of Allegiance
- Discuss/Action - Approve minutes of August 11, 2015
- Discuss/Action - Assessor Information Update

Known items on the agenda for Board of Commissioners on September 8, 2015 are as follows:

- 9:00 a.m. Convene and announce Open Meetings Law
- Pledge of Allegiance
- Discuss/Action - Approve minutes of September 1, 2015

Other Business Matters to Address When Time Allows

- Discuss/Action – Public/Officials/Boards
- Commissioners Reports
- Right of Way Request(s): None

- 9:30 a.m. Discuss/Action – Nudity Ordinance – Relating to the subjects and lewd and lascivious behavior and Public Nudity
- Discuss/Action – Justice Center Update
- Discuss/Action – Budget

Moved by Gausman and seconded by Garske to adjourn at 11:45 a.m.

Affirmative Vote: Gausman, Garske, Luebbe, Fleischman Motion Carried

State of Nebraska)
County of Seward) ss.

I, Sherry Schweitzer, the undersigned County Clerk of Seward County, Nebraska do hereby certify the foregoing minutes are true and are part of the official records of this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 25th day of August 2015.

County Clerk

Chairman