



Gage County Board Minutes

The Gage County Board of Supervisors met on May 31, 2023, at 8:45 a.m. with Terry Jurgens, Emily Haxby, Don Schuller, Erich Tiemann, Eddie Dorn, Dave Swavely and Gary Lytle present.

Notice of said meeting was posted at the County Clerk's Office and published prior to the meeting in compliance with State Statutes.

Let the record show that all proceedings are electronically recorded.

Pledge of Allegiance recited.

Chairman Tiemann announced that a complete copy of the Open Meetings Act is posted at the back of the Board of Supervisors Room.

Consent Agenda included the following items: 1. General Agenda; 2. Minutes from previous meeting and committee meetings; 3. claims audit in the amount of \$809,555.94; 4. approve correspondence received and place on file; 5. Approve Utility Permit #1273 to Windstream Nebraska LLC. Windstream will be installing a communications line to residence at 27413 Rockford Road. Windstream will bore a 2" diameter by 60" deep line for the new line from pedestal 160YE located in the East grader ditch of Rockford Road to the West grader ditch, then continue all work on private property. Located in section 2, T-3-N, R-7-E, Rockford Twp.; 6. Approve Utility Permit #1274 to Windstream Nebraska LLC. Windstream will be installing a communications line to residence at 22796 SW 89th Road. Windstream will bore a 2" diameter by 60" deep line for the new line from pedestal 712HF located in the West grader ditch, start boring north 30' in West grader ditch, then bore under SW 89th Road to East grader ditch, then continue all work on private property. Located East of Section 22 and West of Section 23, T-4-N, R-5-E, Blakely Twp.; 7. Approve bid from Masonry Construction Inc. to repair the Chimney in the amount of \$26,313.00.; 8. Approve cancelling check #23050105 to Beatrice Area Solid Waste in the amount of \$26,496.00.

<u>General Fund</u>	<u>Description</u>	<u>Amount Allowed</u>
Courthouse Employees	Salaries	154,038.63
Advanced Auto Dealers	Shf website maint.	29.00
Advanced Correctional Healthcare	Jail on-site medical svcs.	575.64
All Copy Products, Inc.	Ext Offc copy overage	77.14
AT&T Mobility Accounts, LLC	Shf FirstNet phone svc.	526.21
Beatrice Area Solid Waste Agency	Waste disposal	105.00
Beatrice Board of Public Works	Utilities	222.09
Beatrice Community Hospital	CPR training	225.00
Black Hills Energy	Utilities	376.66
Buoyant Family Services	Evaluation	1250.00
Burke Brown Law, LLC	Atty fees	3306.00
CDW Government, Inc.	Prob. Offc computer	4983.18
Charm-Tex, Inc.	Inmate provisions	345.80
Charter Communications	Jail cable TV	175.94
City of Wymore	Qtrly EMS svcs	10,000.00
Clerk of District Court	Court costs	900.64
Credit Information Systems	Shf mbrshp fees	50.00
Eakes Office Solutions	Mats, printer	3782.31
Fankhauser, Nelsen, Werts, et al	Atty fees	3372.50
First Wireless, Inc.	EM svc agrmt, Shf tower rental	1095.20
Gage County	Prob Offc janitorial agrmt/suppl, offc spc rent	22,996.00
Gage County Court	Court costs	2238.75
Garcia Clinical Laboratory	Inmate lab svcs	18.00
Great Plains Uniforms, LLC	Shf uniforms	167.03
GWorks	GIS website labor/maint.	20,112.00
Hampton Inn, Norfolk NE	Dist Ct. Lodging	196.00
Hometown Leasing	Atty & Prob copier leases	611.52
Intoximeters, Inc.	Breathalyzer supplies	373.00
Jefferson Co. Sheriff	Svc. fees	7.00
Jerry Shelton, Atty	Atty fees	451.25
Jurors – County Court	Jury fees	1066.00
Jurors – District Court	Jury fees	900.06
Justice Data Solutions	Shf software, support, maint.	34,050.00
Land Survey Tech, Inc.	Co. Surveyor operating expenses	6275.63

Lepant Law Office	Atty fees	874.00
Mahloch Law Office	Atty fees	793.25
MIPS, Inc.	Forms, Assr postcards	1714.93
NASASP	Shf mbrshp – Natl Assn St Agncs Surplus prop.	39.00
<u>General Fund cont.</u>		
Natl. Sheriff's Association	Shf mbrshp dues	142.00
Naylor, Rappl Law Office, PC LLO	Atty fees	718.16
NE County Attorney Assn.	Dues, seminar regis. x 4	2296.00
NE Public Health Env. Lab	Blood alcohol test	105.00
NE State Fire Marshall – Elev. Div.	Annl. inspection	120.00
Nelson, Clark & Timan, PC LLO	Public Defender	6346.15
NI Government Services, Inc.	SAT phone svc, 5 mos.	386.95
Noakes Heating & Air	Supplies, labor	978.91
Northeast Auto	Veh lease	550.00
Precision Signs & Graphics, LLC	Shf veh graphics	37.55
Premier GMC of Beatrice, LLC	Shf veh svc supplies, labor	1225.22
Production Creek Specialty Adv.	Shf uniform screenprint	41.00
Psychological Resources	Pre-empl. testing	150.00
Quadient Finance USA, Inc.	Postage for meter	698.92
Quadient, Inc.	Pstg meter supplies	64.60
Quill – EMS	Offc supplies	331.98
Quill – Co Ct	Offc supplies	122.92
Quill – Prob	Offc supplies	271.10
Reagan Law Offices, PC LLO	Atty fees	538.50
Region V Systems	EPC billing	856.00
Ron's Body Shop, Inc.	Shf veh ins deductible	500.00
Sherwin-Williams Co.	Paint	105.52
Spectrum (Charter)	EM cable TV	11.55
St. of NE St. Fire Marshall	Jail boiler annl. certif.	36.00
Stephen Kraviec, PC LLO	Child Suppt. Enf. Atty	2398.05
Summit Food Service, LLC	Jail meal svc.	8202.12
Tracker Products, LLC	Maint. agrmt	5670.00
U.S. Bank – Purchase cards	Lodging, fuel, supplies	1653.91
Verizon Wireless (EMS 8923-1)	Emer Mgmt cell phones	225.65
Voss Lighting	Jail supplies	56.04
Westlake Ace Hardware	Shf supplies	7.73
Willet & Carothers Law Office	Atty fees	275.50
Windstream – Ext. Offc	Phones	310.93
Windstream – Shf.	Phones	607.61
Windstream – Cths.	Phones	1898.03
Windstream – Vets	Phones	246.97
Woods & Aitken, LLP	Prof. legal svcs.	688.00
<u>Road Fund</u>		
Highway Department Employees	Salaries	40,530.60
Auto Repair Plus, LLC	Parts, labor	2069.66
Beatrice Concrete Sand & Gravel	Rock & gravel	40,754.47
Black Hills Energy	Utilities	135.36
Bomgaars	Tools, supplies	492.79
Cather & Sons Const.	Asphalt	3419.41
Diamond Traffic Products	Traffic counters	3482.00
First Wireless, Inc.	Repeater rental	350.00
Lammel Plumbing	Plbg repairs	223.35
Lee Newspaper Subscriptions	Subscr.	378.00
Midwest Service & Sales	Sign adaptors	3495.00
Norris Public Power Dist.	Utilities	270.83
Pavers, Inc.	Asphalt cold mix	421.92
RDO Truck Center	2023 Mack Truck, VIN-3821	211,681.45
Rock On, Inc.	Hauling material	11,962.33
<u>Visitor's Promotion Fund</u>		
Beatrice Area Chamber of Commerce	Lodging tax	9138.65
<u>Insurance Fund</u>		
Gage County Health Insurance	Employee ins. claims paid	55,905.90
Lucent Health Solutions	Premiums, admin fees	29,412.57
Mutual of Omaha	Elective ins premiums	555.31

Covid American Rescue Plan Fund

Universal Broadband Consulting Ltd. Broadband internet proj. w/ NextLink	1690.00
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Inheritance Fund

Dean A Baehr Estate	Inher. tax refund	756.63
The Estate of Marcella J O'Bryan	Inher. tax refund	5772.92

County Buildings Fund

Roeber Construction, LLC	Replace roof, siding, gutters at Vet's Offc	31,000.13
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General Fund

Ameritas	County share of Employees Retirement	10,736.45
Security First Bank	Co. share of Empl. Soc. Sec. & Medicare	11,207.98
Gage County Clerk – Health Plan	Co. share of Empl. health insurance	27,291.42

Road Fund

Ameritas	County share of Employees Retirement	2,735.84
Security First Bank	Co. share of Empl. Soc. Sec. & Medicare	2,941.49
Gage County Clerk – Health Plan	Co. share of Empl. health insurance	10,013.26

Motion made by Jurgens to amend the consent agenda to include approval of gWorks Statement of Work for the implementation of *SimpleRoads* Asset Management Web Application and Subscription, for a 5-year term with review after the 5 years, seconded by Haxby, motion carried 7-0.

Motion made by Lytle, seconded by Swavely to approve the consent agenda with the addition of the gWorks item. Motion carried 7-0.

No public present for comments or request for future agenda items.

Committee reports were given by Dave Jones on Bldg. & Grounds, Jurgens on Finance/Insurance, Shf. Gustafson on Law Enforcement, and Haxby on Road & Bridge. Topics of discussion were East courthouse entrance options; valuation notices being sent out; and Liberty request to close street temporarily.

Tiemann thanked Rosie Wohlers for her years of service to Gage County and wished her the best in her retirement, and the board presented her with a plaque.

Elaine Menzel with NACO was unable to attend the meeting.

Chief Probation Officer Melanie Stormer introduced herself to the board as the new officer for Probation District 1. She said this career opportunity brought her here from Illinois. She presented a report on the Probation Office, number of staff members, and problem-solving courts. Tiemann welcomed Stormer to Gage County and wished her luck in her new position.

Motion made by Lytle, seconded by Haxby to approve placing the Probation report on file. Motion carried 7-0.

Motion made by Lytle, seconded by Swavely to approve the 2023-2024 Drug Court Interlocal Agreement. County Attorney Roger Harris stated that the Drug Court Program is very effective and is a huge cost savings tool for the county. Lytle agreed about the cost savings but also pointed out that this program really helps people by rehabilitating them to become good members of society. Tiemann said that there is a lot of success with this program and that it is helping people to become productive citizens. Motion carried 7-0.

Short recess at 9:35 a.m. Back in session at 9:43 a.m. with all members previously listed present.

NOTE: hereinafter, changes to the solar regulations will be noted as follows: proposed added verbiage will be in *italics*, and proposed deleted verbiage will be ~~crossed through~~ to note the proposed changes, but changes will only be made if the motion passes.

Discussion on proposed solar energy conversion regulations. Tiemann stated that copies of the proposed regs were given to the board and that he'd like to start at the beginning and work through each section, making changes as they go. The Board held a public hearing on solar regs on April 5, 2023 so the Board will be able to approve a set of regs today if all sections are agreed upon. Tiemann referred to the chart on the last page of the regs which is a summary of all of the setbacks and said he would like to incorporate it into the regs as a summary of the setback

information that is written into the regs, and that he would also like the following verbiage added to the regs: *solar structures/facilities that will be part of an industrial special use permit will be governed by the setback limits of that permit if they will be producing electricity for self-consumption and not selling it back onto the grid – other solar regulations such as buffers would still apply.* Tiemann asked for a motion to add this verbiage.

Motion made by Lytle, seconded by Dorn to approve adding the chart and the stated verbiage to the regs. During discussion, Haxby stated that she would like to make a motion to amend the original motion to add that the solar facility must be attached/contiguous to the industrial facility, seconded by Dorn. Voting yea on the amendment were Haxby, Dorn and Swavely, voting nay were Jurgens, Schuller, Tiemann and Lytle. Motion failed 3-4.

Motion made by Haxby, seconded by Swavely to amend the verbiage of the original motion to add that the solar facility must be within a one-mile halo of the proposed industrial site. Haxby pointed out that the industrial facility should not get an exemption if the solar site isn't with the industrial site, and if it is not, then the solar facility should follow the regular setbacks. Voting yea on the amendment were Haxby and Swavely, voting nay were Jurgens, Schuller, Tiemann, Dorn and Lytle. Motion failed 2-5.

Motion made by Haxby, seconded by Swavely to amend the verbiage of the original motion to add that a solar facility outside of a one-mile radius of the industrial site using solar energy off grid would not apply to the exemption and that the exemption would not be granted. Voting yea were Haxby and Swavely, voting nay were Jurgens, Schuller, Tiemann, Lytle and Dorn. Motion failed 2-5.

Motion made by Haxby to cap the acres at 160 for the exemption. Tiemann stated he was nervous to have a cap of 160 acres as someone might need more than that. Lisa Wiegand stated that in their research they estimated that 1 megawatt takes approximately 10 acres by the time you get your buffers in, which would mean that the 160 acres would be enough for 10 megawatts. Lytle asked to take a short recess before voting on this amendment and the original amendment.

Short recess at 10:46 a.m. with 2 items on the floor. Back in session at 10:56 a.m. with all members previously listed present.

Motion made by Haxby to cap the acres at 160 for the exemption died for lack of second.

Back to original motion made by Lytle, seconded by Dorn to add the summary chart and the following verbiage: *solar structures/facilities that will be part of an industrial special use permit will be governed by the setback limits of that permit if they will be producing electricity for self-consumption and not selling it back onto the grid – other solar regulations such as buffers would still apply.* Voting yea were Jurgens, Tiemann, Dorn, Swavely and Lytle, voting nay were Haxby and Schuller. Motion carried 5-2. Tiemann stated that the amendment would be an asterisk on the back page after the chart that was included in the motion to be added to the regs.

Motion made by Haxby, seconded by Dorn to approve changing the verbiage under Setbacks in each of the Classes 2, 3 & 4 as follows (added verbiage is in italics, deleted verbiage is crossed through): From Churches, Public Schools, *and all Federal, State or local parks which includes designated State and local recreation areas and wildlife management areas* ~~Rockford Lake State Park, NRD Big Indian, NRD Wildcat Lake, and Homestead National Historical Park~~: CSECS shall maintain a minimum setback of 1,320 ft. (1/4 mile) from property line *and shall not be visible from any place on those properties.* Motion failed 2-5 with Haxby and Dorn voting yea, Jurgens, Schuller, Tiemann, Swavely and Lytle voting nay.

Motion made by Haxby, seconded by Dorn that under Sec. 6.87, to add a new Letter N, with the previous Letter N being changed to O, and previous Letter O being changed to P. Verbiage for the new Letter N being: *the applicant shall submit a viewshed study from the Homestead National Historical Park property to the CSECS, and the study shall show that from any viewpoint of 5 feet, 5 inches above natural ground level anywhere on the Homestead National Historical Park, it cannot be seen.* Motion carried 7-0.

Motion made by Haxby, seconded by Dorn to approve additional verbiage under Sec. 6.87, Letter K to the sentence beginning: The complete results and full study report shall be included in the study *and study shall include modeling for all 4 seasons and include typical and worst-case scenarios.* Haxby said the 4 seasons study relates to the different positions of the sun during each season which could affect the presence of glare. Motion carried 4-3 with Haxby, Schuller, Dorn and Swavely voting yea, Jurgens, Tiemann and Lytle voting nay.

Motion made by Haxby, that under Sec. 6.87, Letter J, add: *#4 Provide any written technical assistance as well as minutes and reports from meetings in coordination with the Nebraska Game & Parks Commission, Lower Big Blue NRD, and/or Nemaha NRD to review the proposed CSECS site plan including mitigation action to protect the flora and fauna of the proposed project area.* Motion died for lack of second.

Motion made by Haxby, that under Sec. 6.87, Letter C, add verbiage to match wind regulations to read: *Provide a map illustrating all Transmission Lines connecting to the Substation. All electrical connections systems and lines from the CSECS to the electrical grid connection shall be located and maintained underground. Burial depth shall be at a depth that causes no known environmental, land use or safety issues. Depth shall be a minimum of six (6) feet below grade, or deeper than the drain tile, and be in compliance with NEC 2017 or new code standards. The Gage County Board of Supervisors may waive the burial requirement and allow above-ground structures in limited circumstances, such as geography precludes, or demonstrated benefit to the County. The waiver should not be granted solely on cost savings to the applicant. Request for variation shall consider aesthetics, future use of land, and effect on nearby landowners.* Motion died for lack of a second.

Motion made by Haxby, seconded by Lytle, that under Sec. 6.90, the second paragraph under Letter A: change the word ~~Upon~~ to *Prior to*. Motion carried 7-0.

Schuller had a question under Sec. 6.83, Letter B, #1, letter i, Application Requirements, he wanted to know if this pertained to all wetlands and it was explained that it's just to identify the location, it is not a restriction.

P & Z Administrator Lisa Wiegand pointed out a clerical error under Sec. 6.85, #1 – it should read: Located on a lot or parcel of at least ~~twenty~~ *ten* (10) acres.

Motion made by Haxby, seconded by Swavely that under the Setbacks section in each of the Classes 2, 3 and 4, under #4, add the wording onto the end of #4: *All CSECS shall use anti-glare or anti-reflective glass panels.* Haxby stated that companies typically use anti-glare panels but just thought it should be clarified in the regs. Motion carried 4-3 with Haxby, Dorn, Swavely and Lytle voting yea, Jurgens, Tiemann and Schuller voting nay.

Lytle wanted to discuss splitting out the Homestead off from churches, schools and NRD's so that the Homestead is in a category by itself with setbacks in Class 2 of ¼ mile, Class 3 of ½ mile, and Class 4 of ¾ mile.

NOTE: the following motions that refer to being changed on the summary chart, would also have the changes made to their section in the body of the actual regs to reflect these changes.

Motion made by Lytle, seconded by Jurgens to put the Homestead in its own category and keep the setbacks as listed on the chart for each Class. Lytle stated that solar may be a good teaching point near the Homestead but the Homestead is for preserving the prairie and the history of it visually. Motion carried 6-1 with Haxby voting nay.

Motion made by Lytle, seconded by Jurgens to create a separate category for churches, schools and NRD's, leaving the Class 1 and 2 setbacks the same, changing Class 3 to be the same as Class 2, and changing Class 4 to be what Class 3 was listed at. Motion made by Haxby, seconded by Dorn to amend Lytle's motion to keep the churches and schools in the category with the Homestead, leaving the setbacks as originally listed for all categories. Motion to amend the original motion failed 3-4 with Haxby, Tiemann and Dorn voting yea, Jurgens, Schuller, Swavely and Lytle voting nay.

Back to the vote on the original motion to create a separate category for churches, schools and NRD's, leaving the Class 1 and 2 setbacks the same, changing Class 3 to be the same as Class 2 (1/4 mile), and changing Class 4 to be what Class 3 was listed at (1/2 mile). Motion carried 6-1 with Schuller voting nay.

Motion made by Haxby, seconded by Jurgens to amend the original motion to leave the schools and churches' Class 4 setback the same as originally listed (3/4 mile) and to create a separate classification line for them on the chart. Motion carried 6-1 with Schuller voting nay.

Lytle had a question on Sec. 6.85, Letter B, regarding setbacks From Approved Platted Subdivisions Not Zoned being set at ½ mile instead of ¼ mile. Jurgens said maybe for expansion, Lisa Wiegand said it could also be for view shed. Motion made by Lytle, seconded by Schuller to change the setback From Approved Platted Subdivisions Not Zoned, from ½ mile to ¼ mile on Class 3 only. Motion carried 6-1 with Tiemann voting nay.

Jurgens asked P&Z Administrator Lisa Wiegand if she thought any of the changes made today would be conceived as wrong. Wiegand said that every board, including the P&Z Commission, will not always have all of the members agree on everything as each member has their own opinions, but it's about finding a middle ground to maintain balance. County Attorney Roger Harris also noted that it is not possible to address every hypothetical situation that might come about. He also said that if a company wants to come into the county and the regs don't fit their needs they can always request an amendment to the regs and go through the process of going before P&Z and the Board of Supervisors to get the regs changed.

Haxby asked about seeding plan and Wiegand said it's in the screenings area under letter e. of each Class, stating that they must maintain the original standard of planting. Haxby asked about the growth under the panels. Wiegand pointed out under Sec. 6.87, Letter I, #'s 10 & 11 says there must be maintenance of erosion controls throughout the life of the project and that the applicant must present an acceptable weed or vegetation plan at the time of permit.

Schuller stated that his opinion is that the setbacks are too far and that he wants smaller setbacks all around. Tiemann asked if he was making a motion.

Motion made by Schuller to change the setbacks to 500 feet from any residence and 200 feet from property line, whichever is further, and leave existing setbacks where they are at for churches, schools, NRD's and Homestead in Classes 2 through 4, otherwise setbacks would go to the 500 feet and 200 feet. Lytle seconded the motion so that there could be discussion. Schuller said he wants Gage County to be competitive and progressive in Economic Development and need to be receptive to solar energy and have zoning regulations that meet health and safety standards, but not be so restrictive that we keep something out of Gage County. Swavely asked if that meant that the setback for nonparticipating property would go from 660 feet down to 500 feet. Tiemann stated that it would take everything including non-participating dwelling, currently at 2,640 feet down to 500 feet from dwelling, and non-participating property, currently at 660 feet down to 200 feet from property line, and would not include schools, churches, NRD's and Homestead. Haxby said that the way we have it written is all towards the non-participant so we're giving the choice to the community so we should leave it the way it is. Tiemann said for participants there would continue to be no setback. Lytle said changes have been made that have reduced setbacks quite a bit already and more changes may need to be made down the line, but it's a good starting point. Swavely said we've done some good things today and we're giving people the opportunity to take advantage of this and if they do have a special situation they can come in and ask for an exemption and we can make a decision then. Tiemann asked for the vote, motion failed 1-6 with Schuller voting yea.

Lisa Wiegand asked a question on the view shed study – was four seasons study required on all classifications in that motion or just 2, 3 and 4? Haxby pointed out that the heading for Sec. 6.87, it says Application Requirements for Class 2, Class 3 and Class 4, and that under Letter K the wording regarding the 4 seasons view shed was added.

Motion made by Swavely, seconded by Dorn to approve the amended solar regulations as discussed and changed on May 31, 2023. Haxby said there are things she would still like to see changed but in all we have a balance. One thing still concerns her and that is giving an exemption to industrial projects to have solar project site with an off-site solar facility that has no limit of distance from the industrial site or the size of the solar site, making it possible for them to put a solar site anywhere in this county and they have an exemption from setbacks and that's a concern. Swavely said the key word is industrial, so that makes a difference as to where it can be placed. Haxby said she would feel better about adding wording regarding zoning it as industrial. Jurgens added that it would require a Special Use Permit for an industrial project site and it would have to go through the Board so it could be addressed then. Tiemann asked for the vote, motion carried 7-0.

Tiemann thanked everyone for staying to get the regulations completed, thanked Lisa and asked her to pass a thank you on to the P&Z Committee for laying out the groundwork and having the regs pretty well set up already. Lytle also thanked Lisa and the P&Z Committee for making it easy for the board to work through as it was all well laid out and the two boards were pretty in line with their decisions and that he appreciates all the work they did.

Jurgens left meeting at 12:40 p.m.

Chairman declared Board of Supervisors meeting adjourned at 12:41 p.m. until June 14, 2023.

Board minutes can also be viewed on the Gage County website at www.gagecountynebraska.us.

/s/ Dawn Hill
Dawn Hill
Gage County Clerk

/s/ Erich Tiemann
Erich Tiemann, Chairman
Gage County Board of Supervisors

I, Dawn Hill, County Clerk of Gage County, do hereby certify that the above records are true and accurate to the best of my knowledge.

Witness my hand and official seal this 31st day of May, 2023.

(SEAL)

/s/ Dawn Hill
Dawn Hill
Gage County Clerk