

Planning Commission
Monday, December 13, 2021 7:00 PM
Council Chambers
1369 25 Avenue
Columbus, NE 68601

1. **Statement of Compliance with Open Meetings Act and roll call.**

Open Meetings Act

Neb. Rev. Stat. § 84-1407. Act, how cited.

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Neb. Rev. Stat. § 84-1408. Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Neb. Rev. Stat. § 84-1409. Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

Neb. Rev. Stat. § 84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such

individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the

members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Neb. Rev. Stat. § 84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual meetings authorized; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the

Open Meetings Act

meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority;

(xiii) A natural resources district; and

(xiv) The Judicial Resources Commission.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as

would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in Open Meetings Act

number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsections (5) and (6) of section 84-1413.

Neb. Rev. Stat. § 84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Neb. Rev. Stat. § 84-1413. Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

(7) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public web site the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the web site at least twenty-four hours before the meeting of

the governing body. Minutes shall be placed on the web site at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public web site for at least six months.

Neb. Rev. Stat. § 84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Neb. Rev. Stat. § 84-1415. Open Meetings Act; requirements; waiver; validity of action.

No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

2. Minutes of November 8, 2021, meeting.

PLANNING COMMISSION
November 8, 2021

A meeting of the Planning Commission of the City of Columbus, Nebraska, was convened in open and public session on November 8, 2021, at 7 p.m. in the Council Chambers, 1369 25 Avenue, Columbus, Nebraska.

Notice of this meeting was given in advance thereof by publication in the Columbus Telegram on October 27, 2021, with a copy of the proof of publication being on file in the office of the city clerk. Availability of the agenda was communicated in the advance notice and in the notice to the mayor, members of the city council, and members of the planning commission of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

1. **Statement of Compliance with Open Meetings Act and Roll Call:** Chair Lopez announced that a copy of the Open Meetings Act is available at this meeting. Present were Members Steve Anderson, Bob Elsasser, Kim Hoefer, Fernando Lopez, Jr., Josh Mueller, and Tom Pillen. Members Colleen Bray and Melissa Goc were absent and excused. Member Tom Lange was absent. City staff members included City Attorney Gene Schumacher, City Engineer Rick Bogus, Community Development Director Dan Curtis, Public Property Director Doug Moore, and Assistant City Clerk Robin Efta. Also present was Mayor James Bulkley.
2. **Minutes of October 11, 2021, meeting:** The minutes were approved as presented with a motion by Elsasser and a second by Mueller. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
3. **Public hearing - Application of Kenneth Armstrong for preliminary plat of Luke Armstrong Subdivision (28 Avenue and 35 Street):** Thomas Tremel, No. 1 Driftwood Drive, on behalf of the applicant, stated the plan is to construct townhomes on three lots. No public testimony was heard. The public hearing closed with a motion by Elsasser and a second by Pillen. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made with a motion by Elsasser and a second by Mueller to approve the preliminary plat of Luke Armstrong Subdivision as it is amenable with the adjacent land use and is in accordance with the Unified Land Development Ordinance. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
4. **Public hearing - Application of Kenneth Armstrong for final plat and development agreement of Luke Armstrong Subdivision (28 Avenue and 35 Street):** No public testimony was heard. The public hearing closed with a motion by Mueller and a second by Elsasser. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made with a motion by Anderson and a second by Pillen to approve the final plat and development agreement of Luke Armstrong Subdivision as it is consistent with the preliminary plat. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
5. **Public hearing - Application of Granville Custom Homes, Inc. for preliminary plat of Frontier Park 2nd Addition (north of Armory Drive west of Kozy Drive):** Lynn Birkel, Gilmore & Associates, on behalf of the applicant, explained the plans for the 17 residential lots. No public testimony was heard. The public hearing closed with a motion by Mueller

and a second by Elsasser. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made with a motion by Mueller and a second by Elsasser to approve the preliminary plat of Frontier Park 2nd Addition as it is amenable with the adjacent land use, consistent with the Frontier Park master plan, and is in accordance with the Unified Land Development Ordinance. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.

6. **Public hearing - Application of Granville Custom Homes, Inc. for final plat and development agreement of Frontier Park 2nd Addition (north of Armory Drive west of Kozy Drive):** No public testimony was heard. The public hearing closed with a motion by Mueller and a second by Anderson. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made with a motion by Pillen and a second by Mueller to approve the final plat and development agreement of Frontier Park 2nd Addition as it is consistent with the preliminary plat. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
7. **Public hearing - Application of Columbus Community Hospital and City of Columbus for preliminary plat of Sunset Park Subdivision (42 Street east of 48 Avenue):** Bogus explained the plans for an exercise area for the two lots. No public testimony was heard. The public hearing closed with a motion by Elsasser and a second by Mueller. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made by Anderson and a second by Elsasser to approve the preliminary plat of Sunset Park Subdivision as it is amenable with the adjacent land use and is in accordance with the Unified Land Development Ordinance. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
8. **Public hearing - Application of Columbus Community Hospital and City of Columbus for final plat of Sunset Park Subdivision (42 Street east of 48 Avenue):** Moore explained that Betsy Eckhardt, Parks and Recreation Coordinator, came up with the plan for an exercise area and has raised half of the donations needed. Moore noted the generous donation of land from the hospital and that the YMCA and high school have expressed support of the project. No public testimony was heard. The public hearing closed with a motion by Elsasser and a second by Pillen. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent. A recommendation was made by Elsasser and a second by Mueller to approve the final plat of Sunset Park Subdivision as it is consistent with the preliminary plat. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
9. **Building report for October 2021:** The building report was approved as presented with a motion by Elsasser and a second by Mueller. Anderson, Elsasser, Hoefer, Lopez, Mueller, and Pillen voted "Aye" and none voted "Nay". Bray, Goc, and Lange were absent.
10. **Adjournment:** The meeting adjourned at 7:17 p.m.

OFFICE OF THE CITY CLERK
: Robin Efta

3. **Public hearing - Application of Lyman-Richey Corporation for special use permit to allow resource extraction in an "RR" (Rural Residential District) zone at 24418 Shady Lake Road.**

**NOTICE OF HEARING
TO ALL PARTIES IN INTEREST AND CITIZENS OF
COLUMBUS, NEBRASKA**

You are hereby notified that a public hearing before the Planning Commission of the City of Columbus, Nebraska, will be held on Monday, December 13, 2021, at 7 p.m. in the Council Chambers, 1369 25 Avenue, Columbus, Nebraska, on the application for a Special Use Permit to allow resource extraction on the following described real estate in an "RR" (Rural Residential District) zone: That part of the Southwest Quarter (SW1/4) located South of the centerline of Shady Lake Road, in Section 9, Township 17 North Range 1 West of the 6th P.M., Platte County, Nebraska, more particularly described as follows: beginning at the Southwest corner of said SW1/4; thence N00°02'43"W (assumed bearing), 1,584.25 feet on the West line of said SW1/4 to the centerline of said road; thence Southeasterly on the centerline of said road for the next 3 courses; 1) S77°03'49"E 977.64 feet; 2) S77°37'25" E, 731.09; 3) S79°19'49'E, 999.68 feet to the East line of said SW1/4; thence S00°02'57"W, 1,030.94 feet on the East line of said SW1/4 to the Southeast corner thereof; thence N89°50'28"W, 2,647.19 feet on the South Line of Said SW1/4 to the point of beginning, subject to county roads and right of ways record (24418 Shady Lake Road) and at said time and place you may appear and be heard.

CITY OF COLUMBUS, NEBRASKA

By: Janelle Kline
City Clerk

Publish: 12:02:21
Two Affidavits of Publication

**CITY OF COLUMBUS
MEMORANDUM**

DATE: 12/09/2021

FROM: Dan Curtis

TO: City Administrator Tara Vasicek

RE: Special Use Permit request allowing to mine, remove, and sell sand, gravel, soil and related resources from the property.

RECOMMENDATION:

I recommend approval of this Special Use permit, it is a continuation of a current Special Use permit on the property to the east and is a good use of the property.

DISCUSSION:

We have received an application for a Special Use permit to allow Resource Extraction for Lyman-Richie on property to the west of their current permit. The property is located in the Flood Plain/ Floodway and is a good use of the property. The applicant has been made aware of building and zoning code screening requirements.

FISCAL IMPACT:

None

ALTERNATIVE:

Deny the Special Use Permit

SIGNATURE:

By: Daniel Curtis

Approved By: _____



1997/98 1998/99 1999/00

1. **Applicant's Name:** Lyman-Richey Corporation

4. **Graphical information, including site plans, elevations, or other drawings, necessary to describe the proposed use to approving agencies:**

DATED this 11th day of October 2021.


Applicant and Authorized Agent for
Lyman Richey Corporation
Matthew Cone, Plant Engineer

Exhibit A
Operation Plan

Application for a Special Use Permit is being made for the following reason:

Lyman-Richey Corporation is requesting a Special Use Permit allowing them to mine, remove and sell sand, gravel, soil and related resources from the property.

Land Contours:

The portion of the parcel where mining will take place is quite level with very slight deviations in elevation. A portion of the area to be mined will be left as open water at or below existing grade.

Erosion Controls:

All of our mining operations have a Storm Water Pollution Prevention Plan. All storm water generated on the property will remain on the property. The surface of the open water will be 7-8 feet below the existing land elevation and will act as a reservoir to detain the storm water.

Hazard Mitigation, Safety and Perimeter Safety Screening:

Lyman-Richey's safety vision is that every employee returns safely to their family at the end of their shift.

All mining operations in the United States must comply with the standards as stated, inspected for, and enforced by MSHA (Mining Safety Hazards Act) which is the mining industry's regulatory and enforcement arm of the federal government. MSHA is the equivalent of OSHA, which enforces employment safety in all other industries.

Lyman-Richey strongly enforces safety issues and follows the rules and regulations of MSHA. Periodic inspections (at least one per year) by MSHA personnel at each mining site keep safety foremost within the minds of our supervisors and workers at the mine sites. Severe penalties are imposed by MSHA for infractions to the rules and regulations of MSHA.

Exhibit A
Operation Plan

One example of the MSHA regulations Lyman-Richey abides by is the requirement to place berms around the open water. These berms act as a perimeter safety screening for the open water. In addition, all sites are marked with appropriate signs indicating the area is a mining operation and is restricted to authorized personnel.

Visual Screening:

The parcel being mined is not adjacent to any property within a residential or public use district; therefore, visual screening is not necessary.

At Completion of Mining:

The resulting sand fills on the edge of the water areas will be leveled and placed to appropriate grade.

The stockpiled topsoil will be placed over the sand areas and leveled.

The Lower Loup Natural Resources District has no restrictions on mining operations at this time. The portions of the site being left as open water have been approved by the Lower Loup Natural Resources District.

In areas that are not left as open water, topsoil will be placed on top and seeded as soon as practical to prevent wind and water erosion.



REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REVISIONS			

Exhibit B
Plant 71 Equipment and
Site Layout
24418 Shady Lake Road
Columbus, Ne



NAME	MATTHEWC
DATE	10-12-2021
FILE NAME	TwadwayPlant 71-28-202
SCALE	1:71.673

FILE LOCATION
C:\Users\matthewc\Documents\Cone Projects\Plant 71 Columbus\New Columbus Site



REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REVISIONS			

Exhibit B1
Plant 71 Equipment and
Site Layout
24418 Shady Lake Road
Columbus, Ne

LYMAN-RICHEY SAND & GRAVEL COMPANY



DIVISION OF LYMAN-RICHEY CORPORATION

NAME

MATTHEWC

DATE

10-12-2021

FILE NAME

TreadwayPlant SUP 10-12-2021

SCALE

1:71.673

FILE LOCATION

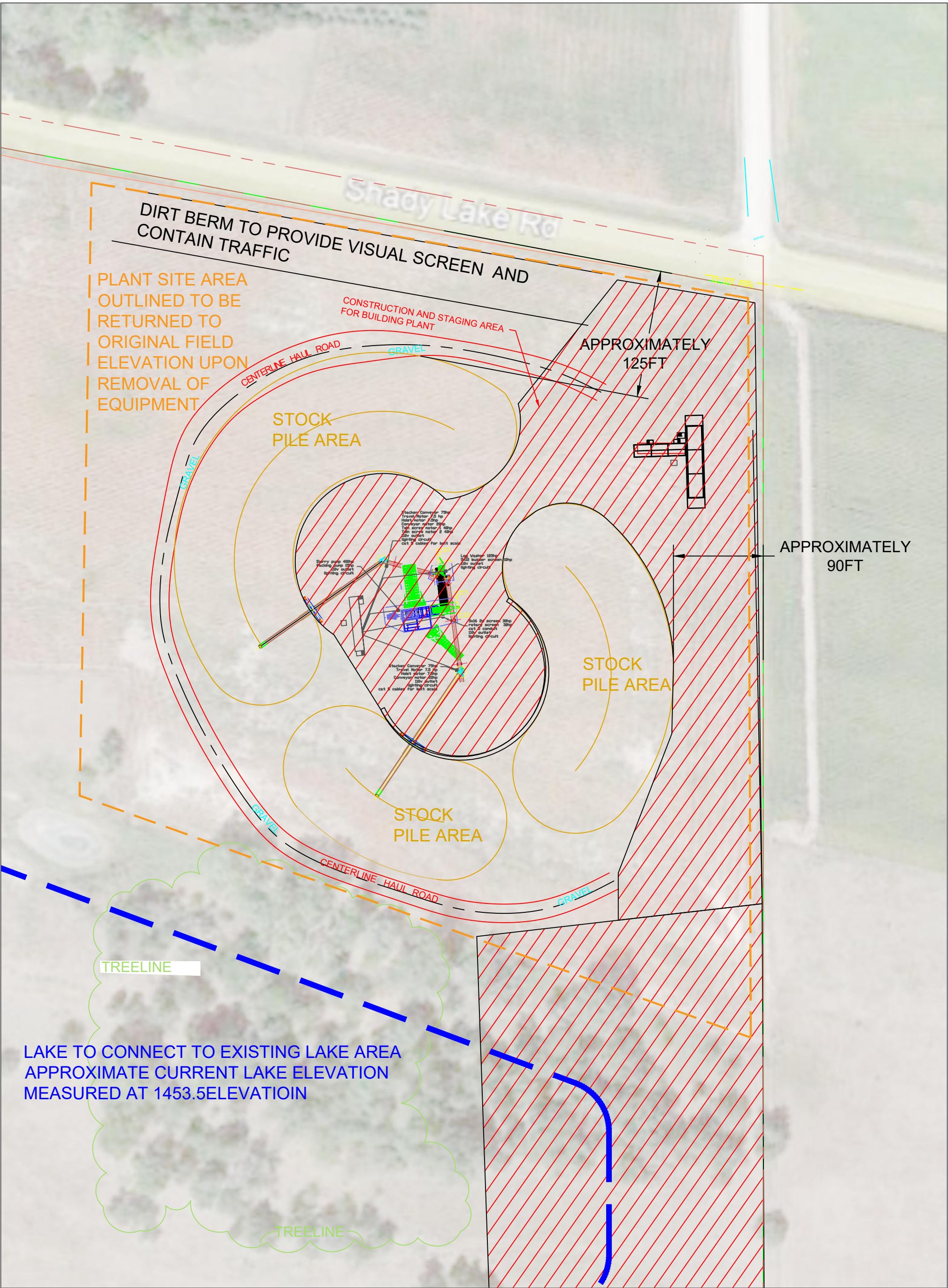
C:\Users\matthewc\Documents\Cone Projects\Plant 71 Columbus\New Columbus Site



REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REVISIONS			

Exhibit B2
Plant 71 Equipment and site layout move
24418 Shady Lake Road
Columbus Ne

LYMAN-RICHEY SAND & GRAVEL COMPANY  DIVISION OF LYMAN-RICHEY CORPORATION	NAME	MATTHEWC
	DATE	10-12-2021
	FILE NAME	TreadwayPlan10-12-2021
	SCALE	1:624.5965 ↑
FILE LOCATION C:\Users\matthewc\Desktop\71 SUP		



REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REV	REV NOTES	DATE	BY
REVISIONS			

New Plant 71 Equipment
Layout
24418 Shady Lake Road
Columbus, Ne

LYMAN-RICHEY SAND & GRAVEL COMPANY

DIVISION OF LYMAN-RICHEY CORPORATION

NAME

MATTHEWC

DATE

11-11-2021

FILE NAME

New Plant 71 Layout 11-11-2021

SCALE

1:87.6615

FILE LOCATION

C:\Users\matthewc\Documents\Cone Projects\Plant 71 Columbus\New Color

4. Building report for November 2021.

City of Columbus

Building Department Monthly Report

12/03/2021

	November 2021			November 2020		
	Count	Permit Fees	Value	Count	Permit Fees	Value
Accessory Structure	2	\$286.78	\$56980.00	3	\$522.50	\$92000.00
Com Addition	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Com Alteration	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Com New Construction	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Com Plumbing	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Commercial	0	\$0.00	\$0.00	6	\$6801.91	\$2347966.00
Construction Deck	2	\$214.78	\$29500.00	0	\$0.00	\$0.00
Demolition	0	\$0.00	\$0.00	1	\$25.00	\$8000.00
Fence	7	\$192.50	\$26797.00	0	\$0.00	\$0.00
Plumbing	0	\$0.00	\$0.00	32	\$44.00	\$239500.00
Res Addition	1	\$68.49	\$8320.00	0	\$0.00	\$0.00
Res Alteration	6	\$456.83	\$59294.00	0	\$0.00	\$0.00
Res New Construction	2	\$2406.40	\$779380.00	0	\$0.00	\$0.00
Res Plumbing	27	\$1005.00	\$162500.00	0	\$0.00	\$0.00
Res Pool	1	\$417.45	\$80000.00	0	\$0.00	\$0.00
Residential	0	\$0.00	\$0.00	26	\$9083.69	\$2796337.00
Construction Signs	0	\$0.00	\$0.00	0	\$0.00	\$0.00
Sprinklers	1	\$19.00	\$5000.00	0	\$0.00	\$0.00
Water Softner/RO	0	\$0.00	\$0.00	0	\$0.00	\$0.00
YEAR TOTAL	49	\$5067.23	\$1207771.00	68	\$16477.10	\$5483803.00

Population: All Records
 Permit.DateIssued Between 11/1/2020 12:00:00 AM
 AND 11/30/2021 12:00:00 AM

5. Adjournment.