

Friend City Council Meeting
Tuesday, August 2, 2022 7:00 PM

City Hall
235 Maple Street
Friend, NE 68359

Agenda

ROLL CALL

ANNOUNCEMENTS: Open Meetings Act

PLEDGE OF ALLEGIANCE

APPROVAL OF MEETING MINUTES

TREASURER'S REPORT

APPROVAL OF CLAIMS AND PAYROLL

APPROVAL OF HOSPITAL FINANCIAL REPORTS

MAYOR COMMENTS

PUBLIC COMMENTS

COMMUNICATIONS

NEW BUSINESS

Discussion/Possible Action Update on 513 2nd St.

Discussion/Possible Action Marla Weber possible grant opportunity

Discussion/Possible Action Out Buildings in residential districts.

Discussion/Possible Action contract with Kirkham Michael for City Engineering service

Discussion/Possible Action Providing a stipend to employees in lieu of insurance.

Discussion/Possible Action update on Dog Park Information

Discussion/Possible Action Skate Park

Discussion/Possible action putting cameras at the City Pool

Discussion/Possible Action SDL for Friend Ford Banka Post #183

Discussion/Possible Action Request from Saline County Aging Services for financial support.

Discussion/Possible Action Board of Adjustments

Discussion/Possible Action Retaining wall at pond, Denial from Insurance, and Engineer estimates to repair.

Discussion/Possible Action Granting Kristen Milton permission to work with the USDA for a grant. Allowing her to gather necessary information for application.

DEPARTMENT REPORTS

Friend Community Healthcare Systems

Building Inspector Report

Fire Department Report

Police Report

Pool Report

Public Works Report

ADJOURNMENT

The Mayor and the Board reserve the right to enter into Executive Session

The Council will review all items above and will take action as deemed appropriate

NEBRASKA OPEN MEETINGS ACT

84-1407. Act, how cited.

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

Source: Laws 2004, LB 821, § 34.

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.

Source: Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

Annotations

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. *McQuinn v. Douglas Cty. Sch. Dist. No. 66*, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. *Marks v. Judicial Nominating Comm.*, 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. *Grein v. Board of Education of Fremont*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- A county board of equalization is a public body whose meetings shall be open to the public. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

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.

Source: Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11.

Annotations

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. *Nixon v. Madison Co. Ag. Soc'y*, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).

- As an administrative agency of the county, a county board of equalization is a public body. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. *State ex rel. Newman v. Columbus Township Bd.*, 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. *Johnson v. Nebraska Environmental Control Council*, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

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.

Source: Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

Annotations

- There is no absolute discovery privilege for communications that occur during a closed session. *State ex rel. Upper Republican NRD v. District Judges*, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. *Grein v. Board of Education*, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. *Simonds v. Board of Examiners*, 213 Neb. 259, 329 N.W.2d 92 (1983).
- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate should be made should take place in an open meeting. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. *Meyer v. Board of Regents*, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; 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 website.

(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 website; 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 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 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.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510,

§ 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12.

Cross References

- **Intergovernmental Risk Management Act**, see section 44-4301.
- **Interlocal Cooperation Act**, see section 13-801.
- **Joint Public Agency Act**, see section 13-2501.
- **Municipal Cooperative Financing Act**, see section 18-2401.

Annotations

- Under subsection (1) of this section, the Legislature has imposed only two conditions on the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." *Steenblock v. Elkhorn Township Bd.*, 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that

plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

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.

Source: Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13.

Annotations

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. *Stoetzel & Sons v. City of Hastings*, 265 Neb. 637, 658 N.W.2d 636 (2003).

84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; 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 website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website 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 website for at least six months.

Source: Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14.

Annotations

- If a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before taking actions on questions or motions pending, that person waives his or her right to object at a later date. *Hauser v. Nebraska Police Stds. Adv. Council*, 264 Neb. 944, 653 N.W.2d 240 (2002).
- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the

truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. *State ex rel. Schuler v. Dunbar*, 214 Neb. 85, 333 N.W.2d 652 (1983).

- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. *State ex rel. Schuler v. Dunbar*, 208 Neb. 69, 302 N.W.2d 674 (1981).
- There is no requirement that a public body make a record of where notice was published or posted. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

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.

Source: Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

Annotations

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W.2d 909 (2010).
- Any citizen of the state may commence an action to declare a public body's action void. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. *Wasikowski v. Nebraska Quality Jobs Bd.*, 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. *County of York v. Johnson*, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. *Tracy Corp. II v. Nebraska Pub. Serv. Comm.*, 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. *Box Butte County v. State Board of Equalization and Assessment*, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. *Witt v. School District No. 70*, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. *Alexander v. School Dist. No. 17*, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information

obtained at the illegal meeting. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. *Hansmeyer v. Nebraska Pub. Power Dist.*, 6 Neb. App. 889, 578 N.W.2d 476 (1998).

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Source: http://nebraskalegislature.gov/laws/display_html.php?begin_section=84-1407&end_section=84-1414

Date: July 2021

MINUTE RECORD

FRIEND CITY COUNCIL MINUTES-REGULAR MEETING July 5, 2022

Mayor Knoke called the regular meeting of the City Council to order at 7:00 p.m. at the City Hall. Advanced notice of the meeting was given by publication in The Sentinel, the appointed method for giving advanced notice. All proceedings shown were taken while the meeting was open to the attendance of the public.

Mayor Judith Knoke presided, and City Clerk John R. Schwab recorded the proceedings. The following Councilmembers were present: Kristen Milton, David Sladek, Shane Stutzman & Jeremy Collier. A quorum being present, and the meeting duly convened, the following proceedings were had and done.

Mayor Knoke led the meeting in reciting the Pledge of Allegiance.

As required by the Nebraska Open Meetings Act, Mayor Knoke announced that a copy of the Nebraska Open Meetings Act has been posted on the south door of the City Hall meeting room for all in attendance to review.

Motion by Collier, seconded by Stutzman to approve the minutes from the June 7 meeting. On roll call voting aye Milton, Sladek, Collier, and Stutzman. Nays none. Motion by Stutzman, seconded by Milton to approve the minutes from the June 20 meeting. On roll call voting aye Collier, Sladek, Stutzman, and Milton. Nays none.

Motion by Sladek, seconded by Collier to approve the June Treasurer report. On roll call voting aye Stutzman, Milton, Sladek, and Collier. Nays none.

Motion by Collier, seconded by Stutzman to approve the Hospital financial report. On roll call voting aye Sladek, Milton, Stutzman, and Collier. Nays none.

Motion by Milton, seconded by Sladek to approve the claims and payroll. On roll call voting aye Stutzman, Collier, Milton, and Sladek. Nay none.

The claims approved were as follows: June Payroll, 38161.68; Ameritas, 3436.85; EFTPS, 63.62; NE Dept of Rev SWH, 766.27; AT&T Mobility, se 194.22; Aqua-Chem Inc, su 1860.78; Baker & Taylor Books, 68.49; Black Hills Energy, se 2335.30; Blue Cross Blue Shield of Nebr., fe 7753.22; BOKF, 134510.00; Center Point Large Print, su 91.08; Chase NYC, fe 5735.00; Diode Communications, se 46.45; Eakes Office Solutions, su 641.31; First Wireless Inc, fe 194.35; Friend Sentinel, fe 32.00; Gale 44.98; Heather Black, re 373.22; Hometown Leasing, fe 90.75; John R. Schwab, re 153.73; Julie Lampe, re 100.00; Junior Library Guild, fe 1818.00; KBK Creative Design, se 126.00; LINPEPCO, se 478.30; Mariah Beck, re 50.00; Mastiff Systems, se 685.00; Matheson Tri-Gas, se 27.79; Chris Michl, fe 420.00; Modern Marketing, su 73.46; Ne Public Health Environmental Lab, fe 488.00; Ne Public Power Dist., fe 74747.78; Nebraska Generator Service, se 3559.43; Nebraska.Gov, fe 340.00; Nick's Farm Store, fe 5112.45; Norris Public Power, fe 6235.05; Diane Odoski, re 17.35; One Call Concepts, se 11.92; Kevin Paulsen, fe 420.00; Phyllis Schwab, re 130.56; Railroad Management Co., fe 313.34;

MINUTE RECORD

Reminisce, su 10.00; Ray Rohrig, re 215.50; Romans, Wiemer, & Associates, fe 7000.00; Marvin Slepicka, fe 2000.00; Total Claims Approved 38161.68

Discussion held on the Friend Pond. Tony Ryan commented that since the pond was put in flooding has happened more frequently. The decision was made to contact Pankoke Construction to clean the silt pond, and contact city engineer to look at pond for solutions.

Update on Building next to Pour House. No report

Dorothy Hamilton, and Kim Moore presented information on parking on 5th Street. No action taken.

Discussion on Dog Park. Gather more information and take a possible survey.

Bid to repair Neon sign. Motion by Milton, seconded by Sladek to approve bid for repairs to Neon sign. On roll call voting aye Collier, Sladek, Stutzman, and Milton. Nays none.

Motion by Stutzman, seconded by Sladek, to approve the hiring of lifeguard by Heather Black pool manager. On roll call voting aye Milton, Collier, Sladek, and Stutzman. Nays none.

Motion by Stutzman, seconded by Collier to approve offering AFLAC to the full-time employees. On roll call voting aye Milton, Sladek, Stutzman, and Collier. Nays none.
Motion by Collier seconded by Milton, to approve the proposal for Long & Short-term disability insurance through Principal. On roll call voting aye, Stutzman, Sladek, Collier, and Milton. Nays none.

Mayor Knoke reported on the Friend Community Healthcare Systems. Fire Inspector inspection passed. Waiting on DHHS inspection.

Building Inspector – No report

Fire Department – No report

Chief Shawn Gray gave his report. No issues over the July 4th weekend.

President Milton, and Pool Manger Heather Black reported on the pool.

Billy Baugh public Works Supervisor presented his report.
Motion by Sladek, seconded by Milton, to repair well #77-1. On roll call voting aye Collier, Stutzman, Sladek, and Milton. Nays none.

No further business to come before the City Council, motion was made by Milton, seconded by Sladek, to adjourn the meeting. On roll call voting aye Stutzman, Collier, Sladek, and Milton. Nays none. Meeting adjourned at 8:03 p.m.

MINUTE RECORD

Judith K. Knoke, Mayor

ATTEST

John R. Schwab, City Clerk

I, the undersigned, City Clerk of the City of Friend, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Council on July 5, 2022; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes from which the foregoing proceedings have been extracted and were in written form and available for public inspection within ten working days; that all news media requesting notification concerning meeting of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

City Clerk

NOTICE OF MEETING CITY OF FRIEND, NEBRASKA

Notice is hereby given that the City Council of the City of Friend, Nebraska will meet at 7:00 p.m. on **Tuesday, August 2, 2022**, at the City Hall which meeting will be open to the public. Agenda for said meeting is kept current and is available in the City Clerk's office during regular business hours. Request to be on the agenda must be in the City Clerk's office 24 hours prior to the start of the meeting.

John R. Schwab, City Clerk

Treasurers Report July 2022

City of Friend

Account	Fund Name	Beginning Balance	Receipts	Disbursements	Net Change	Ending Balance
100-1000.0	General	(\$86,855.81)	\$3,773.86	\$17,036.70	(13,262.84)	(100,118.65)
105-1000.0	Police	(\$218,186.77)	\$1,880.70	\$12,267.46	(10,386.76)	(228,573.53)
113-1000.0	Community Center	(\$46,005.32)	\$0.00	\$106.55	(106.55)	(46,111.87)
210-1000.0	Street	\$39,523.11	\$42,240.78	\$7,433.98	34,806.80	74,329.91
220-1000.0	Waste Management	\$14,957.77	\$6,998.72	\$7,826.33	(827.61)	14,130.16
310-1000.0	Fire Maintainence	\$9,183.17	\$89.91	\$1,853.74	(1,763.83)	7,419.34
315-1000.0	Fire Equipment	\$56,788.48	\$149.86	\$0.00	149.86	56,938.34
340-1000.0	Cemetery Oper	\$33,876.80	\$13,461.38	\$6,904.86	6,556.52	40,433.32
350-1000.0	Cemetery PC	\$961.84	\$0.00	\$0.00	0.00	961.84
370-1000.0	Ambulance	\$53,197.68	\$168.12	\$243.29	(75.17)	53,122.51
420-1000.0	Park/Pool	(\$242,305.61)	\$31,588.69	\$25,792.04	5,796.65	(236,508.96)
440-1000.0	Library	\$86,529.31	\$549.50	\$3,960.92	(3,411.42)	83,117.89
	Total	(298,335.35)	100,901.52	83,425.87	17,475.65	(280,859.70)

112-1000.0	Sales Tax	\$22,462.34	\$0.00	\$0.00	0.00	22,462.34
240-1000.0	Water	\$426,130.31	\$18,443.27	\$7,148.10	11,295.17	437,425.48
250-1000.0	Light	\$853,680.45	\$87,990.90	\$88,491.22	(500.32)	853,180.13
260-1000.0	Sewer	\$59,776.57	\$11,083.52	\$9,368.86	1,714.66	61,491.23
	Total	1,362,049.67	117,517.69	105,008.18	12,509.51	1,374,559.18

430-1000.0	Pool Bond	\$169,183.86	\$12,824.03	\$134,490.00	(121,665.97)	47,517.89
620-1000.0	Water Improvement Bond	\$0.00	\$0.00	\$0.00	0.00	0.00
650-1000.0	Street Bond	(\$51,909.81)	\$0.00	\$0.00	0.00	(51,909.81)
660-1000.0	Hwy Allocation Bond	(\$1,815.29)	\$139.96	\$5,735.00	(5,595.04)	(7,410.33)
670-1000.0	Dist/St Imp Bond	\$9,395.23	\$0.00	\$0.00	0.00	9,395.23
680-1000.0	Improvement Bond	(\$33,987.87)	\$1,048.60	\$0.00	1,048.60	(32,939.27)
850-1000.0	Wastewater Bond	(\$56,525.00)	\$0.00	\$0.00	0.00	(56,525.00)
	Total	34,341.12	14,012.59	140,225.00	(126,212.41)	(91,871.29)

500-1000.0	Social Security	\$5,235.69	0.00	\$0.00	0.00	5,235.69
510-1000.0	NE State Tax	(\$263.87)	0.00	\$0.00	0.00	(263.87)
520-1000.0	Fed Withholding	(\$4,811.67)	0.00	\$0.00	0.00	(4,811.67)
530-1000.0	Garnishment	\$0.00	0.00	\$0.00	0.00	0.00
540-1000.0	Insurance	(\$65,679.75)	0.00	\$8,011.79	(8,011.79)	(73,691.54)
	Total	(65,519.60)	0.00	8,011.79	(8,011.79)	(73,531.39)

720-1000.0	Keno Reserve	\$0.00	\$0.00	\$0.00	0.00	0.00
730-1000.0	Keno	(\$178.71)	\$0.00	\$0.00	0.00	(178.71)
760-1000.0	TIFF	(\$173.51)	\$441.51	\$441.51	0.00	(173.51)
770-1000.0	Johnson Trust	\$7,226.99	\$0.00	\$0.00	0.00	7,226.99
800-1000.0	Retirement	(\$3,103.73)	\$0.00	\$0.00	0.00	(3,103.73)
900-1000.0	Fire Trunk Sinking	\$91,095.64	\$194.81	\$0.00	194.81	91,290.45
	Total	94,866.68	636.32	441.51	194.81	95,061.49

Grand Total	\$1,127,402.52	\$233,068.12	\$337,112.35	(\$104,044.23)	\$1,023,358.29
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Cash Balance Investments Acct# 705115	\$22,123.98
Bank Balance as of August 2, 2022	\$956,035.10

I hereby certify that this report is true & correct to the best of my knowledge.
John R. Schwab, City Clerk/Treasurer

CLAIMS APPROVAL LIST JULY 2022

CITY OF FRIEND

<u>Vendor Name</u>	<u>Invoice</u>	<u>Account Description</u>	<u>Amount</u>
Aqua-Chem Inc.			736.30
Baker & Taylor Books		Purchase of Books	33.89
Blue Cross Blue Shield of Nebr			7,753.22
Border States Industries Inc.	924592385	Electric Supplies	405.84
Brother's Equipment	0264306-IN		25.02
Center Point Large Print	1941574	4 Christian large print hardback books	91.08
Jacob & Johnathan Clouse		Building Rent	850.00
Jacob & Johnathan Clouse		Building Rent	850.00
FES	INV013267	Web Site Hosting	2,000.00
Fairfield Inn & Suites	434C400010676	EMT Conference	599.75
Gale	78193780	2 Western Hardback Books	47.23
Heather Black		Supplies for Pool Concessions	25.16
Holiday Inn of Kearney	89130	EMT Conference	279.90
Kirkham Michael	58896	Contract for SSAR & 1&6 yr plan	1,000.00
LaQuinta Inn & Suites		EMT Conference	844.85
Rosemarie Markus	19016	General Pest Control Service	50.00
Mastiff Systems	INV-1160	IT Support	347.50
NE Dept. of Revenue SWH		STATE TAX	836.67
NE Public Health Environmental Lab			68.00
Nebraska Generator Service LLC	1628	Arpa Funds expenditures	3,260.31
NE Library Commission		Over Drive Subscription	500.00
Norris Public Power Dist.			43.00
Norris Public Power Dist.	9767	Subtransmission/Wheeling Charges	6,193.05
Diane Odoski		Milage & Reimburse for book purchases	205.37
One Billing Solutions, LLC			416.74
Kelly Paulsen		Candy for 4th of July	65.96
Pepsi-Cola of Hastings		Beverage Delivery	377.48
Phyllis Schwab		Reimbursement for Pool Concessions	356.02
Readers Digest		1 yr subscription	30.00
Schindler Elevator Corporation	8106003532	Inspection Svcs/Svc Contract	184.92
Sid Dillon Chevrolet Buick	6CCS885979	Service	147.00
Marvin Slepicka		Dump Rental/Fee	2,000.00
The Depository Trust		District Improvement Bond	7,468.75
Vyhnalek Insurance Agency		Group Life Insurance	1,948.80
GRAND TOTAL			\$40,041.81

Blank Claims List

CITY OF FRIEND

<u>Vendor Name</u>	<u>Account Description</u>
AT&T Mobility	Phone Service
Beaver Hardware	Operating Supplies
Black Hills Energy	Natural Gas Service
Bruning Law Group	Legal Service
Community Redevelopment Authority	TIF / Occ Tax
Culligan Water Service	Drinking Water Service
Danko Emergency Equipment Co.	Fire Equipment
Dollar General-Regions 410526	Operating Supplies
Eakes Office Solutions	Office Supplies
Farmer's Union Cooperative Co.	Operating Supplies
Midwest Laboratories Inc	Sewer Samples Lab
NE Dept of Revenue	Sales & Use Tax
NE Public Power District	Electrical Service
One Call Concepts, Inc.	Locates
Qwik 6	Fuel Expense
Seward County Independent	Publication
Visa	Operating Supplies
Waste Connections of Nebraska	Garbage Service
Windstream	Phone Service/Internet

These claims were not received prior to the August 2, 2022, City Council Meeting

Authorization for payment of these claims, upon receipt of invoice, is hereby given by the Friend City Council

Approved and allowed August 2, 2022

Mayor Judith Knoke

Kristen Milton

Jeremy Collier

David Sladek

Shane Stutzman

Paycheck Register**City of Friend**

DATE	EMPLOYEE	AMOUNT
7/6/2022	Kevin Barnard	1,538.55
7/6/2022	Reagan Bartley	447.42
7/6/2022	Billy Baugh	1,929.61
7/6/2022	Heather R Black	981.29
7/6/2022	LillyAnn Ellison	291.45
7/6/2022	Mallory M. Erwin	1,119.43
7/6/2022	Shawn A.R. Gray	1,565.45
7/6/2022	Dennis Haakenson	1,737.38
7/6/2022	Nathan Hanneman	783.45
7/6/2022	Roger Dean Hanneman	633.56
7/6/2022	Frederic V Hausman	514.80
7/6/2022	Mikayla Hausman	1,200.89
7/6/2022	Ayla Kahler	531.07
7/6/2022	Stacy Kirchoff	217.14
7/6/2022	Alicia Lacher	35.09
7/6/2022	Diane P. Odoski	558.83
7/6/2022	Emma Olsen	647.43
7/6/2022	Megan Rumery	470.82
7/6/2022	Breckan Schluter	105.63
7/6/2022	Breckin Schoepf	539.32
7/6/2022	John R Schwab	1,367.24
7/6/2022	Lori E Sizer	43.86
7/6/2022	Grady Smith	1,431.18
7/6/2022	Zakk Smith	483.58
7/6/2022	Shannon M Steckly	426.83
7/6/2022	Hunter Roy Svhela	452.87
7/6/2022	Douglas Welch	1,494.83
7/6/2022	Ryan K. Yoder	1,500.97
7/20/2022	Kevin Barnard	1,491.65
7/20/2022	Reagan Bartley	275.72
7/20/2022	Billy Baugh	1,982.83
7/20/2022	Brooke Baugh	441.47
7/20/2022	Heather R Black	1,033.32
7/20/2022	LillyAnn Ellison	353.47
7/20/2022	Mallory M. Erwin	1,119.43
7/20/2022	Shawn A.R. Gray	1,565.45
7/20/2022	Dennis Haakenson	1,417.75
7/20/2022	Nathan Hanneman	146.50
7/20/2022	Roger Dean Hanneman	505.37
7/20/2022	Frederic V Hausman	381.12
7/20/2022	Mikayla Hausman	628.91
7/20/2022	Ayla Kahler	404.06
7/20/2022	Stacy Kirchoff	169.00
7/20/2022	Diane P. Odoski	536.54
7/20/2022	Emma Olsen	531.75
7/20/2022	Megan Rumery	411.16
7/20/2022	Breckan Schluter	129.56

Mayor Judith Knoke

Kristen Milton

Jeremy Collier

Shane Stutzman

David Sladek

7/20/2022	Breckin Schoepf	522.20
7/20/2022	John R Schwab	1,367.24
7/20/2022	Lori E Sizer	17.54
7/20/2022	Grady Smith	1,265.21
7/20/2022	Zakk Smith	451.28
7/20/2022	Shannon M Steckly	423.20
7/20/2022	Hunter Roy Svhela	474.00
7/20/2022	Douglas Welch	1,266.49
7/20/2022	Ryan K. Yoder	1,422.24
	Grand Total	43,784.43

June Financial Statement

Financials

Friend Community Healthcare System
Balance Sheet
June 30, 2022

	6/30/2022	6/30/2021
ASSETS		
Current Assets		
Cash and Equivalents	\$ 342,381	\$856,483
Patient Accounts Receivable - Net	\$ 3,080,941	\$319,505
Inventory & Prepaid Expense	\$ 146,105	\$135,208
Total Current Assets	<u>\$ 3,569,428</u>	<u>\$1,311,195</u>
Assets Limited to Use - Debt Service Reserve	\$ -	\$0
Property, Plant, & Equipment - Net of Depreciation	\$ 4,302,612	\$4,243,796
Due from Third Party	\$ 24,000	\$133,308
Other Receivables	\$ -	\$ -
Total Assets	<u><u>\$ 7,896,040</u></u>	<u><u>\$5,688,306</u></u>
LIABILITIES AND NET POSITION		
Current Liabilities		
Current Portion of Long Term Debt & Capital Lease	\$ 371,290	\$318,712
Notes Payable - Citizen's State Bank	\$ 225,000	\$241,000
Accounts Payable	\$ 654,335	\$1,394,266
Accrued Expenses		
Salaries, Wages, and Benefits	\$ 195,441	\$205,305
Interest	\$ 147,115	\$73,631
Amounts Payable to 3rd Party Payors - CURRENT YEAR	\$ -	\$0
Amounts Payable to 3rd Party Payors - PRIOR YEARS	\$ 1,950,000	\$50,000
Unearned Revenue - Covid	\$ 1,313,026	\$1,420,881
Total Current Liabilities	<u>\$ 4,856,206</u>	<u>\$3,703,796</u>
Long Term Debt and Capital Lease Obligation Less Current Portion	<u>\$ 2,198,624</u>	<u>\$2,750,042</u>
Total Liabilities	<u>\$ 7,054,830</u>	<u>\$6,453,837</u>
Net Deficit Beginning of Year	\$ (12,190)	\$ (1,210,961)
Change in Net Position Current Year (Loss)	\$ 853,400	\$ 445,429
Total Net Position (Deficit)	<u>\$ 841,210</u>	<u>\$ (765,532)</u>
Total Liabilities and Net Position	<u><u>\$ 7,896,040</u></u>	<u><u>\$ 5,688,306</u></u>
Proof	\$ -	\$ -

Friend Community Healthcare System
Statement of Changes in Net Position YOY
For the 9 Months Ending June 31, 2022 and 2021

	6/30/2022	6/30/2021	Variance	YTD 6/30/2022	YTD 6/30/2021	Variance
REVENUE						
Net Patient Service Revenue	\$ 496,267	\$ 163,042	\$ 333,225	\$ 4,061,599	\$ 2,686,697	\$ 1,374,902
Other Operating Revenue	\$ 4,119	\$ 378,871	\$ (374,752)	\$ 56,673	\$ 445,836	\$ (389,163)
			0			
Total Revenue	<u>\$ 500,386</u>	<u>\$ 541,913</u>	<u>\$ (41,527)</u>	<u>\$ 4,118,272</u>	<u>\$ 3,132,533</u>	<u>\$ 985,739</u>
OPERATING EXPENSES						
Salaries and Wages	\$ 214,931	\$ 214,605	\$ 327	\$ 1,805,658	\$ 1,737,380	\$ 68,279
Employee Benefits	\$ 44,442	\$ 33,365	\$ 11,077	\$ 314,731	\$ 324,707	\$ (9,976)
Outside Services	\$ 173,674	\$ 79,817	\$ 93,858	\$ 1,196,401	\$ 895,446	\$ 300,955
Supplies and Materials	\$ 50,348	\$ 20,197	\$ 30,151	\$ 286,923	\$ 197,482	\$ 89,441
Depreciation	\$ 30,834	\$ 22,423	\$ 8,411	\$ 277,503	\$ 201,805	\$ 75,698
Total Operating Expenses	<u>\$ 514,229</u>	<u>\$ 370,406</u>	<u>\$ 143,823</u>	<u>\$ 3,881,216</u>	<u>\$ 3,356,819</u>	<u>\$ 524,397</u>
Net Income (Loss) from Operations	<u>\$ (13,843)</u>	<u>\$ 171,507</u>	<u>\$ (185,350)</u>	<u>\$ 237,056</u>	<u>\$ (224,286)</u>	<u>\$ 461,343</u>
NON OPERATING						
Interest Income	\$ 166	\$ 1,539	\$ (1,373)	\$ 927	\$ 4,833	\$ (3,906)
Interest Expense	\$ (12,537)	\$ (14,597)	\$ 2,060	\$ (110,144)	\$ (138,981)	\$ 28,837
Non Capital Grants and Contributions	\$ 59,574	\$ 107,124	\$ (47,550)	\$ 725,561	\$ 803,863	\$ (78,303)
						\$ -
Increase (Decrease) in Net Position	<u>\$ 33,359</u>	<u>\$ 265,573</u>	<u>\$ (232,214)</u>	<u>\$ 853,400</u>	<u>\$ 445,429</u>	<u>\$ 407,971</u>
Operating Margin	-2.8%	8.14%		5.8%	-7.16%	
Total Margin	6.7%	7.32%		20.7%	14.22%	
Net Days in Net Patient AR						

**Friend Community Healthcare System
Statement of Changes in Net Position Budget
For the 9 Months Ending June 30, 2022**

	6/30/2022	MTD Budget	Variance	YTD 6/30/2022	YTD Budget	Variance
REVENUE						
Net Patient Service Revenue	\$ 496,267	\$ 258,466	\$ 237,801	\$ 4,061,599	\$ 2,898,370	\$ 1,163,230
Other Operating Revenue	\$ 4,119	\$ 8,017	\$ (3,898)	\$ 56,673	\$ 72,150	\$ (15,477)
Total Revenue	\$ 500,386	\$ 266,483	\$ 233,903	\$ 4,118,272	\$ 2,970,520	\$ 1,147,753
OPERATING EXPENSES						
Salaries and Wages	\$ 214,931	\$ 196,300	\$ 18,631	\$ 1,805,658	\$ 1,856,900	\$ (51,242)
Employee Benefits	\$ 44,442	\$ 49,534	\$ (5,093)	\$ 314,731	\$ 450,852	\$ (136,121)
Outside Services	\$ 173,674	\$ 96,767	\$ 76,907	\$ 1,196,401	\$ 966,518	\$ 229,883
Supplies and Materials	\$ 50,348	\$ 19,904	\$ 30,445	\$ 286,923	\$ 210,437	\$ 76,486
Depreciation	\$ 30,834	\$ 23,558	\$ 7,275	\$ 277,503	\$ 212,025	\$ 65,478
Total Operating Expenses	\$ 514,229	\$ 386,064	\$ 128,166	\$ 3,881,216	\$ 3,696,732	\$ 184,484
Net Income (Loss) from Operations	\$ (13,843)	\$ (119,581)	\$ 105,738	\$ 237,056	\$ (726,212)	\$ 963,268
NON OPERATING						
Interest Income	\$ 166	\$ 467	\$ (301)	\$ 927	\$ 4,200	\$ (3,273)
Interest Expense	\$ (12,537)	\$ (16,183)	\$ 3,646	\$ (110,144)	\$ (145,650)	\$ 35,507
Non Capital Grants and Contributions	\$ 59,574	\$ 92,975	\$ (33,401)	\$ 725,561	\$ 836,775	\$ (111,215)
Increase (Decrease) in Net Position	\$ 33,359	\$ (42,323)	\$ 75,682	\$ 853,400	\$ (30,887)	\$ 884,287
Operating Margin	-2.8%	-44.9%		5.8%	-24.4%	
Total Margin	6.7%	-15.9%		20.7%	-1.0%	

**Friend Community Healthcare System
Statement of Cash Flows
For the 9 Months Ending June 30, 2022**

	MONTH 6/30/2022	YTD 6/30/2022
OPERATING ACTIVITIES		
Increase (Decrease) in Net Position - CURRENT OPERATING YEAR	990,718	\$ 853,400
LESS: Items that consumed current year cash	1,432,822	\$ 978,816
ADD Depreciation - DOES NOT USE CASH	69,599	\$ 277,503
LESS Recognition of Previous Unearned Revenue	1,313,026	\$ 1,006,488
 Sub Total	\$ 3,806,165	\$ 3,116,208
 (Increase) / Decrease in Patient Accounts Receivable - NET	(2,755,460)	\$ (2,488,147)
(Increase) / Decrease in Inventory / Prepaid	(50,911)	\$ (89,106)
(Decrease) / Increase in Accounts Payable	125,903	\$ (11,459)
(Decrease) / Increase in Accrued Expenses	138,576	\$ 140,711
(Decrease) / Increase in Amounts Payable to 3rd Party Payors	2,215,979	\$ 1,627,634
 Total Cash Generated (Used) by Operating Activities	\$ 3,480,252	\$ 2,295,841
 INVESTING ACTIVITIES		
Net (Purchase) or Sale of Net Property, Plant, & Equipment	(2,472,594)	\$ (2,864,086)
(Increase) / Decrease in Other Receivables	-	\$ 11,509
 Total Cash Generated (Used) by Investing Activities	\$ (2,472,594)	\$ (2,852,577)
 FINANCING ACTIVITIES		
Net Advance (Paydown) of Debt and Capital Lease Obligation	(878,536)	\$ 740,421
(Increase) / Decrease in Debt Service Reserve Funds	118,230	\$ 114,760
 Total Cash Generated (Used) by Financing Activities	\$ (760,306)	\$ 855,181
 NET INCREASE / (DECREASE) TO CASH	\$ 247,352	\$ 298,445
 Cash Balance Beginning of Period	95,029	\$ 43,936
 Cash Balance End of Period	\$ 342,381	\$ 342,381
 Proof	\$ (0)	\$ -

**FRIEND COMMUNITY HEALTHCARE SYSTEM
ENCOUNTER SUMMARY**

For 9 Months Ended June 30, 2022

	Period 01	Period 02	Period 03	Period 04	Period 05	Period 06	Period 07	Period 08	Period 09	Year To Date
Inpatient	8	2	6	4	5	3	6	2	6	42
Outpatient	1,704	1,771	1,722	1,196	1,457	1,566	1,359	1,350	1,507	13,632
Swing Bed	31	61	125	133	92	120	111	135	179	987
ICF Private	31	8	-	-	-	-	-	29	-	68
ED	33	32	23	23	21	32	21	30	36	251
Observation	-	50	39	3	-	4	-	32	50	178
Clinic	132	132	106	93	87	88	107	73	97	915
Totals	1,939	2,056	2,021	1,452	1,662	1,813	1,604	1,651	1,875	16,073

**FRIEND COMMUNITY HEALTHCARE SYSTEM
ENCOUNTER SUMMARY**

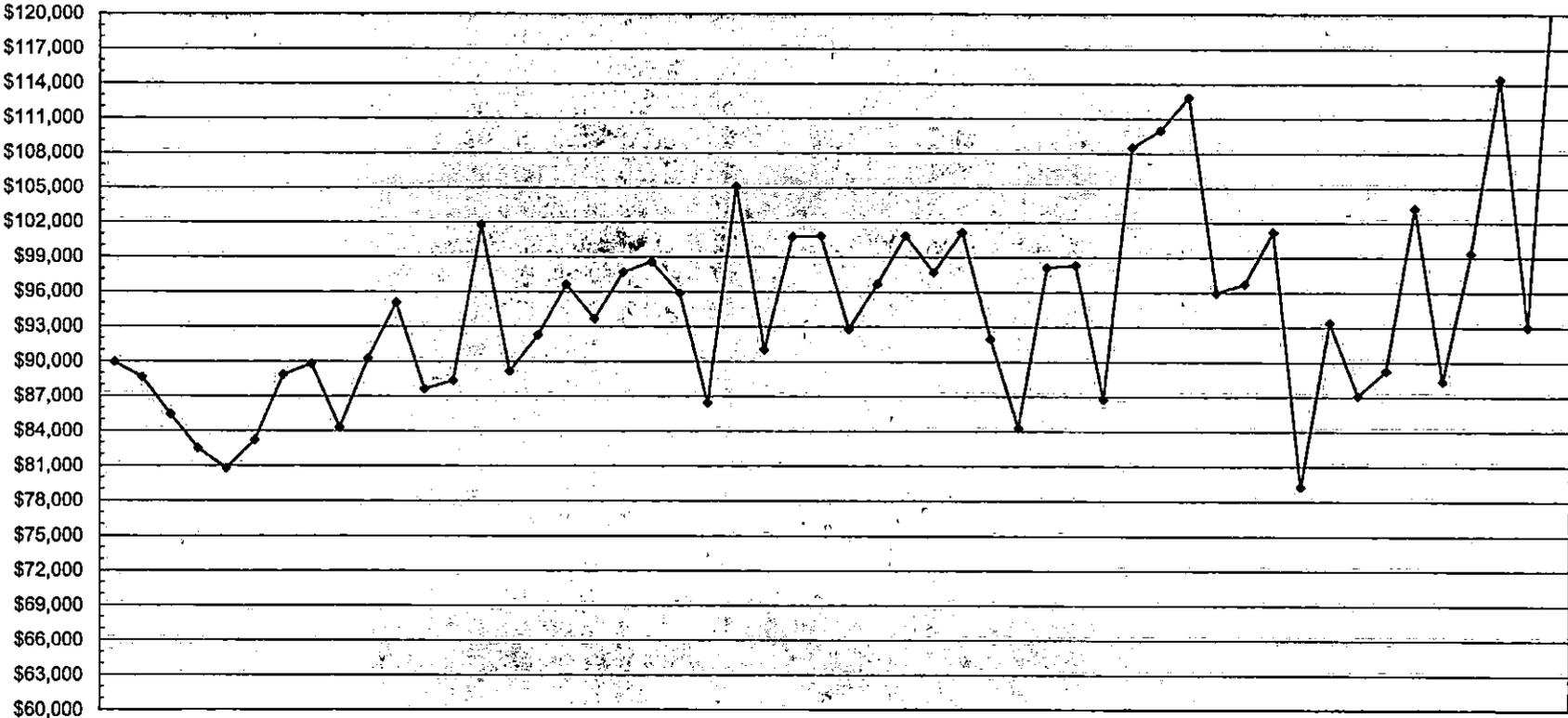
For 9 Months Ended June 30, 2021

	Period 01	Period 02	Period 03	Period 04	Period 05	Period 06	Period 07	Period 08	Period 09	Year To Date
Inpatient	6	-	1	3	2	3	7	-	-	22
Outpatient	1,192	959	1,052	1,578	1,535	1,767	1,474	1,504	1,452	12,513
Swing Bed	22	34	44	54	28	17	19	3	14	235
ICF Private	31	30	31	31	28	31	38	41	30	291
ED	18	31	18	15	13	30	32	46	23	226
Observation	14	36	49	30	25	54	158	-	23	389
Clinic	64	64	77	84	78	119	102	85	102	775
Totals	1,347	1,154	1,272	1,795	1,709	2,021	1,830	1,679	1,644	14,451

Payroll

Bi-weekly payroll					
2 Year Overview					
		Number	Gross	Share	Total
Pay Period Ending		of Checks	Pay	of FICA	Payroll
July 9, 2020		40	84,516	5,435	89,951
July 23, 2020		40	83,242	5,386	88,629
August 6, 2020		37	80,261	5,189	85,450
August 20, 2020		37	77,539	4,967	82,506
September 3, 2020		38	75,934	4,866	80,800
September 17, 2020		35	78,123	5,083	83,206
October 1, 2020		39	83,775	5,067	88,842
October 15, 2020		40	84,379	5,406	89,785
October 29, 2020		38	78,935	5,353	84,287
November 7, 2020		40	84,745	5,505	90,250
November 21, 2020		39	89,459	5,579	95,038
December 5, 2020		40	82,643	4,958	87,600
December 19, 2020		40	83,464	4,872	88,336
January 2, 2021		44	94,860	6,910	101,770
January 16, 2021		41	83,145	5,994	89,139
January 30, 2021		45	86,060	6,214	92,274
February 13, 2021		45	90,072	6,515	96,587
February 27, 2021		41	87,349	6,306	93,656
March 13, 2021		42	90,966	6,674	97,640
March 27, 2021		45	91,896	6,669	98,564
April 10, 2021		44	89,363	6,482	95,845
April 24, 2021		42	80,584	5,811	86,395
May 8, 2021		43	97,963	7,127	105,090
May 22, 2021		44	84,889	6,127	91,017
June 10, 2021		42	93,907	6,818	100,725
June 24, 2021		42	94,509	6,284	100,793
July 8, 2021		42	87,156	5,596	92,752
July 22, 2021		40	90,975	5,663	96,638
August 5, 2021		44	95,013	5,813	100,827
August 19, 2021		40	91,895	5,764	97,659
September 2, 2021		41	95,416	5,704	101,120
September 16, 2021		37	86,679	5,242	91,921
October 1, 2021		37	79,035	5,198	84,233
October 15, 2021		38	92,480	5,587	98,067
October 29, 2021		39	92,814	5,437	98,251
November 12, 2021		37	81,966	4,733	86,699
November 26, 2021		38	102,219	6,251	108,470
December 10, 2021		41	103,509	6,413	109,922
December 24, 2021		37	106,923	5,850	112,773
January 7, 2022		36	89,329	6,551	95,880
January 21, 2022		43	90,095	6,581	96,676
February 4, 2022		40	94,241	6,898	101,139
February 18, 2022		36	73,830	5,336	79,166
March 4, 2022		40	86,944	6,337	93,281
March 18, 2022		39	81,095	5,910	87,005
April 1, 2022		43	83,120	6,065	89,185
April 15, 2022		42	96,117	7,059	103,176
April 29, 2022		41	82,267	6,000	88,267
May 13, 2022		41	92,504	6,783	99,287
May 27, 2022		42	106,881	7,435	114,317
June 10, 2022		43	87,193	5,741	92,934
June 24, 2022		43	119,385	8,181	127,566

Gross Payroll Chart - 2 Year Overview



Disbursements

Friend Community Healthcare System

Disbursement Report

For the Month Of June 2022

Reference	Date	Description	Amount
2502	06/10/22	FIRST INSURANCE FUNDING	975.84
2505	06/28/22	DAKOTA DRUG	516.63
2507	06/01/22	DAKOTA DRUG	573.65
2507	06/14/22	DAKOTA DRUG	529.01
2510	06/02/22	INDEED INC	379.00
2511	06/02/22	INDEED INC	250.00
2512	06/13/22	INDEED INC	525.00
4128	06/13/22	NE Sales Tax	303.17
6566	06/24/22	Paycor Employee Payroll	3,728.20
6567	06/24/22	Paycor Employee Payroll	77,092.99
6568	06/24/22	Paycor Emp WH Taxes	905.55
6569	06/24/22	Paycor Emp WH Taxes	33,749.59
6570	06/09/22	Paycor Employee Net Pay	69,263.62
6571	06/09/22	Paycor Emp WH Taxes	27,916.73
49022	06/06/22	SANDY COCHRAN	106.95
49023	06/07/22	FRESENIUS KABI LLC	333.50
49024	06/07/22	PERRY'S PC	962.50
49025	06/08/22	34 Electric, LLC	225.00
49026	06/08/22	ADVANCED MEDICAL IMAGING	185.00
49027	06/08/22	Beatrice Community Hospital	2.17
49028	06/08/22	BEAVER HARDWARE	195.92
49029	06/08/22	BLACK HILLS ENERGY	1,104.34
49030	06/08/22	BLUE BLOSSOM FLORIST	433.86
49031	06/08/22	BLUE CROSS BLUE SHIELD OF NEBR	23,777.34
49032	06/08/22	CARDINAL HEALTH 110, Inc.	3,841.53
49033	06/08/22	CASH-WA DISTRIBUTING	1,256.37
49034	06/08/22	CONTINENTAL FIRE COMPANY	685.74
49035	06/08/22	Courtney Gugenhan	8.98
49036	06/08/22	CULLIGAN WATER CONDITION	199.50
49037	06/08/22	DOLLAR GENERAL CORPORATION	233.25
49038	06/08/22	DRAKE'S REFRIGERATION	386.54
49039	06/08/22	FARMERS UNION CO-OP COMP	240.33
49040	06/08/22	FILLMORE COUNTY HOSPITAL	86.00
49042	06/08/22	KIDWELL	5,164.51
49043	06/08/22	LAB US Imaging LLC	250.00
49044	06/08/22	MCKESSON	4,944.32
49045	06/08/22	MEMORIAL HEALTH CARE SYS	1,861.04
49046	06/08/22	Nebraska State Fire Marshall	223.00
49047	06/08/22	ORTHO-CLINICAL DIAGNOSTICS, IN	330.34
49048	06/08/22	PAPER TIGER	45.00
49049	06/08/22	PEPSI COLA OF HASTINGS	281.11
49050	06/08/22	QUIDEL CORPORATION	697.75
49067	06/08/22	RASMUSSEN MECHANICAL SERVICES	1,177.00
49068	06/08/22	RENDOLF PACTO	34.78
49069	06/08/22	SHANAHAN MECHANICAL AND ELECTR	4,866.00
49070	06/08/22	SHARE STAFF	32,077.54
49071	06/08/22	SHARED SERVICE SYSTEMS	1,154.48
49072	06/08/22	SYSCO LINCOLN	960.25
49073	06/08/22	SYSMEX AMERICAC.	448.04
49074	06/08/22	TECHNICAL SAFETY SERVICES, LLC	625.00
49075	06/08/22	THYGESEN'S HEALTHCARE CONSULTA	2,175.00
49076	06/08/22	TRAVELERS	3,622.80
49077	06/08/22	VISION STAFFING LLC	1,813.15
49078	06/08/22	VVS, INC. - CANTEEN	158.24
49079	06/08/22	WESTWAYS STAFFING SERVICES, IN	5,643.63
49080	06/08/22	WPS GHA	25,600.00
49081	06/08/22	YORK PHYSICAL THERAPY	13,468.68

49082	06/08/22	ZELLE HUMAN RESOURCE SOLUTIONS	3,000.00
49083	06/16/22	NOYES ART GALLERY	580.00
49084	06/22/22	KIDWELL	119,273.92
49085	06/24/22	Friend Bulldogs Booster Club	500.00
49086	06/29/22	SYSCO LINCOLN	4,684.46
			<u>486,633.84</u>



Friend Community Healthcare System

Note – Zimmer Medical Clinic built in 2004 – became Rural Health Clinic March 6, 2021

Year ended 9/30/06 **Net Loss (\$111,866)**

Note - John Wilson hired May 7th, 2007

Year ended 9/30/07 **Net Loss (\$451,241)**

Year ended 9/20 08 **Net Loss (\$375,681)**

Year ended 9/30/09 **Net INCOME \$191,205**

Year ended 9/30/10 **Net INCOME \$192,540**

Year ended 9/30/11 **Net INCOME \$153,588**

Year ended 9/30/12 **NET INCOME \$111,052**

WMH awarded Top 20 Critical Access Hospitals in Quality 2013

Note - John Wilson left May 29th, 2013

5 local department heads (Activities, Business Office, Dietary, Facilities, HR) left with him

4 months remaining in Fiscal Year

3 different CEOs between my 2 tenures

Year ended 9/30/13 **Net Loss (\$281,521)**

Year ended 9/30/14 **Net Loss (\$277,150)**

Year ended 9/30/15 **Net Loss (\$302,987)**

Note – Friend Manor closed April 2016

Year ended 9/30/16 **Net Loss (\$369,068)**

Year ended 9/30/17 **Net Loss (\$234,758)**

John Wilson re-hired July 2nd, 2018 to rebuild Team

Year ended 9/30/18 **Net Loss (\$138,503)**

Year ended 9/30/19 **Net Loss (\$216,727)**

Year ended 9/30/20 **Net INCOME \$404,020**

Year ended 9/30/21 **Net INCOME \$1,128,580**

CEO July 2nd, 2018, to present - TEAM Accomplishments:

- Financial Turn-around w/ removal of Auditor comment “at risk as a going concern” by recruiting key leaders, adding service lines and process improvements.
- \$2.2M renovation including 2 patient isolation rooms, expansion of E.D from 1 to 3 bays, Patient Receiving, 2 Nurse Stations = all with Covid centric infection control features (COMPLETED JULY 2022)
- Major technology enhancements including Telehealth visits/Specialists/E.D. assistance, remote patient monitoring, soft phones, nurse call digital white boards
- Re-purposed attached Friend Manor LTC into cost reimbursed hospital space (Dan Bartz, CFO idea)
- Created first of 6-8 Independent Living Suite(s)
- Facilitated Robotics program for local students in collaboration with Friend Historical Society funding before transitioning program to Friend Public Schools
- Partnership with Diamond Health for Behavioral Health, Respiratory Therapy, Cardiology & Pulmonary Rehab
- Partnership with Lifeline Screening for 50-mile radius branding and database access
- Bryan Telehealth partnership in ED
- Leona Helmsley Trust 3-year partial funding for ED Telehealth

CEO May 7th, 2007, to May 29th, 2013 – TEAM Accomplishments:

- Financial Turn-around with 4 years of NET INCOME by recruiting key leaders, adding service lines and process improvements.
- Top 20 CAH in Quality 2013
- Facilitated creation of Hospital Auxiliary Thrift Store (HATS) 2012
- Facilitated creation of *WMH Tax District* in 2008
- *Friend Manor LTC* turn around: 23 to 41 Residents with 60%+ private pay & 5 Star Quality Rating
- Designed cohesive marketing programs:
“This is MY Hospital” “The Warren Advantage” & “Friends & Neighbors who Care.”
- Created Memory Support 8 patient unit, Out-Patient Surgery Suite re-cert, Occupational Therapy.

July 11, 2022

RE: Contract for Professional Engineering Services
Street Superintendent
Friend, Nebraska

John Schwab, City Clerk
City of Friend
235 Maple Street
Friend, Nebraska 68359

Dear John:

Kirkham Michael is pleased to submit this letter agreement to provide professional engineering services relative to the completion of Street Superintendent Services as required by the Nebraska Board of Classifications and Standards. We have consolidated the best talent possible for this project and each member of the Kirkham Michael team is committed to ensuring the success of this project.

Scope of Services

The following services will be provided in connection with this project.

Street Superintendent Services

1. Review & Update the Lane Mile Report
2. Preparation of or the assistance with the Standardized System of Annual Reporting (SSAR) forms
 - NBCS 1a and 1e – Budget & Expenditure Report
 - NBCS 2 – Financial Report
 - NBCS 3 – Material & Inventory Report
 - NBCS 4 – Machinery & Equipment Inventory Report
 - NBCS 5 – Equipment Cost Report
 - NBCS 6 – Certification
 - Review & Update the Lane Mile Report
3. Preparation of the Annual Reporting of One- and Six-Year Plans
 - NBCS 7 – One- and Six Year Plan Highway & Street Improvement Plan
 - NBCS 8 – Summary of the One Year Plan
 - NBCS 9 – Summary of the Six Year Plan



- NBCS 10 – Notification of Revision of One Year Plan
 - NBCS 11 – Report of Previous Year Highway or Street Improvement
 - Preparation of the One- and Six-Year Plan Sheets
4. Provide information for the Public Hearing on the One- and Six-Year Plan.

Other Conditions

Equal Opportunity. In the performance of this Contract, Kirkham Michael and its subconsultants shall not discriminate against any employee, or applicant for employment, to be employed in the performance of this contract, with respect to his hire, tenure, terms, conditions, or privileges of employment, on the basis of race, color, religion, sex, disability, marital status, national origin or age.

Compliance with Laws. Kirkham Michael and all its subconsultants shall comply with all laws and regulations enacted and promulgated by the United States, the State of Nebraska, or any political subdivision thereof which govern the conduct of the consultant or subconsultants during the performance of their obligations under this Contract, and they shall be deemed to be included in this Contract as though written out in full in this Contract.

Amendments. This Contract shall not be amended or modified except by written amendment executed by both parties hereto.

Binding Effect. This Contract shall be binding upon the parties, their successors, and assigns.

E-Verify. All consultants performing work hereunder shall be required to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

Fee Proposal

For the above services, Kirkham Michael shall be paid a lump sum fee of Two Thousand Five Hundred Dollars (\$2,500.00). These amounts include our professional services fee and project related reimbursable expenses. You will be invoiced monthly for services rendered during the preceding month.

The Terms and Conditions (Exhibit A) that are attached to this Agreement shall be considered incorporated herewith and shall become an integral part of this Agreement.



If the above-described items are satisfactory to the City, please sign, date, and return this letter agreement. Receipt of this letter contract will be considered our notice to proceed with the work.

Sincerely,

KIRKHAM, MICHAEL & ASSOCIATES, INC.

Daniel L. Sitorius, P.E.
Project Manager

DLS/seb

Copy to: J. Frederiksen – Kirkham Michael Omaha

ACCEPTANCE OF PROPOSAL AND AUTHORIZATION TO PROCEED

City of Friend

Date

Exhibit A



General Terms and Conditions

- 1. AUTHORIZATION TO PROCEED**

Signing of the accompanying agreement for engineering surveying or related services shall be authorization by the Client for Kirkham Michael & Associates, Inc. (Kirkham Michael) to proceed with the work described, unless otherwise stated in the agreement form.
- 2. STANDARD OF PRACTICE**

Services performed by Kirkham Michael under this agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in the agreement or in any report, opinion, document, or otherwise.
- 3. INVOICING AND PAYMENT**

The client, recognizing that timely payment is a material part of the consideration of this agreement, shall promptly pay Kirkham Michael for services performed in accordance with the rates and charges set forth herein. Invoices will be submitted by Kirkham Michael on a monthly basis and shall be due and payable upon receipt. The client shall pay an additional charge of one and one half percent (1.5%) (or the maximum percentage allowed by law, whichever is lower,) of the invoiced amount per month for any payment received by Kirkham Michael more than thirty (30) calendar days from the invoice date. Payment thereafter shall first be applied to accrued interest and then to principal unpaid amount.

If the client for any reason fails to pay the undisputed portion of Kirkham Michael's invoices within thirty calendar days from the invoice date, Kirkham Michael may cease work on the project and the client shall waive any claim against Kirkham Michael and shall defend and indemnify Kirkham Michael from and against any claims for injury or loss stemming from Kirkham Michael's cessation of services. Client shall also pay Kirkham Michael the cost associated with premature project demobilization. In the event the project is remobilized, client shall also pay the cost of remobilization and shall renegotiate appropriate contract terms and conditions such as those associated with the budget, schedule or scope of services.

If the client objects to all or a portion of the invoice, the client shall so notify Kirkham Michael in writing within ten calendar days of the date of the invoice in question, and shall pay that portion of the invoice not in dispute. In the event any bill or portion thereof is disputed by the client, client shall notify Kirkham Michael within ten (10) calendar days of the date of the invoice in question. Client and Kirkham Michael shall work together to resolve the matter within sixty (60) calendar days of its being called to Kirkham Michael's attention. If resolution of the matter is not attained within sixty (60) calendar days, either party may terminate this agreement.
- 4. ADDITIONAL SERVICES**

Any services beyond those specified in the agreement will be provided for separately under an additional agreement or a supplemental agreement.
- 5. CONSTRUCTION COST ESTIMATES**

Construction cost estimates provided by Kirkham Michael are prepared from experience and judgment. Kirkham Michael has no control over market conditions or construction procedures and does not warrant that proposals, bids or actual construction costs will not vary from Kirkham Michael estimates.
- 6. LIMITATION OF LIABILITY**

In order for the client to obtain the benefits of a fee which includes a lesser allowance for risk funding, the client agrees to limit Kirkham Michael's liability arising from Kirkham Michael's professional acts, errors or omissions, such that the total aggregate liability of Kirkham Michael shall not exceed Kirkham Michael's total fee for the services rendered on this project, or the amount of fifty thousand dollars (\$50,000), whichever is less.
- 7. CONSEQUENTIAL DAMAGES**

The client shall not be liable to Kirkham Michael and Kirkham Michael shall not be liable to the client for any consequential damages incurred by either party due to the fault of the other, regardless of the nature of this fault or whether it was committed by the client or Kirkham Michael, their employees, agents, or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.
- 8. INDEMNIFICATION**

Client and Kirkham Michael, their respective officers, employees, agents, and representatives, each agree to indemnify and hold the other harmless, from and against liability for claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. IN the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and Kirkham Michael, they shall be borne by each party in proportion to its negligence.
- 9. OWNERSHIP OF DOCUMENTS**

All plans, drawings, reports, notes, calculations, estimates and other documents prepared by Kirkham Michael as instruments of service shall remain the property of Kirkham Michael, and copies will be provided at the request of the client.
- 10. TERMINATION**

In the event termination becomes necessary, the party (client or Kirkham Michael) effecting the termination shall so notify the other party and termination will become effective fourteen (14) calendar days after receipt of the termination notice. Irrespective of which party shall effect termination or the cause of termination, the client shall within thirty (30) calendar days of termination remunerate Kirkham Michael for services rendered and costs incurred up to the effective time of termination, in accordance with Kirkham Michael's prevailing fee schedule and expense reimbursement policy.
- 11. GOVERNING LAW**

This agreement is to be governed by and construed in accordance with the law of the principal place of business of Kirkham Michael.
- 12. CONTROLLING AGREEMENT**

The agreement and these terms and conditions express the entire agreement between the parties. These terms and conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, notice to proceed, or like document regarding Kirkham Michael's services. If any one or more of the provisions contained in this agreement shall be held unenforceable, the enforceability of the remaining provisions shall not be impaired.



Items Needed for SSAR Forms

1. Beginning Street Fund balance as of October 1, 2021.
2. Ending Street Fund balance as of September 30, 2022.
3. Supply a detailed breakdown of the Actual 2021-2022 Expenditures for the Street Fund. Include such items as: Salaries, Street Lights, Insurance, Equipment Parts, Equipment Fuel, Gravel, Snow Removal, Equipment Purchases and Street Improvements.
4. Supply a breakdown on the Actual 2021-2022 Revenue for the Street Fund. Include such items as: Property Tax, Transfers from other funds, Misc. Revenue, Highway Allocations and Incentive Pay you received.
5. Supply a copy of your 2022-2023 Street Fund Department Budget.
6. Estimated Local Option Sales Tax revenue from motor vehicles for next fiscal year (if applicable).
7. Inventory of any street material & supply inventory on hand and the unit price as of September 30, 2022. Include only **large** amounts of gravel, culverts, etc.
8. List any street machinery & equipment inventory changes from last year's report. Include make, model, serial number, costs, etc.
9. Street equipment costs for the year, including gas, tires, and repairs on each piece of equipment used on the streets and hours or miles operated, if available.



1&6 Report

Here is the general timeline of the 1 & 6 report for before, during, and after your meeting.

Although the filing of the One- and Six-Year Plan is no longer required, municipalities must still develop, adopt, and annually update and maintain a One- and Six-Year Plan, as a public record, and must annually certify compliance with the "Municipal Annual Certification of Program Compliance" form.

It is now recommended that the One- and Six-Year Plan be adopted at the time of the finalization of the budget, but no later than September 30th of each year.

Before your meeting:

You are required by Nebraska Law to:

1. Post three copies of the Notice of Hearing around your community.
2. Publish the Notice of Hearing in the newspaper which serves your town. Post and publish this Notice at least 10 days prior to the date of the hearing.

During your meeting:

1. Hold a public hearing for a period of no less than one hour.
2. Pass a resolution accepting the One- and Six-Year Plan as submitted or revised, signed by the proper officials. The enclosed resolution may be used.

After the meeting:

Keep the following for your files:

1. Certificate of Posting
2. Notice of Hearing
3. Resolution - must be signed by both the clerk and chairperson.
4. Proof of publishing

Windstream Webmail

cityoffriend@windstream.net

Health Insurance Stipend

From : Katie Spohn <Katie@bruninglawgroup.com>

Thu, May 05, 2022 12:56 PM

Subject : Health Insurance Stipend**To :** City of Friend <cityoffriend@windstream.net>, Jewels Knoke
(jewels61095@gmail.com) <jewels61095@gmail.com>

We confirmed with the state that there is nothing in state law that would prohibit the City from issuing a stipend instead of health insurance coverage. However, our employee handbook provides the following:

601: Insurance Coverage

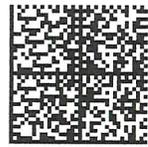
All eligible full-time employees of the City shall be provided access to health, accident, life, and dental insurance. There are conditions for coverage and eligibility as to this insurance coverage, and not all employees are eligible to receive such insurance. To determine whether you are eligible to receive such insurance benefits, please request a copy of the various insurance policies from the City Clerk. The City Clerk will also provide you with the name, telephone number, and the address of the Insurance Representative(s) who will answer your questions concerning eligibility and coverage.

I read this language as the City must make health insurance available to any eligible City employees who want it instead of a stipend. In theory, the coverage provided may be so nominal and expensive that no one elects to take it, but I think a plan would still need to be offered.

Let me know if you have any questions.

Katie Spohn, Partner

Bruning Law Group, LLC
1201 Lincoln Mall, Ste. 100 Lincoln, NE 68508
Office: (402) 261-3475
Direct: (402) 904-8857
Cell: (402) 499-3879
Email: katie@bruninglawgroup.com
www.bruninglawgroup.com



Group	Period From	Period To	Date Due	Amount Due	Bill Date	Bill Number	Page
103722	08/01/2022	09/01/2022	08/01/2022	\$7,753.22	07/18/2022	2434836	1

2361991220001385001 002 19

 ATTN: JOHN R. SCHWAB
 CITY OF FRIEND
 235 MAPLE ST
 FRIEND NE 68359-1351

Previous Billing	\$7,753.22
Less Payments Received	(\$7,753.22)
Balance Forward	\$0.00
Adjustments	\$0.00
Current Amount	\$7,753.22
Total Amount Due	\$7,753.22

E

Discuss any questions concerning this billing by calling toll free 888.232.0942 in Nebraska.

Adjustment Detail

No Adjustments

Miscellaneous Adjustments

No Adjustments

Premium

ID Number	Name	Medical	Dental	Period Start	Total Premium
10026560800	Barnard, Kevin	\$1,421.07 SNG	\$34.59 SNG	08/01/2022	\$1,455.66
10007033000	Baugh, Billy	\$1,027.77 SNG	\$34.59 SNG	08/01/2022	\$1,062.36
10032123000	Erwin, Mallory	\$588.26 SNG	\$34.59 SNG	08/01/2022	\$622.85
10007038300	Gray, Shawn	\$599.81 SNG	\$34.59 SNG	08/01/2022	\$634.40
10025224200	Haakenson, Dennis	\$1,421.07 SNG	\$34.59 SNG	08/01/2022	\$1,455.66
10027806000	Smith, Grady	\$538.68 SNG	\$34.59 SNG	08/01/2022	\$573.27
10025224100	Welch, Doug	\$897.80 SNG	\$34.59 SNG	08/01/2022	\$932.39
10006998500	Yoder, Ryan	\$982.04 SNG	\$34.59 SNG	08/01/2022	\$1,016.63
Total Premium		\$7,476.50	\$276.72		\$7,753.22
Number of IDs		8	8		



Group	Period From	Period To	Group Name	Bill Date	Bill Number	Page
103722	08/01/22	09/01/2022	City of Friend Friend NE 68359	07/18/2022	2434836	2



Previous Billing	\$7,753.22
Less Payments Received	(\$7,753.22)
Balance Forward	\$0.00
Adjustments	\$0.00
Current Amount	\$7,753.22
Total Amount Due	\$7,753.22

DETACH AND RETURN WITH PAYMENT

City of Friend
Friend NE 68359



GROUP	BILL DATE	BILL NUMBER	PERIOD FROM	PERIOD TO	DATE DUE	AMOUNT DUE
103722	07/18/2022	2434836	08/01/2022	09/01/2022	08/01/2022	\$7,753.22

AMOUNT ENCLOSED: \$	
---------------------	--

BLUE CROSS AND BLUE SHIELD OF NEBRASKA
PO BOX 2638
OMAHA NE 68103-2638

0000000000002434836 071822 000775322 7

Lexington's Skate Park is at the southeast corner of Arbor Park near Plum Creek Parkway and Maple Street. The park boasts a 100' x 90' concrete surface with a 20-foot half-pipe, 3 quarter-pipes, a bank ramp, a jump ramp, pyramid, skate table, bench, tall box, rails & misc.

Under Nebraska law, a political subdivision is not liable for an injury to or the death of a participant in recreational activities resulting from the inherent risks of the recreational activities pursuant to section 13-910.

Rules

- Skateboarding and roller skating only
- Helmets, elbow pads, wrist guards and knee pads required
- Only city-installed equipment may be used in the skating area or adjacent park area
- Use of tobacco, alcohol or drugs is prohibited
- No food or drink allowed in the skating area
- No glass items permitted
- No graffiti, stickers or littering
- No profanity
- Skate at your own risk



Skatepark Rules

Bolles Canyon Skatepark Rules

- The skatepark is open daily from 6 a.m. to 11 p.m.
- **WARNING:** Use of the skatepark is at your own risk and is unsupervised. Know your abilities.
- The use of appropriate safety equipment such as helmets, knee pads, elbow pads, wrist pads, gloves, and proper shoes is strongly recommended at all times.
- **CAUTION: SLIPPERY WHEN WET.** Weather and lightning conditions may cause unsafe surface conditions.
- Be courteous to others. Users must be under control at all times. Uncontrolled skating and other activities that endanger others will not be tolerated and will result in ejection from the skatepark.
- The City of McCook has the right to close the facility without notice.
- Youth under 10 years of age should be accompanied by an adult.
- City approval is required for all special events.
- **BIKES WITH METAL PEGS ARE PROHIBITED.**
- Modifications to any element or area within the skatepark are prohibited. Mobile ramps or other skating structures of makeshift nature are prohibited.
- No motorized equipment is permitted.
- Use of drugs, alcohol, or tobacco products is prohibited.
- No loud music, use of profanity, deliberately offensive conduct, or any other disturbances of peace is allowed.
- No glass is allowed in the skatepark.
- Unruly conduct, destroying or defacing public property, including the application of stickers, or graffiti is prohibited and will result in the loss of skating/biking privileges and/or closure of the facility.
- All animals must be kept on a leash and kept outside of the skating area.
- Dispose of trash properly.
- Please report any unsafe conditions or activities to 308-345-3450.
- Other rules and regulations applicable to the public's use of McCook Parks will be enforced.

Skate Park

Overview

The Fremont Parks and Recreation Department maintains the skate park in Miller Park located on South M Street.

The skate park consists of a 100' x 100' concrete slab with 12 various features for all levels of skateboarding. Features include quarter pipes, half pipes, grinding rails, and trick boxes.

Park Rules

The following rules and regulations have been established for use of the skate park to ensure participant safety.

- Bicycles or motorized vehicles are not allowed. Only roller skates, in-line skates and skateboards are allowed on ramps.
- Call 9-1-1 for emergencies.
- Drugs, glass containers, smoking, profanity, fighting, horseplay, destroying, or defacing public property are prohibited. Violators will be prosecuted.
- Food or beverages are not allowed on the skate area.
- Help keep the skate park clean. Put trash in the receptacles, even if it is not yours.
- No one under the age of 8 is allowed without adult supervision.
- No spectators are allowed on the skate area.
- The City of Fremont reserves the right to revoke the use of the skate park to individuals who violate the rules and regulations of the skate park.

- The use of safety equipment such as helmets, gloves, knee pads, wrist guards and proper shoes is highly recommended.
- This is an unsupervised skate park and its use is free of charge.
- Under Nebraska law, a political subdivision is not liable for an injury to or the death of participant in recreation activities resulting from the inherent risks of the recreational activities pursuant to section 13-910.

For additional information, contact the Parks and Recreation Department at 402.727.2630.



Quick Links

[Backflow Cross Connections Survey](#)

[Backflow Tester Application](#)

[Backflow Test Report](#)

[2021 Water Quality Report](#)

[Public Records Request](#)

[Archived Documents](#)

[Automatic Bank Payment Form](#)

[Audio of Most Recent Council Meeting](#)

FAQs

[When is the next council meeting?](#)

[How do I renew my handicap parking permit?](#)

[Where can I change my voter registration?](#)



**CITY OF
FREMONT
NEBRASKA**

City of Fremont

400 E. Military Avenue
Fremont, NE 68025

Phone: 402-727-2630

Fax: 402-727-2667

UTILITY EMERGENCIES 402-727-2600

We have electric, gas, sewer and water service workers on call 24/7 for after hours emergencies.

Call 402-727-2600 to report emergencies and outages.

**Special Designated License
Local Recommendation (Form 200)**

Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

American Legion DBA Friend Ford/Banka Post 183

Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

136 Maple St. Friend, NE 68309

Retail Liquor License Address or Non-Profit Business Address

47-6034001

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only

Event Date(s): 8-20-22

Event Start Time(s): 9:00 AM

Event End Time(s): 12:00 AM

Alternate Date: None

Alternate Location Building & Address: None

Event Building Name: Friend Ford/Banka Legion Hall

Event Street Address/City: 136 Maple St. Friend, NE

Indoor area to be licensed in length & width: 60 X 20

Outdoor area to be licensed in length & width: — X — (Diagram Form #109 must be attached)

Type of Event: Fund Raiser Estimate # of attendees: 125

Type of alcohol to be served: Beer Wine Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Brian Brahmstedt Event Contact Phone Number: 402-641-8288

Event Contact Email: bvbrahmstedt@hotmail.com

*Signature Authorized Representative: Brian Brahmstedt Printed Name Brian V. Brahmstedt

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of _____ **OR** County of _____ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature Date



July 7, 2022

Dear Friend Council Members:

First of all...Always thank you for your time and your continued support! This last year was a year of trying to get back to normalcy!

We started our Social programs back up. The year started with a hard task of getting Seniors comfortable with coming back out after the long continuing battle with CoVid. We hosted some fun events such as Music Bingo and Yesterday's Lady. Also some informative presentations such as the Attorney General's office discussing scams, Aging Partner's, a legal clinic by the Aging Partner's Lawyer. We hosted a Caregiver Outreach on Alzheimer's Disease and Caregiving First Aid. We continue to provide Feed America, Home delivered meals and monthly meat packages.

We have been very busy this year with a growing need of Senior support for Medicare, Social Security and Medicaid counseling. This fall we helped Saline County Seniors save approximately \$75,000 during Medicare D Open Enrollment! We continued to go remotely to the Saline Cities and Villages and the numbers grew!!

This year I was able to obtain a grant through Aging Partner's to start a Hispanic Outreach Program in Crete at the Community Center. Along side with Nance Tellez, I hired an interpreter/program manager and we meet every 2nd and 4th Thursday of the month, providing counseling, lunch, presentations, social events and presentations. Serving the Hispanic Seniors in Saline County has been an underserved area and we are very excited about this opportunity!!!

I am slightly increasing our funding request this year by \$.20/Capita. I am truly grateful for your assistance and would not be able to make as big an impact without your assistance!!

THIS YEAR WE ARE ASKING FRIEND FOR FINANCIAL SUPPORT IN THE AMOUNT OF \$2551.25.

If you have any questions regarding our request or services, please do not hesitate to call.

Yours in Service,

A handwritten signature in black ink, appearing to read "Lori Moldenhauer".

Lori Moldenhauer, Director,
Saline County Aging Services



To maintain the level of services currently available to Saline County residents, the Saline County Aging Services Coalition is requesting local support. We are asking for a \$.20 increase to assist in covering growing expenses. Each town will be requested to allocate \$7.85 for each elderly citizen residing in their census area. The County will be asked to allocate the same rate for each rural citizen that resides in the County outside the census areas of the towns.

PROPOSAL –2022/2023

7.85Location	Total Pop	Aged 60+	% Pop 60+	Per Capita 60+	Total Amount
County Residents	2,824	701	24.8	\$7.85	\$5,502.85
Crete	6960	1020	14.7	\$7.85	\$8007.00
DeWitt	513	114	22.2	\$7.85	\$894.90
Dorchester	586	111	18.9	\$7.85	\$871.35
Friend	1027	325	31.6	\$7.85	\$2551.25
Swanton	94	21	22.3	\$7.85	\$164.85
Tobias	106	36	34	\$7.85	\$282.60
Western	235	74	31.5	\$7.85	\$580.90
Wilber	1855	403	21.7	\$7.85	\$3163.55
City/Town/ Village/County Totals	14,200	2805	19.8	\$7.85	\$22019.25

19-910. Board of adjustment; powers; jurisdiction on appeal; variance; when permitted.

(1) The board of adjustment appointed pursuant to section 19-907 shall, subject to such appropriate conditions and safeguards as may be established by the city council or village board of trustees, have only the following powers: (a) To hear and decide appeals when it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under subsection (3) of section 19-929; (b) to hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map; and (c) when by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the zoning regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any enacted regulation under this section and sections 19-901, 19-903 to 19-904.01, and 19-908 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of any zoning regulation.

(2) No such variance shall be authorized by the board of adjustment unless it finds that: (a) The strict application of the zoning regulation would produce undue hardship; (b) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; (c) the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and (d) the granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice. No variance shall be authorized unless the board of adjustment finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

(3) In exercising the powers granted in this section, the board of adjustment may, in conformity with sections 19-901 to 19-915, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any

matter upon which it is required to pass under any such regulation or to effect any variation in such regulation.

Source: Laws 1927, c. 43, § 7, p. 185; C.S.1929, § 19-907; R.S.1943, § 19-910; Laws 1967, c. 92, § 6, p. 286; Laws 1969, c. 114, § 1, p. 526; Laws 1975, LB 410, § 18; Laws 1978, LB 186, § 6; Laws 2004, LB 973, § 1; Laws 2019, LB193, § 76.

Cross References

For other zoning boards acting as a zoning board of adjustment for a municipality, see section 19-912.01.

Annotations

Due to the similarity between section 14-411 and this section when *Frank v. Russell*, 160 Neb. 354, 70 N.W.2d 306 (1955), was decided, Frank is applicable to decisions rendered under both statutes. *Eastroads, L.L.C. v. Omaha Zoning Bd. of Appeals*, 261 Neb. 969, 628 N.W.2d 677 (2001).

The district court's granting of a zoning variance was not erroneous where the strict application of the subject zoning regulation would, because of the higher elevation of the movant's property, result in undue hardship, which is not of the type generally shared by other properties in the same zoning district and vicinity. Furthermore, the variance sought would not create a substantial detriment to the adjacent property, the character of the district would not be changed, and the variance would not produce a substantial detriment to the public good or substantially impair the intent of the zoning regulation. *Barrett v. City of Bellevue*, 242 Neb. 548, 495 N.W.2d 646 (1993).

Procedural rules detailed in statutes and city zoning ordinance need not be further adopted by a board of adjustment. *South Maple Street Assn. v. Board of Adjustment of City of Chadron*, 194 Neb. 118, 230 N.W.2d 471 (1975).

Variance from zoning ordinance requires concurring vote of four members of board of zoning adjustment. *City of Imperial v. Raile*, 187 Neb. 404, 191 N.W.2d 442 (1971).

Request for rezoning may be presented to board of adjustment. *Weber v. City of Grand Island*, 165 Neb. 827, 87 N.W.2d 575 (1958).

A variance should be granted only if strict application of the regulation, due to the unusual characteristics of the property existing at the time of the enactment of the regulation, would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner. Any grant of a variance must be supported by evidence relating to each of the four factors enumerated in this section. *City of Battle Creek v. Madison Cty. Bd. of Adjust.*, 9 Neb. App. 223, 609 N.W.2d 706 (2000).

Windstream Webmail

cityoffriend@windstream.net

Board of Adjustment

From : Lash Chaffin <LashC@lonm.org>

Mon, Jul 25, 2022 11:28 AM

Subject : Board of Adjustment**To :** cityoffriend@windstream.net

19-912.01.

Zoning board of adjustment of a county; serve municipalities, when; board of zoning appeals.

The zoning board of adjustment of a county that has adopted a comprehensive development plan, as defined by section 23-114.02, and is enforcing zoning regulations based upon such a plan, shall, upon request of the governing body of a city of the second class or village, serve as the zoning board of adjustment for such city of the second class or village in that county. A city of the first class may request that the county zoning board of adjustment of the county in which it is located serve as that city's zoning board of adjustment, and such county government shall comply with that request within ninety days. A municipality located in more than one county shall be served by request or otherwise only by the county zoning board of adjustment of the county in which the greatest area of the municipality is located, and the jurisdiction of such county zoning board of adjustment shall include all portions of the municipality and its extraterritorial zoning jurisdiction regardless of county lines. In a county in which a city of the primary class is located, the board of zoning appeals, created under section 23-174.09, may serve in the same capacity for all cities of the second class and villages in place of a zoning board of adjustment.

Lash Chaffin
League of Nebraska Municipalities
1335 L Street
Lincoln, NE 68508
402-476-2829
lashc@lonm.org

Windstream Webmail

cityoffriend@windstream.net

Hours

From : friendcityshop@windstream.net

Sun, Jul 24, 2022 07:37 PM

Subject : Hours**To :** John Schwab <cityoffriend@windstream.net>

Good Morning, John

Im leaving at 6:30am to take Brooke to get her wisdom teeth pulled and she can't drive home. When I get back I'm working on Budget.

Here is some time you need to put down for me starting last weekend....

Sunday, July 17th - 8:30 -10:30 (2.0hrs) Getting board updated for the week and checking emails, locates

Monday, July 18th - 1:00-2:00 (1.0hrs and 5.0 hrs vacation pay) Talking with the Mayor on different issue, finally let me go when I told her I wanted to get back to vacation 7

Tuesday, July 19th - 8.0 hrs Vacation Pay

Wednesday , July 20th - 8.0 Funeral Pay

Thursday, July 21st - 2.0 hrs, 4 phone calls from Ryan and 2 from Jared Stutzman / 6.0 hrs Vacation Pay 6

Friday, July 22nd - 8.0 hrs Vacation Pay

TOTAL = 5.0 HRS WORKED, 8.0 FUNERAL PAY, 27 HRS VACATION PAY = 40.0 / WEEK ONE

Sunday, July 25th 2:30 - 4:00 - (1.5hrs) Check emails from week and locates, update weekly and daily board

Monday, July 26th - 4.0 Vacation to start the day, not sure how long it will take



July 29, 2022

City of Friend
235 Maple St.
Friend, NE 68359-1351

RE: Our Claim #: Z01733656
 Our Insured: City of Friend
 Loss Location: Loc 016 – Pond Wall
 Cherry St. Between 9th&10th
 Friend, NE 68359
 Date of Loss: 06/07/2022
 Policy #: 6A3-73-01
 Policy Period: 09/01/2021 – 09/01/2022

Dear Insured:

This letter sets forth the position of EMCASCO Insurance Company (“EMC”) with respect to the request for insurance coverage under policies issued City of Friend, for the claim submitted for water damage to the loss location listed above.

We received the report from the adjuster, Jeremy Chandler with Signature Adjustment Group, LLC, who EMC hired to inspect the loss location. The inspection documented a wooden pond wall structure at Friend Lake which sustained damage due to surface flood waters from heavy rains on the date of loss.

DENIAL OF COVERAGE

Our review of the policy in force at the time of the loss along with circumstances of the loss, has led us to conclude that coverage does not apply to this loss as damage resulting from flood or surface water are losses that are excluded on the policy.

EMC received the claim under the Building and Personal Property Coverage Form – Public Entity (CP 7121 10/20). The applicable policy provision has been cited below:

P.O. Box 2070 | Omaha, NE 68103-2070 | 402.951.8300 | 800.338.9735 | F 888.992.6167 | emcins.com



BUILDING AND PERSONAL PROPERTY COVERAGE FORM – PUBLIC ENTITY (CP 7121)

B. Exclusions And Limitations

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

* * *

g. Water

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);*
- (2) Mudslide or mudflow;*
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment, except as may be provided by Additional Coverage j., Sewer Backup; or*
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;*
 - (b) Basements, whether paved or not; or*
 - (c) Doors, windows or other openings; or**
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.*

This exclusion applies regardless of whether any of the above in Paragraphs g.(1) through g.(5) is caused by an act of nature or otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain water.

But if any of the above, in Paragraphs g.(1) through g.(5) above, results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

As a matter of convenience for the reader, certain policy provisions are quoted in this letter. If you do not have access to a copy of the policy, EMC can supply a copy. If there are any discrepancies between the policy language quoted in this letter and the language contained in the policy, such discrepancies are the product of inadvertent typing errors, and the language contained in the policy will control.



While we have attempted to identify all of the coverage considerations related to this claim, EMC reserves all rights under the above policy and any other policies issued by EMC. We invite you to submit any new information you may have or may receive regarding the claim and any underlying facts.

This letter should not be considered as a waiver of any other possible coverage positions or defenses afforded by the policy, and EMC's position is based upon the information we have received to date.

If you have any questions regarding this letter, please feel free to contact me. I can be reached at 402-951-8331, Monday through Friday, 8:00am – 4:30pm CST.

Sincerely,

Kelly Schultz
EMC Insurance Companies

CC: Generations Insurance Group
PO Box 98
Exeter, NE 68351-0098
