

AGENDA

Call to Order

Pledge of Allegiance

1. Announcement of Public Meetings Act: The Open Meetings Law poster is posted at the rear of the room, please refer to the posted information if you have any questions regarding the open meetings law
2. Approval of minutes for
 - July 21, 2025
 - July 28, 2025
3. Consideration to amend the approved Conditional Use Permit requested by Banister Leadership; action as applicable
4. Comments by the public, by the commission

ADJOURNMENT

**The Commission cannot respond to or discuss any items that are not on the agenda. A request form to get on the agenda is available to the public on the City's website or at the City Clerk's office.

Open Meetings Act

(Effective May 30, 2025)

Section 84-1411 was amended by LB 521 passed by the Legislature on May 28, 2025, with the emergency clause; LB 521 took effect when signed by Governor Pillen on May 30, 2025.

84-1407. Act, how cited.

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

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.

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, (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, and (iii) the Judicial Resources Commissioner subcommittees or subgroups of the commission;

(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.

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.~~

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; applicability of section.

(1)(a) Except as provided in subsection (9) of this section, 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 committees, such notice shall be given by:

(A)(i) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to

the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website, if available, established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(B)(I) Posting to the newspaper's website, if available, and (II) posting to a statewide website, if available, established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

(ii) In the case of the governing body of a city of the second class or village, any advisory committee of such governing body, or the governing body of a rural or suburban fire protection district, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website, if available, established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper;

(B)(I) Posting to the newspaper's website, if available, and (II) posting on a statewide website, if available, established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(C) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted by the public body 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.

(iv) In case of refusal, neglect, or inability of the newspaper to publish the notice, the public body shall (A) post such notice on its website, if available, (B) request the newspaper submit a post on a statewide website, if available, established and maintained as a repository for such notices by a majority of Nebraska newspapers, and

(C) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting pursuant to subdivision (1)(b)(iv)(A) and (C) of this section and a written record of the request to the newspaper pursuant to subdivision (1)(b)(iv)(B) of this section. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(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; and

(xiii) A natural resources district.

(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, subsection (1) of section 70-1014, subsection (2) of section 70-1014.02, 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 (A) an organization created under the Interlocal Cooperation Act that sells electricity or natural gas, (B) an organization created under the Municipal Cooperative Financing Act, (C) a governing body of a risk management pool and any advisory committee of such governing body, or (D) any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act, such organization, governing body, or committee 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.

(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 newsmedia 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 subsection (5) of section 84-1413.

(8) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (2)(a) of this section may hold a meeting by virtual conferencing if: (a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (2)(b)(i) and (ii) of this section.

(9) This section does not apply to a meeting of the Nebraska Power Review Board or a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities if such meeting is subject to section 70-1034.

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. Except for closed sessions called pursuant to section ~~84-1410~~, a public body shall allow members of the public an opportunity to speak at each meeting.

(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.

(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.

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 or kept as an electronic record and shall be 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 or keeping the minutes is absent due to a serious illness or emergency.
- (6) 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.

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.

Planning Commission Meeting

A meeting of the Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 p.m., on July 21, 2025, in the City Council Chambers, located at 1115 13th Avenue. Present were: Chairman Loghry and Commissioners, Benzel, Beitel, Jones, Schmitt, Sweetser. Others present: City Manager Scott, City Clerk Borchert, City Attorney Strommen, Chief Building Official Hall. Notice of the meeting was given in advance thereof by publication in the Sidney Sun-Telegraph, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Chairman and all members of the Commission, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Chairman Loghry announced that a current copy of the Nebraska Open Meetings Act was available for review at the rear of the room.

Loghry asked for approval of the June 16, 2025, minutes. Schmitt moved, Jones seconded, "That the June 16, 2025, minutes be approved." Roll call: Yeas: Beitel, Jones, Loghry, Schmitt, Sweetser. Absent: England, Glenn, Spiker. Abstain: Benzel. Motion approved.

Attorney Strommen asked if there were any nominations for Chairman. Schmitt nominated himself. There were no other nominations. Jones seconded, "That Schmitt serve as the Chairman." Roll call: Yeas: Beitel, Jones, Loghry, Schmitt, Sweetser, Benzel. Absent: England, Glenn, Spiker. Motion approved.

Chairman Schmitt asked for nominations for Vice Chair. Sweetser nominated himself. There were no other nominations. Schmitt seconded, "That Sweetser serve as the Vice Chairman." Roll call: Yeas: Jones, Loghry, Schmitt, Sweetser, Benzel, Beitel. Absent: England, Glenn, Spiker. Motion approved.

Schmitt stated that it is customary that the Chairman serve on the Board of Adjustment. There were no other nominees. Schmitt moved, Jones seconded, "That Schmitt serve on the Board of Adjustment." Roll call: Yeas: Loghry, Schmitt, Sweetser, Benzel, Beitel, Jones. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened a public hearing at 5:34 pm for the subdivision of 6 13 49 LOT 2 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY DARREN J & CHELSIE L SPARKS JT 1275 CLARK DRIVE SIDNEY, NE 69162-2488. Attorney Strommen excused herself as she was representing the landowner and asked for Chief Building Inspector to address the Commission. Darren Sparks came before the Commission stating that the Saddle Club had sold. Sparks spoke with the neighbors to see if there was any interest in expanding their backyards by purchasing ground from the new owner, Wade Hill. Wade Hill confirmed that he agreed sell a portion of the surveyed property. Strommen stated that there were purchase agreements as well as the survey drafted. All parties have signed. CBO Hall stated that there are 6 lots and 5 owners which have opted to subdivide and rezone 25 feet of the Saddle Club area. There are two residents that have property line issues. Hall cautioned the potential purchasers that the easement lines would not allow for anything permanent to be placed on it. Schmitt stated that the easement is from the south of the current lot line to the new lot line which is 10 feet north. City Manager Scott stated that the city cannot take action to get between a survey debate and residential property owners. Scott continued that the only action that can be taken is to accept the survey or to give the two residents that have issues with the subdivision and rezoning, time to get an additional survey done on their own. Another option would be to table the items. Schmitt said that with the concerns that the Sintlers and the Smith have, it would give them opportunity to get a survey and to seek out legal counsel. Julie Smith had concerns that they may be responsible to have a fence line moved that currently sits on the Saddle Club property, which was there before they moved in. Scott suggested that the Sintlers and Smiths work with the property owner to resolve this issue by means of an easement. Wade Hill, current property owner, stated that he was trying to be a good neighbor and wouldn't require anyone to move anything. Benzel stated that Sintlers asked him to come look at the property, southwest corner of lot 7, which there was a tree line. Sintlers thought when they purchased the property that the tree line/ground belonged to them. Benzel stated that Sintlers had concerns of the tree line needing to be removed at the Sintler's expense. Strommen reiterated that Mr. Hill is not looking to do anything regarding the tree line, and feels they could come to agreement with the two private landowners. Strommen stated that tabling this could lead to another 30-day delay. In addition to having to approve the ordinances, could lead to postponing approval to the end of the year. Beitel stated that the survey was done by a certified land surveyor and being a little bit could be a possibility, but any disputes from here is between the landowners. Tom Dorwart, resident and potential purchaser of the property, stated that regardless of the decision of the Commissioners, the landowners would have to get a survey done if they were to dispute it. If the Commissioners approve the purchase, it would still have to be approved by Council, which would give the people an opportunity to come forth again. Strommen stated that the private landowners are

welcome to come to her office and write an agreement to settle the land dispute, which has nothing to do with the city. Loghry confirmed by Strommen, that the zoning does not have anything to do with the property lines, just rezoning from agricultural to residential. There were no further comments. Schmitt closed the meeting at 5:52 pm. Beitel moved, Loghry seconded, "That that the subdivision of 6 13 49 LOT 2 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, be approved." Roll call: Yeas: Loghry, Schmitt, Sweetser, Benzel. Beitel, Jones. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:53 pm for the rezoning of the 6 13 49 LOT 2 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, DARREN J & CHELSIE L SPARKS JT 1275 CLARK DRIVE SIDNEY, NE 69162-2488. Strommen stated that this was a rezone from agricultural to residential. There were no comments. Schmitt closed the hearing at 5:54 pm. Sweetser moved, Schmitt seconded, "That the rezoning of the 6 13 49 LOT 2 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, DARREN J & CHELSIE L SPARKS JT 1275 CLARK DRIVE SIDNEY from agricultural to residential be approved." Roll call: Yeas: Schmitt, Sweetser, Benzel. Beitel, Jones, Loghry. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:54 for the subdivision of 6 13 49 LOT 3 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, THOMAS YULE & COLLEEN ROSE DORWART CO-TRES 1291 CLARK DRIVE SIDNEY, NE 69162-2488. There were no comments. Schmitt closed the hearing at 5:55 pm. Loghry moved, Benzel seconded, "That the subdivision of 6 13 49 LOT 3 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, THOMAS YULE & COLLEEN ROSE DORWART (CO-TRES 1291 CLARK DRIVE SIDNEY, NE be approved." Roll call: Yeas: Sweetser, Benzel. Beitel, Jones, Loghry, Schmitt. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:55 pm for the rezoning of 6 13 49 LOT 3 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, THOMAS YULE & COLLEEN ROSE DORWART (CO-TRES 1291 CLARK DRIVE SIDNEY, NE 69162-2488. There were no comments. Schmitt closed the hearing at 5:55 pm. Beitel moved, Jones seconded, "That the rezoning of 6 13 49 LOT 3 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, THOMAS YULE & COLLEEN ROSE DORWART CO-TRES 1291 CLARK DRIVE SIDNEY, NE from agricultural to residential be approved." Roll call: Yeas: Benzel. Beitel, Jones, Loghry, Schmitt, Sweetser. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:57 pm for the subdivision of 6 13 49 LOT 4-5 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, JOSHUA & CHRISTY DILLEY JTWROS 1315 CLARK DRIVE SIDNEY, NE 69162-2487. There were no comments. Schmitt closed the hearing at 5:57 pm. Benzel moved, Schmitt seconded, "That the subdivision of 6 13 49 LOT 4-5 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, JOSHUA & CHRISTY DILLEY JTWROS 1315 CLARK DRIVE SIDNEY, NE be approved." Roll call: Yeas: Beitel, Jones, Loghry, Schmitt, Sweetser, Benzel. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:58 pm for the rezoning of 6 13 49 LOT 4-5 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, JOSHUA & CHRISTY DILLEY JTWROS 1315 CLARK DRIVE SIDNEY, NE 69162-2487. There were no comments. Schmitt closed the hearing at 5:58 pm. Schmitt moved, Sweetser seconded, "That the rezoning of 6 13 49 LOT 4-5 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, JOSHUA & CHRISTY DILLEY JTWROS 1315 CLARK DRIVE SIDNEY, NE from agricultural to residential be approved." Roll call: Yeas: Jones, Loghry, Schmitt, Sweetser, Benzel, Beitel. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:58 pm for the subdivision of 6 13 49 LOT 6 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, MYRON G & KATHY S JT PO BOX 95 SIDNEY, NE 69162-0095. There were no comments. Schmitt closed the hearing at 5:58 pm. Jones moved, Beitel seconded, "That the subdivision of 6 13 49 LOT 6 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, MYRON G & KATHY S JT PO BOX 95 SIDNEY, NE be approved." Roll call: Yeas: Loghry, Schmitt, Sweetser, Benzel, Beitel, Jones. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 5:59 pm for the rezoning of 6 13 49 LOT 6 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, MYRON G & KATHY S JT PO BOX 95 SIDNEY, NE 69162-0095. There were no comments. Schmitt closed the hearing at 5:59 pm. Jones moved, Schmitt seconded, "That the rezoning of 6 13 49 LOT 6 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, MYRON G & KATHY S JT PO BOX 95 SIDNEY, NE from agricultural to residential be approved." Roll call: Yeas: Schmitt, Sweetser, Benzel, Beitel, Jones, Loghry. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 6:00 pm for the subdivision of 6 13 49 LOT 7 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, HASE/AMBER & DEVIN HASE JT 1363 CLARK DRIVE SIDNEY, NE 69162-2487. There were no comments. Schmitt closed the hearing at 6:00 pm. Sweetser moved, Benzel seconded, "That the subdivision of 6 13 49 LOT 7 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, HASE/AMBER & DEVIN HASE JT 1363 CLARK DRIVE SIDNEY, NE be approved." Roll call: Yeas: Sweetser, Benzel, Beitel, Jones, Loghry, Schmitt. Absent: England, Glenn, Spiker. Motion approved.

Schmitt opened the public hearing at 6:01 pm for the rezoning of 6 13 49 LOT 7 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, CHASE/AMBER & DEVIN HASE JT 1363 CLARK DRIVE SIDNEY, NE 69162-2487. There were no comments. Schmitt closed the hearing at 6:01 pm. Benzel moved, Jones seconded, "That the rezoning of 6 13 49 LOT 7 BLOCK 2 CLARK SECOND SUBDIVISION SIDNEY, CHASE/AMBER & DEVIN HASE JT 1363 CLARK DRIVE SIDNEY, NE be approved from agricultural to residential." Roll call: Yeas: Benzel, Beitel, Jones, Loghry, Schmitt. Absent: England, Glenn, Spiker, Sweetser. Motion approved.

City Manager Scott stated that in May of 2025, he reached out to the Panhandle Area Development District (PADD) to show related costs, processes and expenses the city would incur if the city began a nuisance abatement service. The city would have to pass an updated nuisance property ordinances, taking time to get the current ordinances up to state standards. PADD also requires 100% commitment by the Planning Commission and the City Council by resolution. The process would need to be very public to the residents of Sidney. The initial inspection would be done by PADD. Violators would be sent a certified letter. A second letter would be sent if residents did not comply. Any further abatement expenses and legal cost would be the responsibility of the city. The cost could be extensive. The cost for PADD is \$35,000, for 140 properties for an initial year, not including legal actions, such as placing leans on properties. Once the process has started, Scott would caution against going part way and not completing the process city wide. Not pursuing the ones that didn't fix the issue after the first letter could cause legal issues from the ones that did. Strommen stated the Chappell has started this process and it has proven to be very costly. Hall also stated that many of the nuisance ordinances need to be updated and that could cost up to \$50,000.00 in itself. Beitel stated it could cost the City millions. After further discussion, it was decided by the Planning Commission to take it to Council as an informational process, to possibly pursue as funds permit at a later date. Schmitt stated that he would be fine with taking it to Council.

There were no further comments.

Meeting adjourned at 6:28 pm.

Ben Schmitt, Chairman

Lori Borchert, City Clerk

Planning Commission Meeting

A meeting of the Planning Commission of the City of Sidney, Nebraska, was convened in open and public session at 5:30 p.m., on July 28, 2025, in the City Council Chambers, located at 1115 13th Avenue. Present were: Vice Chairman Sweetser and Commissioners, Benzel, Beitel, England, Loghry, Spiker. Others present: City Manager Scott, City Clerk Borchert, Chief Building Official Hall. Notice of the meeting was given in advance thereof by publication in the Sidney Sun-Telegraph, the designated method for giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Chairman and all members of the Commission, and a copy of their acknowledgment of receipt of notice is attached to these minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Planning Commission of this meeting. All proceedings shown hereafter were taken while the convened meeting was open to the attendance of the public.

Vice Chairman Sweetser announced that a current copy of the Nebraska Open Meetings Act was available for review at the rear of the room.

Sweetser opened a public hearing at 5:31 pm for the application for a conditional use permit for Banister Leadership, for a 501C3 after school program. Cari Persino stated that the Masonic Lodge has offered Banister a place for the program to be held. Banister is completely free, non-profit that is an educational based after school program. Chief Building Official Hall asked Persino if she has obtained a state license. Her response was no, that they need to be rezoned to do that, and technically they don't have to be. Hall stated that this is not about rezoning, but for a conditional use permit, and whether or not the Commission will allow the program to happen. Hall stated that the building would need to have some things done in terms of fire safety, per the Fire Marshall, to include a fire alarm system. Persino stated they would implement a pull system, if they got licensed. Persino said they don't have to get licensed as they are not taking a dime for payments. Hall asked if there was a time that they would have the alarm system put in. Persino said that if they don't have to have it, they are thinking about not being licensed. Hall said that even though they may not be required to be state licensed, they would still have to abide by building code for this type of occupancy, which is E type (Educational). Hall said a fire alarm system would be required. Hall asked if they would be putting in an outdoor play area. Persino said that if they put a fence up in back they would have a picnic table and porch swing, but this is after school and they would be doing homework and getting educational help. Hall asked how many square feet this would be. England stated it would include the main lunchroom and a room off to the side. Hall asked how many kids would be there. Persino stated 35. Hall stated that they did have enough bathrooms for the number of children. England stated that it was handicap accessible. Beitel asked if they foresee any traffic issues since it is on Illinois Street. Persino stated that parents don't all come at once and there is a lot of parking area. Spiker suggested an area for a bus stop. England stated that they have had functions in the building forever, Jobs Daughters and DeMolay, and never had an issue. Loghry stated that this location is no different than the theatre (congestion wise). Spiker asked if there was a place for exercise or recreation. England stated that a swing set or a basketball area has been discussed. Persino stated that this program is more educationally based. Persino stated the hours were from 3:00 pm to 6:00 pm, Monday through Thursday and 2:30 pm to 6:30 pm on Friday, summer hours from 9:00 am to 6:00 pm. Spiker asked how long the licensing would take. Persino stated 30 to 90 days. Spiker asked if they had applied yet. Persino stated that they had not applied. Spiker asked if they had looked at other locations. Persino stated that they had, with no availability. There were no more comments. Sweetser closed the hearing at 5:45 pm. City Manager Scott asked if they were aware of the (sex) offender registry. Scott said that the City Attorney stated that notification would need to be made to the parents of the children about the offenders living in the area. England stated, that is another reason why they would be putting up a fence. Hall asked about the expiration date of the conditional use permit. Clerk Borchert stated the expiration date would run from September 2, 2025 to September 2, 2027, per discussion. Hall stated that there were a few things that needed to be nailed down prior to approval of the permit. A fire escape plan would be needed, the alarm system would need to be in place and the fence would have to be up. England asked why the fence needed to be up. Hall stated that the safety of the children would be at stake. Borchert stated that Tina Taylor had to have a fence for her request for a daycare. Persino stated that Taylor needed to because she was licensed. Beitel asked if this could be a concern with other daycare providers if they weren't licensed. Hall stated that all providers need to come in and talk to us, regardless if they are licensed or not. Spiker stated that the conditions mentioned would have to be met before the Commission could issue a permit. Hall agreed. England asked what kind of fence was needed. Hall stated it could be a chain link fence. Sweetser asked for a motion. Loghry motioned, "That the application be approved and issued for the Conditional Use Permit requested by Banister, with the date of expiration being September 2, 2027, once the requirements are fulfilled as discussed per code: the alarm system,

the fence and an escape plan.” Benzel seconded the motion. Roll call: Yeas: Benzel, Beitel, Loghry, Sweetser. Nays: Spiker. Abstain: England. Absent: Glenn, Jones, Schmitt.

There was question concerning a quorum and the number of votes that were cast, whether this application was approved by vote. Clerk Borchert stated that she would contact Attorney Strommen for legal counsel. Upon contacting legal counsel, it was determined by Robert’s Rules of Order that: *“A Quorum is defined as a majority, more than half, of all the members. There were 6 out 9 members present, so there was a Quorum. A fundamental principle of parliamentary law is that decisions are made only by the members present in a properly called meeting at which a quorum is present. Except when governed by a specific rule to the contrary, a majority vote is the fundamental requirement to pass a motion. A majority, simply stated, is more than half.”*

In this case there was a quorum since 6 out of the 9 members are present. Then 4 out of 6 present members voted in favor of the motion. The motion passes by the majority.

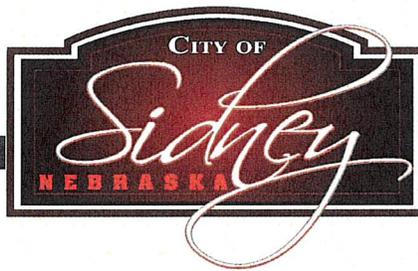
Spiker asked if the Industrial Park could be put on the next agenda. Scott stated that three people have shown interest to the City. One is still interested, paying for Phase I, environmental and subdivide survey, another has paid for the Phase I as well, but maybe be having issues. There is also a third party that is working with Economic Development. Spiker questioned the rezoning process if a party is no longer interested or is doing something different than the original intention. Scott stated that if we were to rezone back to Agriculture, the party would most likely have to be paid back. Spiker stated that if someone rezones and doesn’t do anything with it, someone that you don’t know can come in and take advantage of that rezoning and does something totally different with it. Scott stated that if someone wanted to take advantage of the incentives, they would have to meet the criteria. Hall stated that zoning code would also have to be met. Spiker stated that his questions were answered and did not need to be on the next agenda.

There were no further comments.

Meeting adjourned at 6:02 pm.

Caleb Sweetser, Vice Chairman

Lori Borchert, City Clerk



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MEMORANDUM

DATE: October 20, 2025

MEMO TO: Planning, Zoning Commission

FROM: Marshall Hall Chief Building Official

RE: Consideration to amend the previously approved Conditional Use Permit, requested by Banister Leadership

SUMMARY: A request for an amendment to the previously approved Conditional Use Permit on July, 28, 2025., "That the application be approved and issued for the Conditional Use Permit requested by Banister, with the date of expiration being September 2, 2027, once the requirements are fulfilled as discussed per code: the alarm system, the fence and an escape plan." Benzel seconded the motion. Roll call: Yeas: Benzel, Beitel, Loghry, Sweetser. Nays: Spiker. Abstain: England. Absent: Glenn, Jones, Schmitt.

It has been requested by Robert England, on behalf of Banister, that the fence no longer be part of the requirement, and it be removed from the initial approval by the commission.

BACKGROUND/DISCUSSION: Banister Leadership Academy is a 501 (C) (3) non-profit focused on youth development and a family support service. The academy operates in 94 counties and aims to empower the youth and families through various initiatives. The additional use of the Masonic Lodge, for an after-school facility. This after-school program is designed for K-6th grades with a safe, structured environment that fosters leadership, life and school skills. Current zoning is C2 which is acceptable for this type of occupancy (E).

An Application for Conditional Use was voted on July 28, 2025 as follows: Spiker stated that the conditions mentioned would have to be met before the Commission could issue a permit. Hall agreed. England asked what kind of fence was needed. Hall stated it could be a chain link fence. Sweetser asked for a motion. Loghry motioned, "That the application be approved and issued for the Conditional Use Permit requested by Banister, with the date of expiration being September 2, 2027, once the requirements are fulfilled as discussed per code: the alarm system, the fence and an escape plan." Benzel seconded the motion. Roll call: Yeas: Benzel, Beitel, Loghry, Sweetser. Nays: Spiker. Abstain: England. Absent: Glenn, Jones, Schmitt.

RECOMMENDATION: To be determined by the Planning Commission



City of Sidney, Nebraska

1115 13th Avenue, P.O. Box 79, Sidney, NE 69162, (308-254-5300)

APPLICATION FOR CONDITIONAL USE PERMIT

DATE: 7-8-25

Filing Fee: \$200.00

Receipt No.: _____

NAME OF APPLICANT: Banister Leadership Academy

ADDRESS OF APPLICANT: 2204 12th Ave

ADDRESS OF CONDITIONAL USE PERMIT: 1830 Illinois St.

LEGAL DESCRIPTION: Banister Leadership Academy is a 501(c)(3) non profit focused on youth development & family support services. The academy operates in 04 counties and aims to empower youth & families through various initiatives.

LOT: 4 BLOCK: 2 ADDITION: Mc Fadden Fourth Addition Sidney

CURRENT ZONING: C2 ZONE THE USE IS PERMITTED: E

DESCRIPTION OF USE: Banister Leadership Academy will be starting a new after school program on September 1, 2025. This program is designed for K-6th grades with a safe, structured environment that fosters leadership, life, and social skills. By bridging the gap between school & home.

STATE REASON WHY THE PERMIT SHOULD ISSUED: BLA will provide a safe fun after school & summer program for students K-6th. This program will be free to community - no income requirement, filling "the void" from when Cool Kids closed.

Signature of Applicant: Cole Peeler
Contact Phone Number: 920-257-1871 Email: cp@banisters.org

Official Use Only:

Yes: Benzel, Beitel, Loggins, Sweitzer

No: Spiker

Abstain: England

Absent: Jones, Glenn, Schmitt

APPROVED: 4 DISAPPROVED: 1 DATE: 7/28/25

Abb. Sch
CHAIRPERSON, PLANNING COMMISSION

Lou Bruch
SECRETARY, PLANNING COMMISSION

PERMIT NO. ISSUED: 072825-140
DATE PERMIT EXPIRES: September 2, 2027

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission of the City of Sidney, NE, October 20, 2025, at 5:30 p.m., in the City Council room, 1115 13th Avenue, will hold a PUBLIC HEARING upon the following:

The request for an amendment for a Conditional Use Permit for Banister Leadership, for a 501 (C) (3) after-school program. 31 14 49 Lot 4 Blk 2 McFadden Fourth Addition, Sidney, Cheyenne County, Nebraska, also known as 1830 Illinois Street, Sidney, Nebraska. Current zoning C2, to remove the fence from the prior approved requirement.

Copies of the proposed request are on file in the office of the City Clerk-Treasurer at 1115 13th Avenue where they may be examined and copies may be made. At the above time and place all citizens and interested parties will have an opportunity to be heard. Any person with a disability desiring a reasonable accommodation to attend a public meeting must contact the City Clerk's office at City Hall, 1115 13th Avenue, Sidney, NE before the date of the meeting. Lori Borchert, City Clerk