

May 27, 2025

Seward County Board of Equalization

State of Nebraska)
County of Seward) ss.

A regular meeting of the Seward County Board of Equalization was convened in open and public session at 8:30 on May 27, 2025 in the Commissioner's room at the Seward County Courthouse. Notice of the meeting was posted on the Courthouse bulletin board, on the Commissioner's Room door, on the Seward County website: sewardcountyne.gov and published in the Seward County Independent and the Milford Times. The agenda for all meetings is kept continually current and is available for public inspection at the County Clerk's Office during normal business hours. The agenda is held open until one business day prior to the meeting for appearance before the Board. The Board of Commissioners has the right to modify the agenda to include items of an emergency nature only at such public meeting.

The Seward County Board of Equalization convened on May 27, 2025 at 8:30 a.m.

Present: Chairperson: Misty Ahmic
Members: Raegan Hain, Darrell Zabrocki, Ken Schmieding, Scott Pekarek
County Clerk: Sherry Schweitzer
County Assessor: Marilyn Hladky

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

The Pledge of Allegiance was recited.

Moved by Hain and seconded by Pekarek to approve the minutes of April 22, 2025 and May 13, 2025

Affirmative Vote: Hain, Pekarek, Zabrocki, Schmieding, Ahmic Motion Carried

The Commissioners discussed a Permissive Exemption application for Sunrise Country Inc. that was previously approved.

Moved to Hain and seconded by Zabrocki to remove the Permissive Exemption that was originally approved for Sunrise Country, Inc. that was approved on April 22, 2025 for Parcel # 800216202 (Betz Addition).

Affirmative Vote: Hain, Zabrocki, Schmieding, Pekarek, Ahmic Motion Carried

Hladky then updated the Commissioners on activities of her office.

Known items on the agenda for Board of Equalization on June 10, 2025 are as follows:

8:30 a.m.

1. Convene and announce Open Meetings Law
2. Pledge of Allegiance
3. Discuss/Action - Approve minutes of May 27, 2025
4. Discuss/Action – Clarify Permissive Exemption for Sunrise Country, Inc on Property in Betz Addition in Section 7 Township 9 North, Range 4 East of the 6th P.M.
5. Discuss/Action – Assessor Information Update

Moved by Hain and seconded by Zabrocki to adjourn at 8:36 a.m.

Affirmative Vote: Hain, Zabrocki, Pekarek, Schmieding, Ahmic Motion Carried

State of Nebraska)
County of Seward) ss.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 10th day of June, 2025.

County Clerk

Chairperson

May 27, 2025 Seward County Board of Commissioners

State of Nebraska)
County of Seward) ss.

A regular meeting of the Seward County Board of Commissioners was convened in open and public session at 9:00 a.m. on May 27, 2025 in the Commissioner's room at the Seward County Courthouse. Notice of the meeting was posted on the Courthouse bulletin board, on the Commissioner's Room door, on the Seward County website: sewardcountyne.gov and published in the Seward County Independent and the Milford Times. The agenda for all meetings is kept continually current and is available for public inspection at the County Clerk's Office during normal business hours. The agenda is held open until one business day prior to the meeting for appearance before the Board. The Board of Commissioners has the right to modify the agenda to include items of an emergency nature only at such public meeting.

The Seward County Board of Commissioners convened on May 27, 2025 at 9:00 a.m.

Present: Chairperson: Misty Ahmic
 Members: Raegan Hain, Scott Pekarek, Ken Schmieding,
 Darrell Zabrocki
 County Clerk: Sherry Schweitzer

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

The Pledge of Allegiance was recited.

Moved by Zabrocki and seconded by Hain to approve the minutes of May 20, 2025.
Affirmative Vote: Zabrocki, Hain, Schmieding, Pekarek, Ahmic Motion Carried

Commissioners Reports:

Commissioner Pekarek reported that he attended a Planning & Zoning meeting, spoke with the Public Transit director about cell phone bills, attended the Water Conservation meeting in Garland, met with the Emergency Manager about grant applications and went to Oak Grove Cemetery to help remove a tree.

Commissioner Schmieding reported he will attend the Visitors Bureau Committee meeting this afternoon, attended the Water Conservation meeting in Garland, checked on Prairie Grove abandoned cemetery, will attend Problem Solving Court graduation in York and a Blue Valley Community Action (BVCA) meeting in the near future.

Commissioner Ahmic reported she attended the Visitors Bureau Committee meeting, checked on abandoned cemeteries, performed a ribbon cutting for the Seward County Chamber & Development Partnership (SCCDP) organization, spent time on the Community Safety Action Plan (CSAP) subject, spent time on the public hearing today involving a conditional use permit, and received calls about poultry barns.

Commissioner Zabrocki reported he attended the Seward City Council meeting and attended two days of Nebraska Intergovernmental Risk Management Assn. (NIRMA) meetings.

Commissioner Hain reported she had a meeting with the Human Resources office about cell phone reimbursements, received a call about the proposed Zoning fee schedule, been in contact with Four Corners Health Dept., contacted the firm performing an audit about Federal Funds, and received several emails about the poultry barn subject.

The Commissioners discussed the Juvenile Services Grant document.

Moved by Hain and seconded by Schmieding to authorize the Chair to sign the Juvenile Services Grant for Juvenile Diversion and Attendance Support with the State of Nebraska Crime Commission.

Affirmative Vote: Hain, Schmieding, Pekarek, Zabrocki, Ahmic Motion Carried

Veterans Service Officer, Ray Foreman presented Veteran of the Month, Phil Miiller. He joined the Navy Seabees in 1968 and participated in tours in Vietnam. He explained that the Seabees were a company that worked with construction while in the service. After he came home from the Navy he farmed and has belonged to the Beaver Crossing Legion for many years.

The Commissioners discussed grant opportunities for various offices and projects. Last week, Commissioner Ahmic gave information the Eleventh House grant writers had given her as possibilities for possible grants.

The Commissioners recessed at 9:28 a.m.

The Commissioners re-convened at 9:45 a.m.

The County Court budget overage subject is postponed until next week.

Highway Supt., Jon Regnier was present to give his recommendation for awarding culvert bids that were opened last week. Based on several issues, his recommendation is to award the bid to Ace/Eaton.

Moved by Hain and seconded by Zabrocki to award the bid for culverts to Ace/Eaton in the amount of \$49,547.

Affirmative Vote: Hain, Zabrocki, Pekarek, Schmieding, Ahmic Motion Carried

The Commissioners recessed at 9:48 a.m.

The Commissioners re-convened at 10:00 a.m.

Moved by Zabrocki and seconded by Pekarek to open the Public Hearing at 10:00 a.m. for a Conditional Use Permit from Viaero to operate a new telecommunications tower in the W ½ SW ¼ of Section 16 Township 12 North Range 4 East of the 6th P.M.

Affirmative Vote: Zabrocki, Pekarek, Hain, Schmieding, Ahmic Motion Carried

County Zoning Administrator, Marissa Pfile was present to give information about the application for a permit.

Chris Reha, Site Acquisition Specialist for Industrial Tower West, was present to speak in favor of said permit request. He gave information about how they choose a site, the use of the tower – that this is for cellular use and broadband service, right of way poles and other various facts.

Commissioner Ahmic submitted information, including rules of the current zoning regulations, maps of coverage, and other pertinent information.

Dale Niemann, a member of the Seward County Planning and Zoning Commission, was present and gave information about when the applicant appeared before the Planning Board in which he was a member. He felt that the information given to the Planning

Board at the time they heard the Conditional Use Permit was incorrect and thought a different outcome would have been arrived in recommending approval of the permit.

According to the Seward County Zoning Regulations, no tower shall be permitted within 5 miles of another tower, but the proposed tower is in an unpermitted area.

Commissioner Pekarek, also formerly on the Planning Commission before he became a Seward County Commissioner, stated the same information as Niemann.

No one else spoke in favor or against such application.

Moved by Zabrocki and seconded by Hain to close the Public Hearing at 10:36 a.m.
Affirmative Vote: Zabrocki, Hain, Schmieding, Pekarek, Ahmic Motion Carried

The Commissioners recessed at 10:37 a.m.
The Commissioners re-convened at 10:55 a.m.

Moved by Zabrocki and seconded by Hain to adopt Resolution No. 3847 in regard to denying a Conditional Use Permit from Viaero to operate a new telecommunications tower in the W ½ SW ¼ of Section 16 Township 12 North Range 4 East of the 6th P.M.

Resolution # 3847 of the

Seward County Board of Commissioners

A RESOLUTION DENYING NE COLORADO CELLULAR, INC. D/B/A VIAERO WIRELESS and INDUSTRIAL TOWER WEST, LLC'S APPLICATION FOR A CONDITIONAL USE PERMIT TO CONSTRUCT A NEW COMMUNICATION TOWER.

WHEREAS, NE COLORADO CELLULAR, INC. D/B/A VIAERO WIRELESS and INDUSTRIAL TOWER WEST, LLC (collectively "Viaero") applied for a conditional use permit to construct a new 225' telecommunications tower on the following described real estate:

The Southwest ¼ of, Section 16, Township 12N, Range 4E, Seward County Nebraska

WHEREAS, on April 2, 2024, a public hearing was held on Industrial Tower West, LLC's conditional use permit application; and

WHEREAS, at the public hearing there were discussions regarding the proposed location for the new telecommunications tower and whether the new tower would provide internet speeds of at least 25 megabits per second download speed and 3 megabits per second upload speed ("Mbps"); and

WHEREAS, the Board denied the conditional use permit application for the reasons stated in Resolution 3806; and

WHEREAS, Viaero filed a Complaint in U.S. District Court for the District of Nebraska disputing the Board's denial of its conditional use permit; and

WHEREAS, on May 13, 2025, the District Court remanded the matter to the Seward County Board of Commissioners and ordered it to reopen the public hearing on the conditional use permit, and further the Board to provide written reasons that are detailed enough to enable judicial review ordered if the conditional use permit is denied on remand; and

WHEREAS, the public hearing on remand was reopened on May 27, 2025; and

WHEREAS, the Board held public discussion regarding the proposed location for the new telecommunications tower and whether the new tower would provide sufficient internet speeds; and

WHEREAS, the Seward County Board of Commissioners finds that Viaero's conditional use permit application should be denied for the following reasons:

1. The proposed tower site is within 5 miles of an already existing tower and does not comply with zoning regulation 8.01.03(2). Specifically, that regulation says, "No proposed tower shall be located within five miles of any existing tower, without approval from the Seward County Board of Commissioners." Also, zoning regulation says 8.01.01 says, "promote and encourage shared use/colocation of towers and other antennae support structures rather than the construction of additional single use towers." At the April 2, 2024, public hearing and again at the May 27, 2025, reopened public hearing there was discussion and documents offered showing the proposed tower site was less than five miles from at least one already existing tower. Further, Viaero did not show that it attempted to co-locate on an already existing tower nor did it request approval from the Board to locate its new telecommunications tower at the location that is within five miles of an already existing tower; and
2. Viaero's new telecommunication tower would not provide internet speeds of "at least 25/3 Mbps" as Viaero stated in a Public Service Commission application it made to get public funds to offset the cost of the tower construction. Specifically, at the April 2, 2025, public hearing and again at the May 27, 2025, reopened public hearing, there was discussion about, and documents offered showing that the new proposed tower would only provide "up to" 25/3 Mbps but that the true internet speed would normally be much less because of several qualifications Viaero listed on its website such as:
 - "Data may be slowed due to network management policies. Usage is subject to policies outlined in our Open Internet Disclosure Agreement,"
 - "Your speed range will depend on your device as well as the technology described above, as well as the high-speed data allotments associated with the data plan you have selected,"
 - "Other factors that may cause the service to fluctuate include situations where you the cell site you are connected to is experiencing high demand of use or congestion," and
 - Viaero "may also be required to reduce the speeds available to consumers on a temporary basis in order to manage the network performance, as more specifically described in the Network Management section," and

The new information Viaero shared at the May 27, 2025 public hearing did not alter the information the Board received at the April 2, 2024, public hearing such as the tower will remain dual purpose and Viaero did not offer data to support its claim of faster internet services and confusion remains on what actual internet speeds would be offered to Seward county residents. Finally, there remains an inconsistency as discussed at the April 2, 2024 public hearing between coverage advertised on Viaero's website and the gaps in coverage reported by their engineering team and that inconsistency was not clarified at this reopened public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Seward County Board of Commissioners denies NE Colorado Cellular, Inc. d/b/a Viaero Wireless and Industrial Tower West, LLC's application for conditional use permit to construct a new 225' telecommunications tower on the following described real estate: **The Southwest ¼ of, Section 16, Township 12N, Range 4E, Seward County Nebraska.**

Dated this 27th day of May 2025.

Moved by: Zabrocki Seconded by: Hain
Ayes: Ken Schmieding, Raegan Hain, Darrell J. Zabrocki,
Misty Ahmic, Chair of the Board
Abstain: Scott Pekarek
Attest: Sherry Schweitzer, Seward County Clerk

Affirmative Vote: Zabrocki, Hain, Schmieding, Ahmic
Abstain: Pekarek as he was not on the Board of Commissioners during the initial request for the Conditional Use Permit. Motion Carried

Highway Supt., Jon Regnier was present to give information about a contract with JJK Construction for a Bridge Deck Replacement for Seward North C008011235.

Moved by Hain and seconded by Zabrocki to authorize the Chair to sign the contract with JJK Construction for a Bridge Deck Replacement for Seward North C008011235. Affirmative Vote: Hain, Zabrocki, Pekarek, Schmieding, Ahmic Motion Carried

Detention Center Administrator, Brandon Noordhoek was present to explain food service agreements for the jail. He received quotes from Summit Food Service, LLC and Trinity Service Group.

Moved by Pekarek and seconded by Hain to approve of the food service agreement contract with Trinity Service Group at an estimated cost of \$210,240.
Affirmative Vote: Pekarek, Hain, Schmieding, Zabrocki, Ahmic Motion Carried

Deputy County Attorney, Barb Armstead led discussion about county cell phone use. Previously, county cell phones and the cost of these cell phones were discussed, and an audit was conducted. It was discovered through this audit that there were personal phones that had been added to the county plan. Armstead said there is liability having these phones on the county plan and that if a "Request for Information" were received, all the employee's personal information would be of issue. She read a directive that she suggested be sent out to those employees as follows:

TO: Seward County Employees

FROM: Board of Commissioners

Date: May 27, 2025

RE: County-issued cell phone and electronic devices

Records indicate that you have been issued a county-owned cell phone or other electronic device. We have received information that some individuals received permission from their department head to use those devices for personal use, including porting an existing phone number to a county device. There is no record of this practice with Human Resources and it is not consistent with Seward County policy regarding county cell phones. We understand that you may have received permission and, if so, are not alleging that you are intentionally violating policy. However, use of county property for personal use raises serious concerns regarding security and privacy.

Your privacy is compromised by this practice. You may have been informed that the phones belong to the county; however, the full implications of this may not be obvious. Any device owned by the county is subject to the Nebraska Public

Records Act. This means the **entire contents** of a county-owned device—including personal text messages, photos, apps, voicemails, emails, and even health or financial information—may be subject to disclosure upon a public records request. There is no distinction between personal and private data on a county-owned device:

Neb. Rev. Stat. § 84-712.01(1): "...public records shall include all records and documents, regardless of physical form, of or belonging to this state, [or] any county... Data which is a public record in its original form shall remain a public record when maintained in computer files."

There are also security and financial concerns for the county. Therefore, for the best interests of employees and the county, Seward County is discontinuing this practice. All county cell phone numbers will be disconnected at 9:00 a.m. on June 6, 2025, unless you have contacted Human Resources and provided proof—including a physical inspection of the phone-- that the cell phone has only been and will continue to be used consistent with county policy. In order to avoid confusion regarding time of county ownership, you will not be allowed to transfer the existing Seward County phone number to a new account.

You may not delete, manipulate, or otherwise change ANY data or information that is currently on your county device.

By June 6, 2025 at 5:00 pm, your county device must be returned to Human Resources or you will be charged for the device. All passcodes and PINs must be disabled and any personal apps or accounts (Apple ID, google, etc) that are tied to a Seward County email must be changed to a personal email account.

Going forward, all county electronic devices will be subject to routine and random physical inspection to ensure they are being used consistent with county policy.

Moved by Zabrocki and seconded by Hain to send the directive to officials about cell phones as provided by legal counsel and give the employee the opportunity to give the phone over by June 6, 2025.

Affirmative Vote: Zabrocki, Hain, Schmieding

Voting No: Pekarek, Ahmic

Motion Carried

Marvin Havalt, a member of the public, spoke to the Board during public comment time about a spill on the road near his residence.

The Commissioners talked about a Moratorium Extension on Renewable Energy. Armstead stated that a moratorium was issued years ago due to there being no zoning regulations on the subject. New regulations are currently being developed that include renewable energy but are not finalized yet, therefore an extension may need to be passed. Next week a resolution will be on the agenda to discuss this further.

Known items on the agenda for Board of Commissioners on June 3, 2025 are as follows:

8:30 a.m.

1. Convene and announce Open Meetings Law
2. Pledge of Allegiance
3. Discuss/Action - Approve minutes of May 27, 2025
4. Discuss/Action – Approve Claims through the period of May 23, 2025
5. Discuss/Action – Public/Organizations/Officials

Other Business Matters to Address When Time Allows

6. Commissioner Reports
7. Discuss/Action – Open Grant Opportunities for Infrastructure, Sheriff's Office & Public Safety, Emergency Management, Planning & Zoning, Veteran's Services, County Administration and Other County Funded Initiatives

- 8. Discuss/Action – Region V Systems Funding Request for 2025-2026 Fiscal Year
- 9. Discuss/Action - Legislative Update
- 10. Discuss/Action – Agenda for June 10, 2025

9:15 a.m. Discuss/Action – Public Hearing - Conditional Use Permit – Livestock Feeding Operation in the NW ¼ of the NW ¼ in Section 30, Township 10 North, Range 4 East of the 6th p.m.

Discuss/Action – Res.- Conditional Use Permit – Livestock Feeding Operation in the NW ¼ of the NW ¼ in Section 30, Township 10 North, Range 4 East of the 6th p.m.

9:30 a.m. Discuss/Action – Public Hearing - Conditional Use Permit for a Gas Service Station in the SW ¼ of Section 21, Township 10 North, Range 3 East of the 6th p.m.

Discuss/Action – Res.- Conditional Use Permit for a Gas Service Station in the SW ¼ of Section 21, Township 10 North, Range 3 East of the 6th p.m.

9:45 a.m. Discuss/Action – Public Hearing – Upgrade/Equipment Modification to an Existing Wireless Tower in the NW ¼ of Section 14, Township 9 North, Range 1 East of the 6th p.m.

Discuss/Action – Res.- Upgrade/Equipment Modification to an Existing Wireless Tower in the NW ¼ of Section 14, Township 9 North, Range 1 East of the 6th p.m.

10:00 a.m. Discuss/Action – Public Hearing – Upgrade/Equipment Modification to an Existing Wireless Tower in the NW ¼ of Section 29, Township 10 North, Range 4 East of the 6th p.m.

Discuss/Action – Res.- Upgrade/Equipment Modification to an Existing Wireless Tower in the NW ¼ of Section 29, Township 10 North, Range 4 East of the 6th p.m.

10:15 a.m. Discuss/Action – Public Hearing - Unpermitted Zoning Fee Schedule

Discuss/Action – Res.- Unpermitted Zoning Fee Schedule

10:45 a.m. Discuss/Action – County Court Budget Overage for the 2024-2025 Fiscal Year

Moved by Zabrocki and seconded by Pekarek at 12:07 p.m.

Affirmative Vote: Zabrocki, Pekarek, Schmieding, Hain, Ahmic Motion Carried

State of Nebraska)
County of Seward) ss.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 3rd day of June 2025.

County Clerk

Chairman