

LINN COUNTY BOARD OF SUPERVISORS
CEDAR RAPIDS, LINN COUNTY, IOWA
WEDNESDAY, FEBRUARY 1, 2017 10:00 A.M.

The Board met in session at the Linn County Jean Oxley Public Service Center.
Present: Chairperson Oleson, Vice Chairperson Harris, Supervisors Rogers, Houser and Walker. Board members voting "AYE" unless otherwise noted.

The meeting was called to order and Pledge of Allegiance led by Chairperson Oleson.

Motion by Rogers, seconded by Houser to approve Consent Agenda as follows:

Authorize Chair to sign *New Position/Vacancy Form* for the hiring of three temporary Engineering Interns.

Authorize Chair to sign *New Position/Vacancy Form* for the hiring of six temporary Roadway Maintenance Workers.

Resolution 2017-2-20

WHEREAS, on December 16, 2016, Payroll Warrant #62330892 was issued to Bradley C. Campbell in the amount of \$2,673.03; and
WHEREAS, the Linn County Auditor's Office was notified on January 20, 2017, that this warrant was received and presumed lost; and
WHEREAS, this is to serve as official notice to the Linn County Treasurer's Office to rescind Warrant #62330892 from Fund 782 in the amount of \$2,673.03.
NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Linn County Board of Supervisors, Linn County, Iowa, this date met in lawful session that Warrant #62330892 be rescinded and a new warrant be issued.

Authorize Chair to sign Release of Mortgage of January 31, 2012, made and executed by the East Central Iowa Council of Governments, in association with Linn County's Single Family New Construction Grant, regarding property commonly known as 4565 Meadow Creek Drive, Palo, Iowa.

Authorize Chair to sign Release of Mortgage of February 1, 2012, made and executed by the East Central Iowa Council of Governments, in association with Linn County's Single Family New Construction Grant, regarding property commonly known as 4561 Meadow Creek Drive, Palo, Iowa.

Authorize Chair to sign Purchase Order number 5335 to ABC Company LLC for the amount of \$7,919.00 for a paper shredder for the Purchasing Department.

Approve and sign Application to "Adopt-A-Roadside" for Sierra Club (Cedar-Wapsi) to adopt county portions only of County Home Road and North Center Point Road from I-380 and Robins city limits to Robins city limits.

Approve and sign Application to "Adopt-A-Roadside" for Farmers State Bank to adopt North Alburnett Road from County Home Road to Alburnett city limits.

Approve and sign Application to "Adopt-A-Roadside" for Boy Scout Troop 360 to adopt county portions only of Alburnett Road from County Home Road to county line south of Pinehurst Dr.

Approve and sign Application to "Adopt-A-Roadside" for Alburnett Lions Club to adopt Burnett Station Road from Alburnett city limits to Highway 13.

Approve and sign Application to "Adopt-A-Roadside" for Prairieburg Fire Department to adopt county portions only of Prairieburg Road from 1 mile north of Prairieburg to 1 mile south of Prairieburg.

Approve and sign Application to "Adopt-A-Roadside" for Wapsi Hustlers 4H to adopt Troy Mills Road from Rundell Road to Walker Road.

Approve and sign Application to "Adopt-A-Roadside" for Metro High School to adopt Otis Road from Cedar Rapids city limits near 3380 Otis Road to Indian Creek

Approve and sign Application to "Adopt-A-Roadside" for Ely Public Library to adopt county portions only of Ely Road from Prairie School Road to Seven Sisters Road.

Approve and sign Application to "Adopt-A-Roadside" for Boy Scout Troop 214 to adopt Wright Bros Blvd from Club Road to Ely Road.

Approve and sign Application to "Adopt-A-Roadside" for Thomas Jefferson High School to adopt county portions only of Ellis Road NW from Edgewood Road Cedar Rapids city limits to Covington Road.

Award bid and authorize chairperson to sign IDOT contract and associated documents for project FM-C057(131)-55-57, PCC overlay on Secrist Road from City of Marion to Crystal Creek Road, in the amount of \$1,284,960.89.

Motion by Rogers, seconded by Houser to approve minutes of January 25, 27 & 30, 2017 as printed.

The Board discussed timeline and guidelines for Secondary Roads to complete work on 10 Sylvan Lane SE (Richard Garberson residence). Also present: Steve Gannon, County Engineer; Ben Merta, Operations Supt.; and Richard Garberson.

Supervisor Rogers stated that he put this item on the agenda. After research he found that there is some disconnect between the Board's directive and what Mr. Garberson and the County Engineer thought.

Gannon stated that this began when they went in to sealcoat the road in 2008 and 2009. When they started the project, they proceeded with drainage restoration (cleaned it out all up and down Sylvan Lane). The foreman at the time suggested an encroachment agreement with Mr. Garberson and was not successful. The work was done in the county's right-of-way. They are looking at hydro seeding in the spring if necessary. In Gannon's opinion, the slope is mow-able but not with a rider.

Dick Garberson presented pictures of his front yard before the county started their work and afterwards (now showing stakes for his property line and the county's right-of-way). He stated that the Board directed the Road Dept. in May to soften the slope so that it could be mowed. He stated that he did sign an encroachment agreement but then a survey was done (and not by a registered land surveyor). He then withdrew his consent based on the survey because they would have damaged his septic system (located in the front yard). Garberson asked that he be present when the survey was done and that request was not honored. He stated that he has great doubts about the correctness of that survey and he is inclined to pay for a new survey. If it is different than what the stakes show, he will be inclined to have Linn County reimburse him for the survey. He also made it very clear that he wanted to be present when the excavation was done and that request was also not honored. What was done was not what he expected based on the discussion with the Board of Supervisors (excavate to the stake and soften the slope). He learned in January that the Road Dept. is not going to soften the slope. He presented pictures that already show a significant amount of soil erosion. When asked by Supervisor Walker what Mr. Garberson is asking to be done, Mr. Garberson stated that he wants it to look like it did before the Road Dept. started working on the street. It looks like a construction zone and that is unacceptable.

Chairperson Oleson stated that a survey be scheduled and coordinated with Engineer staff so that it can be done with Mr. Garberson present (during regular working hours of the County Engineer); and that a written plan be agreed to after the survey. If it requires an encroachment agreement, be aware of the septic location to be signed off by both parties. Water runoff is to be achieved. There will be some slope. The soil is to be amended with compost from the Solid Waste Agency and topsoil applied to the correct ratio to grow grass. Mr. Garberson buys the bluegrass seed variety that he wants and submits a bill to the county. Gannon and Garberson are to come back to the Board in October so that the Board knows that they are finally done with it.

Gannon argued that drainage has to stay where it is and they can't fill the slope out to the edge of the road as Mr. Garberson has suggested. If they dig up to the right of way line, there will be a noticeable change from one side to the other. In order to blend, they have to kill grass and shape it up.

Supervisor Walker stated that he finds it really hard to believe that solving this problem is beyond the capabilities of Linn County government, the Linn County Secondary Roads Dept. and the Linn County Engineer's Office. He does not believe that solving this problem is as impossible and difficult as it has been made to seem. He has been reading through correspondence between Mr. Garberson and county departments and he feels that he has been given the runaround. He thinks that this Board owes Mr. Garberson a formal apology and they need to instruct the Secondary Road Dept. to get the job done.

Motion by Rogers to conduct a survey with Mr. Garberson and the Roads Dept. present; that a written agreement be made after the survey with the intent for water runoff to be achieved; that Solid Waste Agency compost and top soil be applied; bluegrass seed purchased by Mr. Garberson and parties involved come back in October.

Discussion: Mr. Garberson stated that he invites anyone to come out and look at the site, noting that pictures don't show it all. He requests that the slope needs to be closer to the road and needs to be excavated to the boundaries.

Chairperson Oleson stated that while that worked well for Mr. Garberson, it did not work for the Roads Dept. They are in a situation where they did something and the homeowner is not happy with the after effects.

Motion was seconded by Supervisor Houser.

Discussion: Supervisor Houser suggested a grass swale and that the project starts in the spring and not October.

Supervisor Harris stated that they need to give the grass a chance to get started. They should start now and not in October.

Supervisor Harris asked Gannon if he understands the desire of the Board and Mr. Garberson to spruce up the area and can he do that with the understanding of making everyone pleased with the end result. He also asked Gannon if he would be compromising the drainage by this request.

Gannon responded that they can do that without changing the ditch (it won't be easy). It's about expectation and they don't have that as they did with the other nine property owners.

Supervisor Harris asked Gannon if he thinks that he and Mr. Garberson can come to an agreement on work to be accomplished and with a good end result. Part of Supervisor Rogers' motion is that they get together and come to an agreement on the best solution. Supervisor Harris stated that he is having trouble with that. It didn't work before (more than once). His expectation is that they will be back in the Boardroom talking about it again. He stated that he wants Gannon's assurances that he and Mr. Garberson will come to an amicable agreement to get it settled and that they don't come back to the Board.

Supervisor Rogers noted that in the past they did not make a formal motion with expectations and outcomes. It is crystal clear now what their intent and desires are.

Chairperson Oleson asked if they can put their ego's aside and get together to have a satisfactory process and satisfactory ending. Now is the time to not look at who gets the last word.

Ben Merta suggested that Mr. Garberson paint a line and they can start the back slope there.

Chairperson Oleson stated that they are having a survey crew do a survey. That is the motion, which is what they will do. After a proper survey is done, and one party or the other wants to go beyond that, then come back to the Board.

Supervisor Houser asked if Mr. Garberson had an idea where exactly the septic system was located and he responded that he does not. Just that it is in the front yard.

VOTE: All Aye

BOARD MEMBER REPORTS

Supervisor Rogers updated the Board on the MHDD Region's conference call noting that no action was taken as no consensus was achieved. He attended ECICOG and Compensation Board meeting. Spoke to a constituent regarding water; attended ARC and the first Accountability Subcommittee meeting. Went to Des Moines yesterday about Mental Health funding and publication costs. Will attend the Linn County and Cedar Rapids Conference Board meetings today and MHDD Region Governance Board meeting.

Supervisor Houser attended the Marion State of the City luncheon, Compensation Board meeting, NW Neighborhood meeting, Continuum of Care and went to Des Moines yesterday to lobby legislators.

Supervisor Harris attended the Compensation Board meeting, Hawkeye Downs Board meeting, ECICOG and Veteran Affairs Commission meeting.

Supervisor Walker attended the Accountability Subcommittee meeting, Dr. Percy Harris funeral, met with a constituent, Academy for Scholars and Personal Success and UCC Day at the Capitol. Will attend conference board meetings today. Will go to Des Moines tomorrow for ISAC meetings. He and Supervisor Rogers will be meeting with Cedar Rapids officials regarding economic development to benefit small businesses from the last flooding event.

LEGISLATIVE UPDATE: Supervisor Rogers stated that he and Supervisor Houser, Walker and Harris attended UCC day at the Capitol. The main message was removing the hard dollar cap on Mental Health funding. They also spoke about publishing costs.

Supervisor Walker asked why the Linn County Board of Supervisors was registered as undecided on the bill to expand justifiable use of force or "stand your ground".

Darrin Gage, Dir. of Policy & Admin., stated that they are registered undecided because of rules and procedures that govern lobbyists. They are monitoring the bill. He stated that if the Board gives direction to take a position, they can do that. Sometimes that is done by a formal vote or state legislative committee (two board members are on it).

Chairperson Oleson stated that he wants to hear from the county's lobbyists (Grant and Murphy) if they decide to take a position. He also stated that they need to ask the County Attorney, Sheriff and police chiefs to weigh in on the pros and cons.

When asked by Supervisor Houser why this legislation came about, Supervisor Walker stated that there was an off duty security guard that was the victim of a carjacking.

The case was heard in court and in the process he lost his job but he eventually was not found guilty of a crime. That instigated the stand your ground law. He stated that he told Mr. Grant this morning that this has risen to national prominence and he told Mr. Grant that Trayvon Martin is dead and the individual who prevented the carjacking is not. He stated that there is already something in the code that allows someone to defend themselves. This expands the use of deadly force. He encourages the Board and legislative committee to take a position first and then confirm with the other individuals later.

Chairperson Oleson reminded board members that any one of them at any time can put something on the agenda.

Motion by Oleson, seconded by Houser to approve payment to Supervisor Rogers in the amount of \$110.

VOTE: Oleson, Harris, Houser, Walker - Aye Rogers - Abstain

Motion by Rogers, seconded by Houser to approve Claims #70593608-#70593873 in the amt. of \$3,404,350.12; ACH in the amt. of \$1,293,835.81; ARC in the amt. of \$930.99 and the following claims that are over one year old: David Kesner - \$10.60, Shane Dodge - \$20, Tim Daubs - \$20, Michael Harris - \$20 and Taylor Buhmeyer - \$20.

Motion by Rogers, seconded by Houser to approve payment to Foundation II in the amt. of \$3,545.40 and \$30.

VOTE: Oleson, Rogers, Houser, Walker - Aye Harris - Abstain

Motion by Rogers, seconded by Harris to approve payment to Arlene Zahn-Houser in the amt. of \$1,225.00.

VOTE: Oleson, Rogers, Harris, Walker - Aye Houser - Abstain

The Board recessed at 10:48 a.m. and reconvened at 1:30 p.m. Supervisor Houser participated by phone. Also present: Steve Tucker, Finance Dir. and Dawn Jindrich, Budget Dir.

Jindrich stated that the Board approved offers on Monday. She stated that if the Board would give direction today regarding \$300,000 that could be used to adjust the levy rate or reallocate for another purpose, they could finalize the budget.

Chairperson Oleson stated that he would like to make some changes to the Economic Development Fund as well as the Capital Improvement Fund. He is also looking at a rural levy for flood protection (per the Code of Iowa). He is looking at it possibly raising \$26,000 per year. He wants to visit with Jon Gallagher and the Farm Bureau next Tuesday about the idea.

Tucker cautioned Supervisor Oleson's interpretation of the Code and asked that all of the board members be well versed in this before doing anything.

Supervisor Rogers left the meeting at this time to attend the MHDD Region meeting.

Supervisor Harris questioned why a farmer would be excited about funding island flood control and Chairperson Oleson clarified that it is intended for those who volunteer to be a part of a federal program to clean up water (buffer strips, etc.).

The Board agreed to discuss the budget on Monday and decide on Wednesday.

Adjournment at 1:41 p.m.

Respectfully submitted,

JOEL D. MILLER, Linn County Auditor
By: Rebecca Shoop, Deputy Auditor

Approved by:

BRENT OLESON, Chairperson
Board of Supervisors