

LINN COUNTY BOARD OF SUPERVISORS  
CEDAR RAPIDS, LINN COUNTY, IOWA  
WEDNESDAY, FEBRUARY 7, 2018 10:00 A.M.

The Board met in session at the Linn County Jean Oxley Public Service Center.  
Present: Chairperson Harris, Vice Chairperson Houser, Supervisors Rogers, Oleson and Walker (arriving at 10:16 a.m.). Board members voting "AYE" unless otherwise noted.

Chairperson Harris called the meeting to order and led the Pledge of Allegiance.

PUBLIC COMMENT:

Auditor Joel Miller stated that the Board is getting ready to approve several items on the agenda today regarding the Harris Building and he wanted them to answer questions that he has. He stated that during the May 22, 2017 board meeting, Dave Sorg, OPN, stated that the building was on target for LEED Gold and at an approximate cost of \$24 million. On January 3, 2018, according to meeting minutes, Sorg explained that the construction cost was \$21.45 million and then furniture, fixtures, equipment had to be added into the total project. The contingency for construction is 2.5% for unknowns. The Board approved the issuance of Certificates of Participation for \$31.5 million. It appears that the Board has selected Rinderknecht for \$31.1 million so he would like to understand (and the public understand) what the difference is between the \$24 million and the \$21 million cost and also would like to have the Board explain the \$1.3 million of imbedded costs that have already been paid prior to the commitment of \$31.5 million. Is that included or is it to be added in and what other additional costs can they expect outside of the \$31.5 million. Is the difference between \$24 million and \$31 million for fixtures and everything else? Miller asked the Board to please explain and answer those questions, his final request is to scrap this, start over with the competitive bid process, and do it right.

Motion by Harris, seconded by Rogers to move the Purchase Order with Woodcrafters from the Consent Agenda to the Regular agenda.

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

Approve Board of Supervisors Policy OP-013 Revision #6, Fugitive Dust Control.

Authorize Chair to sign a Claim for Reimbursement of State Grant Program (RISE, RT) Project Costs and all future associated payment documentation regarding the RISE grant.

Authorize Chair to sign Amendment #19 to Iowa Economic Development Authority Community Development Block Grant (CDBG) Contract #08-DRH-205, extending the contract end date to December 31, 2018.

Authorize Chair, to electronically sign Amendment 5 of Contract #5888HC08 between the Iowa Department of Public Health and Linn County Community Services/Ryan White Program authorizing an additional \$23,909.00 in funding for contract year April 1, 2017 - March 31, 2018 increasing the contract total to \$487,725.00.

Approve and authorize Supervisor John Harris to sign a letter of support, retroactive to January 30, 2018, for the Linn County Soil Conservation Department's Indian Creek Soil Health Partnership proposal for a USDA Natural Resources Conservation District's Iowa Partners for Conservation grant

Approve and authorize Chair to sign a City of Cedar Rapids Public Encroachment Application for a request to encroach into public-right-of-way for retaining walls included in the Harris Building project

Authorize Chair to sign a purchase order for 2 - 2018 GMC Sierra 1500 pickups from Karl Chevrolet for a total amount of \$54,724.84. These pickups are being purchased off the Iowa Department of Administrative Services Contract for the Secondary Road Department.

Authorize Chair to sign a purchase order for a 2018 Ford Explorer from Stivers Ford Lincoln in the amount of \$26,500.00. This is being purchased off the Iowa Department of Administrative Services Contract for the Secondary Road Department.

Motion by Rogers, seconded by Houser to approve minutes of January 31, February 2 & 5, 2018 as printed.

Garth Fagerbakke, Facilities Mgr., explained the purchase order in the amount of \$5,390.00 to Woodcrafters Inc. for wall guards for the restrooms. He explained that these are hard surface panels to be placed behind hand dryers in all restrooms in the Public Service Center (makes wall surface more sanitary and easier to clean). Woodcrafters is the same company that put the original counters in the building so they have access to the material. That is their logic for working with Woodcrafters, hence the single source.

Motion by Rogers, seconded by Houser to approve Purchase Order #5435 in the amount of \$5,390.00 to Woodcrafters Inc. for wall guards for restrooms.

Motion by Houser, seconded by Rogers to set date for public hearing on vacating excess right-of-way on Perring Ridge Road and conveying the excess right-of-way to Douglas L and Norma J Schmidt for Monday February 19, 2017 at 9:00 a.m.

Motion by Houser, seconded by Rogers to adopt Resolution 2018-2-17

WHEREAS, the Board of Supervisors, Linn County, Iowa, is empowered under authority of §331.361, Code of Iowa, to dispose of the interest of Linn County, Iowa, in real property, and

WHEREAS, the Board of Supervisors, Linn County, Iowa, has vacated portions of right-of-way described as:

LEGAL DESCRIPTION

Part of the Southwest quarter of the Southwest fractional quarter, Section 5, Township 86 North, Range 6 West of the Fifth

Principal Meridian, Linn County, Iowa, and more particularly described as follows:

Commencing at the Southwest corner of Section 5, Township 86, Range 6;

Thence N88°35'25"E 1308.4 feet along the South line of said Section 5;

Thence N01°24'35"W 461.52 feet;

Thence S88°35'25"W 40.00 feet to the point of beginning;

Thence S88°35'25"W 20.00 feet

Thence N01°24'35"W 150.21 feet;

Thence N88°35'25"E 20.00 feet;

Thence S01°24'35"E 150.21 feet to the point of beginning;

Containing 0.069 acres to be vacated from 0.207 acres of existing Linn County Right-Of-Way. Basis of bearing is NAD83 Iowa State Plane North.

and

WHEREAS, Douglas L and Norma J Schmidt, owner of real property adjacent to the above described parcel of vacated right-of-way desire to obtain whatever interest Linn County may have in the above described parcel of vacated right-of-way.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors, Linn County, Iowa, this date met in lawful session that a public hearing shall be held for the purpose of determining whether Linn County, Iowa, will convey to Douglas L and Norma J Schmidt, whatever interest Linn County, Iowa, may have in the above described parcel of vacated right-of-way.

BE IT FURTHER RESOLVED that said hearing shall be held on the 26th day of February, 2018, at 9 o'clock, in the Informal Board Room on the lower level of the Jean Oxley Linn County Public Service Center, 935 2nd St SW, Cedar Rapids, Iowa, for the above stated purpose and that notice of the time and place of said public hearing shall be published in accordance with §331.305, Code of Iowa.

Dated at Cedar Rapids, Linn County, Iowa, this 7th day of February, 2018.

Motion by Rogers, seconded by Houser to approve upon third and final consideration Ordinance #2-2-2018 rezoning case JR18-0002, request to rezone property located in the 4400 block of East Post Road, SE SE 13-83-7, from USR (Urban Services Residential) district to AG (Agricultural) district, approximately 1.43 acres, TPC Development, property owner; Linn County Planning & Development, petitioner.

Joi Alexander, Communications Dir., followed up on her discussion with the Board on Monday regarding Linn County's \$5,000 sponsorship for the Flood Anniversary Event.

Supervisor Houser stated that he received confirmation that Building and Trades are agreeable to being a co-sponsor with Linn County and asked Alexander to contact them regarding the details.

Supervisor Oleson reiterated his thoughts from Monday regarding why this co-sponsorship is a great partnership and recognizes those that were involved in the 2008 flood.

Motion by Oleson, seconded by Rogers to form a partnership with Building and Trades for the Flood Anniversary Event and approve the cost.

Vote: Oleson, Rogers, Houser - Aye    Harris - Nay

Motion by Rogers, seconded by Houser to direct Planning & Zoning staff to consult the City of Marion and prepare a voluntary annexation request for Squaw Creek Park and adjacent property owned by Linn County.

Discussion: Chairperson Harris stated that he is agreeable with this with the understanding that the final decision is made by the Board of Supervisors.

VOTE: All Aye

At this time the Board considered a resolution approving a Purchase Agreement, a Ground Lease, a Ground Sublease, a Lease Purchase Agreement, a Trust Agreement and a Certificate Purchase Agreement and related documents relating to the construction and acquisition of the Dr. Percy and Lileah Harris Building Project.

Darrin Gage, Dir. of Policy & Admin., stated that at Monday's meeting, the Board made a preliminary decision to proceed with Rinderknecht Associates and directed value engineering to be brought back to the Board with a proposal. He stated that staff, OPN and Rinderknecht identified 60 items that can be adjusted to bring the price down on the building. The construction contract would be in the amount of \$28,737,000 which

does not include the \$1 million in contingency fees, the \$1.6 million of direct Linn County costs, public art, furniture, fixtures and equipment. The total project is not to exceed \$31,362,000.00. Gage explained that Rinderknecht is comfortable with that amount and will deliver a building at that cost. Gage will return to the Board in six weeks with the specific changes to the building.

Motion by Oleson, seconded by Houser to adopt Resolution 2018-2-18 approving a contractor and providing for and approving a Purchase Agreement, a Ground Lease, a Ground Sublease, a Lease Purchase Agreement, a Trust Agreement and a Certificate Purchase Agreement and related documents relating to the construction and acquisition of the Dr. Percy and Lileah Harris Building Project.

WHEREAS, the City Council of the City of Cedar Rapids, Iowa (the "City"), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of Code of Iowa, has established the Consolidated Central Urban Renewal Area (the "Urban Renewal Area") within the City and has adopted an Urban Renewal Plan for the Urban Renewal Area, which Urban Renewal Plan has been amended from time to time by the City, including by Amendment No. 8, at the request of Linn County (the "County"), to identify the undertaking by the County of the Dr. Percy and Lileah Harris Building Project (hereinafter defined) as an "urban renewal project" under the Urban Renewal Plan; and

WHEREAS, pursuant to the provisions of Chapters 331 and 403 of the Code of Iowa, the County proposed to enter into a General Obligation Urban Renewal Lease Purchase Agreement (the "Lease Purchase Agreement") in a principal amount not to exceed \$31,500,000, for the purpose of paying the cost, to that extent, of an urban renewal project within the Urban Renewal Area consisting of the acquisition, construction, improving, furnishing and equipping of a building to house the Linn County Public Health and Linn County Child and Youth Development Services (the "Dr. Percy and Lileah Harris Building Project" or the "Project"); and

WHEREAS, the County has instituted proceedings to enter into the Lease Purchase Agreement under the provisions of Sections 331.301, 331.441, subsection 2.b.(14) and 331.442, subsection 5 of the Code of Iowa, by causing a notice of such proposal to be published setting January 3, 2018 at 10:00 o'clock a.m. at the Linn County Jean Oxley Public Service Center as the time and place at which the County Board of Supervisors would meet to institute proceedings and take action for authorizing and entering into the Lease Purchase Agreement, including notice of the right to petition for an election; and

WHEREAS, such hearing was held at such time and place and no petition has been filed with the County asking that the question of entering into the Lease Purchase Agreement be submitted to the registered voters of the County.

WHEREAS, subsequent to such hearing, the County determined to proceed with the Lease Purchase Agreement for the acquisition of the Project and to select a contractor through a RFP process and it is the best interest of the County to select Rinderknecht Associates, Inc. (the "Contractor") to construct the Project and to authorize and approve the following documents (among others) (the "Project Documents"):

- a. Ground Lease (the "Ground Lease") between the County and Bankers Trust Company (the "Trustee") providing for the lease of the Site to the Trustee for a term of approximately fifty years;
- b. Lease Purchase Agreement between the County and the Trustee pursuant to which the Trustee appointed the County as its agent to acquire the Project and the County will lease the Project from the Trustee;
- c. Trust Agreement (the "Trust Agreement") between the County and the Trustee pursuant to which the Trustee will provide for the issuance of Certificates of Participation Evidencing an Ownership Interest in Base Lease Payments Pursuant to a Lease Purchase Agreement (the "Certificates of Participation") to provide funds to finance the Project;
- d. Ground Sublease (the "Ground Sublease") between the Trustee and the Contractor, consented to by the County, providing for the subleasing of the Site by the Trustee to the Contractor to facilitate the construction of the Project and a method to secure construction period financing for the Project;
- e. Purchase Agreement (the "Purchase Agreement") between the Contractor and the County (as agent for the Trustee) providing for the purchase of the Project from the Contractor;
- f. Certificates Purchase Agreement between the County and Robert W. Baird & Co. (the "Underwriter") providing for the sale of the Certificates of Participation by the Underwriter;

NOW, THEREFORE, It Is Resolved by the Board of Supervisors of Linn County, Iowa, as follows:

Section 1. The Board hereby determines that it is within the best interests of the County to enter into the Project Documents and approve the aforementioned arrangement to provide for the construction of the Project and the acquisition thereof by the County and to authorize and approve the Project Documents.

Section 2. The lease of the Site to the Trustee for subleasing to the Contractor to facilitate the construction of the Project, the construction of the Project by the Contractor, the issuance of the Certificates of Participation in an amount not to exceed \$31,500,000 pursuant to the Trust Agreement and the sale thereof to the Underwriter to finance the acquisition of the Project, the acquisition by the County of the Project pursuant to the Lease Purchase Agreement, all as provided in the Project Documents are hereby approved, and the Chairperson of the Board is hereby authorized and directed, with advice from the County Attorney and Bond Counsel to the County, to cause the finalization of the Project Documents and the preparation of such additional documents as may be necessary to carry out the foregoing. The Chairperson

of the Board of Supervisors and County Auditor hereby authorized and directed to execute the Project Documents and such documents as may be necessary to carry out the foregoing and the intent and purpose of the Project Documents and this Resolution. Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Discussion: Supervisor Rogers asked if they wanted to address any of the questions regarding the price. He knows that there was discussion about them trying to hit a certain construction period that they did not meet so did the cost of materials change or was there an impact when they missed a construction season. They had a cost estimate of \$26 million but the proposals were submitted in the \$30 million range. That number was also stated by another contractor that did not submit a proposal so based on that, this is the true cost to build a building like this.

Supervisor Oleson stated that this has been a two-year long process and there are those who have nothing to do with it that come in at the last minute and throw stones. This process is akin to what they did after the flood. They wanted to have collaboration and partnerships with how major public works are constructed in Linn County. They hear all of the "sky is falling" arguments when they didn't go to the formula computer program that spit out who they were to work with. None of them came to fruition because they did their due diligence and really dug deep into how the project would be constructed. They spent quite a bit of time engineering up plans for how the building would be constructed because they had multiple meetings with all of the employees that will work in the building to see what the most efficient building would be to carry out their duties based on what the public expects.

At this time, Supervisor Walker entered the meeting.

When they engineer up something (and it is always in partnership with the actual contractor with years of experience of a similar size) and say here is what you want to accomplish globally and here are some ways on how to provide savings but still accomplish what they want through programming. Now that process has started and they are signing today a comprehensive agreement with the top parameters. That is why he is a stickler when uses the word "bid". It is not a bid. These are top line parameters. This is a company that has been in Linn County for 138 Years, owned by employees, as well as the subs that are part of the community and are accountable. Oleson continued to say that he is very confident about this project and he heard similar comments when they were doing Project Labor Agreements (PLA), which have now been banned. Now they have a different way, Lease Purchase Agreement (LPA). PLA's were good and no bad things happened. He enthusiastically supports this and he believes that it will save them a lot more money than having Change Order after Change Order. They have a trust relationship with a company that has built quite a bit in Cedar Rapids and Linn County. He has every confidence they will do right by the taxpayers; they will work through issues and have a very good product they can be proud of.

Chairperson Harris stated that he will not vote for this motion and everyone knows his concerns, costs and schedule.

VOTE: Houser, Rogers, Oleson & Walker - Aye                      Harris - Nay

BOARD MEMBER REPORTS - Supervisor Houser attended the statewide county supervisor meeting in Des Moines; joint meeting with Cedar Rapids City Council and joint meeting with the Farm Bureau; met with OPN.

Supervisor Walker will be attending the Economic Alliance Annual Meeting.

Supervisor Rogers attended the MHDD Regional Governance Board meeting and Advisory Committee Meeting; he participated by phone in the City and County Assessor Conference Board meetings; joint meeting with Cedar Rapids City Council and joint meeting with the Farm Bureau; met with OPN and met with Lois Buntz of NewBoCo.

Motion by Houser, seconded by Rogers to approve ACH in the amt. of \$1,254,779.57 and Claims #70600481-#70600729 in the amt. of \$730,829.67.

PUBLIC COMMENT:

Auditor Miller stated that he wanted to clarify the Harris Building numbers - cost of construction is \$28,737,000 and the total project is \$31,362,000. He wanted to also clarify that his comments are not about whether Dave Sorg or OPN did anything wrong or if there is anything wrong with Rinderknecht. Rinderknecht remodeled the church he goes to and did a fine job. This is not about OPN, Dave Sorg or Rinderknecht, this is about the process. Supervisor Oleson continues to compare the Lease Purchase Agreement to a Project Labor Agreement which is inappropriate. He is jostling with the wrong enemy on this. Oleson makes a lot of superfluous comments that blow a lot of smoke. The fact is that 2 years ago (which the Board referenced repeatedly); one of them was in the paper saying that this project was \$10 million in January 2016. Supervisor Oleson said in March last year it was a \$20 million project, and it is on tape. What happened between \$20 million and \$31 million? That is not inflation. That is somebody selling the taxpayers a book of goods or "bait and switch". He does not doubt the professionals on the cost but what he doubts is how it was sold to the public. It got escalated higher and is where they are today. The Board has misled the public on this

and now they are covering their tracks on it by doing something that they have no experience doing. They are relying on attorneys from Des Moines, not local attorneys, not civil attorneys in the County Attorney's Office. The Board went to someone else because they do not have expertise in Linn County to handle these issues and he knows Dorsey & Whitney are among the best in providing advice on bond issues, etc. This is a bait and switch, this is the wrong way to do this, this is about process and they are using the wrong process. They have slighted 30 general contractors in the corridor by what they have done, that is not the free market, and that is not the market or market place we should be promoting in Linn County by a government body called the Linn County Board of Supervisors.

Brent Oleson, Supervisor, stated that when he hears words like "misled" or "bait and switch", the Board has been through this with the Auditor over the last eight years. It was not long ago at the end of the flood recovery projects that they were hearing those same words questioning their integrity because they would not go buy the Westdale Mall. That was the bright idea of the Auditor back then. He had petitions circulating in the mall where they set up shop after the flood. Oleson stated that he drives by that now and in his mind is a taxpayer boondoggle that would have been for them if they would have been sucked into that somewhat popular argument. If anyone did any amount of homework, they would have realized the monumental waste of time and money and they did spend \$40,000 to prove that point. Anyone could have told them it was a bad, bad idea. He takes this kind of questioning of his integrity that happens all the time with the Auditor and when he hears these ideas that come in at the last second, he just remembers Westdale Mall.

The Board recessed at 10:30 a.m. and reconvened at 1:30 p.m. to review the FY 19 Offers.

Dawn Jindrich, Budget Dir., presented the Offers that received three or more votes from individual board members that totals \$1,386,545. She stated that this is less than the maximum possible (\$2 million) and they will still have a 60 cents per thousand decrease in the county levy because of the Mental Health levy. She stated that from a financial perspective, the \$1.4 million is ok and she would be comfortable with that number. She continued to say that the Offer from Secondary Roads is not in competition with the general fund offers and there are four vehicle requests that the Board will need to approve.

Supervisor Walker stated that there is a Public Health Offer (Injury & Violence Prevention Coord.) that only received two votes that he would like to discuss.

Jindrich stated that the Offer is in the amount of \$85,990 and would be ongoing.

Walker pleaded for the Board's reconsideration of that Offer.

Supervisor Rogers also stated that he will meet with each Supervisor individually about the Mental Health Access Center that he has been updating them on periodically. This is however, separate from the Offer discussion.

The Board agreed to meet again on Friday at 1:30 p.m. to finalize the Offers.

Motion by Houser, seconded by Oleson to go no higher than \$1,386,545 for the Offer pot.

Discussion: Supervisor Walker cautioned the Board to walk carefully regarding the Offers, as it is foolish to place an arbitrary number for the Offers before Friday. That would not be a wise approach to policy.

Supervisor Oleson stated that he seconded the motion for discussion and he will consider Supervisor Walker's plea and will not support this vote. However, come Friday, if they are adding Offers and not subtracting Offers at the same time, this number is as high as he is willing to go. If they add something, then they need to find something else to cut.

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

Adjournment at 2:00 p.m.

Respectfully submitted,

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

Approved by:

JOHN HARRIS, Chairperson  
Board of Supervisors