

August 15, 2017

The Board of Supervisors of Shelby County, Iowa, met pursuant to law and rules of said board in regular session at 9:00 A.M. in the Supervisors Chambers of the Shelby County Courthouse with the following members present: Steve Kenkel, Chairman; Charles Parkhurst; Vice-Chairman, Roger Schmitz and Mark Maxwell, Clerk. The Chair asked that any Conflict of Interest be stated concerning any item on the agenda. No conflicts were stated.

A motion was made to approve the agenda by, Parkhurst seconded by Schmitz with no additions to the agenda AYES: Unanimous NAYES: None

A motion was made by Schmitz, and a second by Parkhurst, to approve the Minutes of August 1st, 2017, as presented AYES: Unanimous NAYES: None

It was moved by Parkhurst, seconded by Schmitz, to approve the Claims now submitted, as listed in the Claims Register. AYES: Unanimous NAYES: None

Steve Kenkel, voting delegate for the Southwest Iowa Mental Health Regional planning board, then notified the board that their August 7<sup>th</sup> meeting was cancelled for lack of a quorum. The next meeting will be September 5<sup>th</sup>.

Todd Valline then updated the board with the Chambers current activities containing the following highlights the Inland Sea project is planning to start construction in August or September of 2018, at a site yet to be determined. Daria Ramos has been appointed the new Chamber of Commerce representative on the Hotel Motel Tax Committee. The façade work in downtown Harlan is continuing, the board gave their approval to placing grant required signage to be placed on County property pertaining to the façade improvements.

John McCurdy Southwest Iowa Housing addressed the board updating the board with The Southwest Iowa Housing Trust Fund and Southwest Iowa Transit Authority. McCurdy said the \$40.00 summer SWITA transportation pass was popular and looks for bigger usage next year.

The Board then re-affirmed that Charlie Parkhurst is the delegate to the Golden Hills Resource Conservation & Development and that Steve Kenkel is the alternate delegate. This being noted in the minutes for the Golden Hills Resource Committee records. Ayes in favor of affirmation Unanimous NAYES: None

Bob Mortensen addressed the board concerning a TAP grant, he asked for the approval of the Board via resolution. A motion was made by Parkhurst and seconded by Schmitz to approve the following resolution

RESOLUTION NO. 2107-24  
TAP GRANT APPLICATION

RESOLUTION 2017-24 TO SUPPORT THE SHELBY COUNTY TRAILS BOARD/  
TRANSPORTATION ALTERNATIVES SET-ASIDE PROGRAM

WHEREAS, the Shelby County Trails Board has identified the need for a comprehensive recreational trails system, and, has moved forward with the development of a plan, to create a trails system, throughout Shelby County, and

WHEREAS, the Shelby County Trails Board has applied for TAP funds to construct the first portion of a multiuse trail between Panama and Portsmouth Iowa, which, will provide a safe, alternative route for use by Shelby County and Iowa's citizens and

WHEREAS, the Shelby County Trail Board is committed to providing the 20% matching funds for the project, and assistance in cooperation with the Shelby County Conservation Board, and local volunteers to maintain the trail for its expected life of at least 20 years, and

WHEREAS, the Shelby County Trails Board is seeking to partner with the Shelby County Board of Supervisors to support the TAP application, by providing matching funds, which will be 100% reimbursable, through the TAP grant program, or other such funds as the Shelby County Trails Board may acquire toward the purpose of the trails completion.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE SHELBY COUNTY BOARD OF SUPERVISORS

To endorse the Shelby County Trails Board TAP application, and to provide funds necessary to complete the construction and completion of the trail, in so far, as those funds are 100% reimbursable through the TAP grant program, or other such funds as the Shelby County Trails Board may acquire toward the purpose of the trails completion.

A vote was taken and the resolution numbered 2017-24 was passed with Schmitz, Kenkel and Parkhurst voting in favor of the commitment from Shelby County this resolution requires. No NAY votes were cast.

A motion was made by Parkhurst and a second by Schmitz to approve the following resolution as presented by Bob Seivert:

RESOLUTION NO. 2017-25

GRANT APPLICATION FOR THE GIS DEPARTMENT

WHEREAS, the Board of Supervisors endorses the efforts of Bob Seivert to apply for a grant that will assist in the costs of running the GIS Department. AYES: Unanimous NAYES: None

The chair then recessed the regular meeting and opened the hearing for the following:

PROPOSED DISPOSAL OF COUNTY INTEREST IN REAL ESTATE AND HEARING PUBLICATION

WHEREAS, the Board of Supervisors wishes to dispose of County interest in the following described real estate:

Legal Description for 2 Parcels numbered 831008402000 & 831008401001

All that part of the Northwest Quarter of the Southeast Quarter of Section 8, Township 79 North, Range 38 West of the 5<sup>th</sup> P.M., Shelby County, Iowa, lying South and East of the right-of-way of the Chicago and Northwestern Railway Company, excepting therefrom the following described tract: Beginning at a point 508.3 feet West of the Southeast corner of said 40 acre tract, running thence at an angle of 30° S a distance of 388.5 feet, thence turn an angle to the left 33°18'30" and run a distance of 92.8 feet to a point on the Easterly right-of-way of said Chicago and Northwestern Railway, thence Southwesterly along said Easterly right-of-way line a distance of 244.4 feet to the South line of said 40 acre tract, running thence East along the South line of said 40 acre tract a distance of 583.4 feet to the place of beginning and except part lying South and East of Drainage Ditch #11.

WHEREAS, disposal of the County's interest in this real estate would be by Quit Claim Deed according to County Policy; and

WHEREAS, Iowa Code Section 331.361(2) requires a public hearing on disposal of an interest in real estate;

NOW THEREFORE BE IT RESOLVED that a public hearing on this proposed disposal of County interest in real estate is set for August 15th, 2017, at 9:10 a.m. in the Supervisors Chambers in the Shelby County Courthouse, and the Shelby County Auditor is directed to publish the notice of hearing. This notice being approved by the Board of Supervisors with the addition that immediately after the public hearing and with no objections the property will be disposed of by Auction at the same meeting. Bidding will start at \$34,000.00

After hearing no objections from the public the hearing was then closed. The regular meeting was reopened and bids were accepted by the board with the high bid of \$ 34,000.00 by Kim and Scott Burchett. Marcus Gross, Shelby County Attorney was charged with the completion of the paperwork and the 10% down payment was received the balance will be due at closing.

Shelby County Auditor Mark Maxwell then asked the board for approval to transfer funds for fiscal year 17 of \$200,000 from rural basic for uniformed patrol. A motion was made by Parkhurst and a second by Schmitz preceded a unanimous vote in favor of allowing the transfer.

A vote was taken with these results: AYES: Schmitz, Kenkel, Parkhurst. NAYS: None

Chairman Kenkel then recessed the regular session and opened a hearing citing that: Now being the time for the public hearing on the First Reading of Shelby County Ordinance No. 2017-3, Code of Ordinances in Effect for Shelby County, the Chairman did open the hearing. Sheriff Neil Gross addressed the board stating some details and purpose of the ordinance a few being identification of the vehicle and insurance for the vehicle. There were no protests either written or oral received from the public or reported by the County officers present. It was moved by Schmitz, seconded by Parkhurst, to close the hearing, to suspend future readings, and to adopt the following Ordinance by resolution:

RESOLUTION 2017-26 ENTRY RECORD OF THE FILING AND CONSIDERATION OF  
ORDINANCE NO. 2017-3 AS DESCRIBED BELOW

The purpose of this Ordinance is an ordinance to designate that portion of the highways upon which off-road vehicles may be operated during a specified period, and to establish regulations of such operation. This would exempt vehicles covered under Iowa Code Section 321I.9(3)

The ordinance reads as follows:

WHEREAS the County Board of Supervisors has evaluated the traffic conditions on all County highways and designated roadways and has determined that Off-Road Utility Vehicles can be operated without unduly interfering with or constituting an undue hazard to conventional motor vehicle traffic, and;

WHEREAS, pursuant to Iowa Code Section 321I.10, the County may permit operation of said vehicles on the roadways of that portion of county highways designated by the County Board of Supervisors for use during a specified period, and;

WHEREAS, the operation of said vehicle would be regulated under Iowa Code Chapters 321I, 321.20B, 321A.21, and other applicable provisions of Iowa law;

NOW, THEREFORE, be it resolved by the County Board of Supervisors of Shelby County, Iowa, that the following regulations are hereby adopted regarding operation of Off-Road Utility Vehicles on county highways within Shelby County:

.01 Purposes

- .02 Definitions
- .03 Operation and Roadways
- .04 Restrictions
- .05 Identification Stickers
- .06 Exempt Vehicles
- .07 Penalties

Section .01, Purpose: The purpose of this Resolution is to designate that portion of county highways upon which Off-Road Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

Section .02, Definitions:

- (1) "Off-Road Utility Vehicle", as defined in Iowa Code Section 321I.1, means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- (2) "Roadway", as defined in Iowa Code Section 321I.1, means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

Section .03, Operation on Roadways: A registered Off-Road Utility Vehicle may be operated on any Shelby County, Iowa, roadway, such operation limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation, and such operation further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

Section .04, Unlawful Operations:

- (1) A person shall not drive or operate an Off-Road Utility Vehicle:
  - a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
  - b. In a carless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
  - c. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
  - d. Without a lighted headlight and taillight at such times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred feet ahead.
  - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - f. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for person, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of person, property, or the environment.
  - g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of

construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.

- h. Upon an operating railroad right-of-way. An Off-Road Utility Vehicle may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officers or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.
- (2) A person shall not operate or ride in an Off-road Utility Vehicle with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded forearm while operating or riding in an Off-Road Utility Vehicle.
- (3) A person shall not operate an Off-Road Utility Vehicle:
  - a. With more persons on the vehicle than it was designated to carry.
  - b. Paragraph "a" does not apply to a person who operates an Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code Section 352.2.
- (4) A person shall not operate an Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to Off-Road Utility Vehicle operation.
- (5) A person shall not operate a vehicle other than an Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to such other use.
- (6) A person shall not operate an Off-Road Utility Vehicle unless the operator is 18 year of age or older and has a valid Iowa Driver's License; unless the vehicle is duly registered; and unless the operator has proof of insurance complying with that required of the operator of a motor vehicle pursuant to applicable Iowa Statutes, Rules, and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

Section .05, Identification Stickers: Individuals who operate an Off-Road Utility Vehicle on the roadways of Shelby County must obtain an identification sticker from the office of the Shelby County Recorder. The following conditions apply:

- (1) The owner of each Off-Road Utility Vehicle shall be required to provide proof of ownership including but not limited to bill of sale, registration, and other documentation as may be accepted by the Recorder.
- (2) Each applicant for an identification sticker must provide proof that the vehicle is properly registered pursuant to Iowa Code Section 321I.3 and DNR regulations.
- (3) Each applicant for an identification plate must pay a fee in the amount of \$25.00
- (4) Identification Stickers shall be affixed to the right-rear portion of all Off-Road Utility Vehicles in such a manner as to be clearly visible.

Section .06, Exempt Vehicles: Registration shall not be required for vehicles exempted under Iowa Code Section 321I.9(3).

Section .07, Penalties: Violation of this Ordinance shall constitutes a SIMPLE MISDEMEANOR punishable by a minimum fine of \$65.00, a maximum fine of \$625.00, plus applicable surcharges and court costs, and/or up to thirty (30) days in jail.

Section .08, Effective Date:

This ordinance shall become effective on September 1, 2017. The Chairperson put the vote on the motion made and, the following named Supervisors voted: AYES: Schmitz, Kenkel, Parkhurst Nays: None.

Whereupon, the Chairperson declared the motion duly carried and declared that said ordinance had been given its final consideration.

The Supervisors then officially approved the hiring of Brandon Burmeister as the new Shelby County Engineer. A motion by Supervisor Schmitz and a second by Supervisor Parkhurst was made to make the new County Engineers contract effective starting November 16<sup>th</sup>, 2016. A vote was taken with Kenkel, Parkhurst and Schmitz all casting aye votes making the vote unanimous in the affirmative.

The secondary road report by Dan Ahart gave an update on current secondary roads projects, which included the following review and following motion by Parkhurst and a second by Schmitz to approve Culvert Replacement project BRS-CO83(69) - - 60-83 ,Center 30, Linden Road south of Harlan. This vote was unanimous in favor of proceeding with the project. Ahart also noted that patching projects are finishing up and pavement marking needing to be done. The Nielsen bridge project is about back on original schedule. The County Engineer reported that the availability of an additional source of road aggregate is proceeding. This material would be railed to Atlantic. Prior to any commitments a trial amount will be purchased and evaluated for quality and performance. The results will be followed closely by the County Engineer.

There being no further business appearing, the Chairman declared the meeting adjourned at 9:39 A.M.

---

Steve Kenkel, Chairman

ATTEST:

---

Mark Maxwell  
Clerk to the Board of Supervisors

Note: These minutes are subject to approval at the next Board of Supervisors meeting.