

Floyd County Board of Supervisors Meeting
June 19, 2023, 1:00 p.m.

The Floyd County Board of Supervisors met at Floyd County Courthouse EOC/Training Room with the following in attendance: Supv Mark Kuhn, Supv Dennis Keifer and Supv Jim Jorgensen.

Jorgensen/Keifer moved to approve the agenda as presented. Motion carried 3-0.

Public comment: none.

Keifer/Jorgensen moved to approve the June 12, 2023 minutes. Motion carried 3-0.

Jorgensen/Keifer moved to approve the claims presented: County 2900-2978, Secondary Roads #23019-23029 and Drains #15379-15381. Motion carried 3-0.

Updates on various boards/commissions/activities: Supv Keifer attended Owner-Architect-Contractor meeting and participated in the 2-day project punch list walk through. Supv Jorgensen had several conversations regarding ambulance and dispatch topics. All three supervisors attended the Zoning Commission pipeline workshop meeting.

Updates on Law Enforcement Center/Courthouse Project: Prochaska has provided some of the punch list items; work was supposed to start on Wednesday for the west property line but hasn't started yet; the Board will need to do a budget amendment in early FY24 due to project expenses that have not been paid in FY23.

Keifer/Jorgensen moved to pay the Dean Snyder Construction invoice for 3rd and 4th floor existing wall repairs of \$59,521.00 out of American Rescue Act Plan funds. Motion carried 3-0.

Keifer/Jorgensen moved to approve the engagement of Northland Securities as underwriter for bonding of 911 equipment and towers project. Motion carried 3-0. Heidi Kuhl, Northland Securities representative, suggested using a not to exceed \$5.1 million for the public hearing notice; John Danos, Dorsey-Whitney attorney, will prepare the hearing notice. Ben Chatfield, 911 board representative, suggested the hearing be held in the evening.

Jorgensen/Keifer moved to approve the Nora Springs Volunteer Ambulance Services contract. Motion carried 3-0.

Jorgensen/Keifer moved to table the Foster Grandparents request for \$2,500 for FY23 until the next board meeting where a contract for services would be available. Motion carried 3-0.

Auditor Carr reported one sealed bid for audit services was received from Gardiner & Company and a denial letter from the State Auditor's Office. Jorgensen/Keifer moved to accept the Gardiner & Company bid for auditing services for FY23 for \$35,000, FY24 for \$38,350 and FY25 for \$41,425 and FMC Empowerment for \$1,650, \$1,785 and \$1,930 for FY23, FY24, and FY25 respectively. Motion carried 3-0.

Keifer/Jorgensen moved to change the two Assistants to the Engineer status from exempt to non-exempt hourly employees in accordance to the Fair Labor Standards Act. Motion carried 3-0.

The Board discussed June 30 terms expiring for appointments to the Conservation Board and Veteran Affairs Commission. Supv Jorgensen will follow up with Adam Sears, Conservation Director, on re-appointing Doug Johnson or considering Roy Schwickerath's application. Keifer/Jorgensen moved to reappoint Robert Mondt and April Banks to another 3-year term to the Veteran Affairs Commission. Motion carried 3-0.

The Board discussed not having a board meeting on July 3. Consensus was to not have a meeting and, therefore, no claims will be paid that day.

The Board noted a pay increase from \$19 to \$20/hour for Jailers Matt Bouillon and Eliza Fields effective June 10, 2023 following completion of the required 40-hour jail school. The Board also noted a 5% pay increase for Jason Webster, Emergency Management/Safety Coordinator, following a 6-month probationary period, retroactive to April 10.

At 2:05 p.m. the Drainage District #3 Annexation hearing opened. Tyler Conley, Bolton & Menk Project Engineer, provided an overview of the maps identifying the district area and facilities and state data used to determine the schedule of calculations for the report of annexation, a report of who is to be benefit from the facility and Commissioner's Reclassification Report determines the degree of benefit. Auditor Carr mentioned comments received prior to the hearing: 1) Jerry and Kathy Guenther who had received a notice last year as potential being

annexed in the district but Carr confirmed they were not in the annexation report, and 2) receipt of tile information from Richard Anderson, Anderson Living Trust, and Tony and Brandon Wood, Anderson's tenants, who believe 13.78 acres proposed for annexation should not be in the district which Conley confirmed private tile maps show the Anderson acres have been removed as well as a reduction in degree of benefit for Merlyn Schweizer's property as provided by tile maps. Bob Goodwin, Goodwin Law Office attorney, mentioned 1987 legislature passed a statute that there is no remonstrance in regard to annexation; Conley informed that a remonstrance is objections by a majority of landowners by count and who own 70% of the land can stop a process, mostly pertaining to improvement projects which increase the facility capacity. The amount of acres looking to annex is 26.26 as denoted in the pink areas on the maps and total watershed area is 8,900.74 acres as defined in the red lines on the maps as the watershed boundary. Supv Keifer and Merlyn Schweizer, commented on the increase in total acres Conley reported today compared to two times in the past; Conley responded that his preliminary numbers reported were guidelines until the final report comes out and old information does not clearly show the original 40-acre tracts, where watershed lines fell, what interior areas may have been left out, all being lost history which is another reason the old schedule was deemed to be inequitable. Conley confirmed the new annexation schedule provided today reflects the changes to the Anderson and Schweizer property. Jorgensen/Keifer moved to close the hearing Motion carried 3-0. The hearing closed at 2:28 p.m. Jorgensen/Keifer moved to approve the Drainage District #3 Annexation report provided today. Motion carried 3-0.

At 2:34 p.m. Keifer/Jorgensen moved to open the Drainage District #3 Reclassification hearing. Motion carried 3-0. Conley provided information reviewed by Commissioners Ben Rottinghaus, Jim Howe, and Conley, using the acres in the facility, drainage on soil types, proximity distance of facility to the outlet, the portion of cost of the facility usage to the total cost, runoff factors, area tiled into or out of the district, and various maps calculating each factor to develop the Commissioner's Report: Reclassification of Benefits. Merlyn Schweizer questioned if circles around lateral maps cover every acre and how water is getting around the berm around the open ditch; Conley responded that there are acres that are not benefited by any district facility other than the Main Open Ditch and water would get through the berm by private surface drains or tiles. Conley explained having just one schedule for all of the facilities is considered one of the largest inequities in reclassification compared to modern reclassification standards; Carr mentioned that each of the 52 schedules has one parcel with a 100% benefit that determines the benefit of the remaining parcels for the facility. Joe Goche questioned why the Auditor couldn't generate a bill for work done on just a lateral; Carr explained there is one schedule for the entire district, not a schedule for each specific lateral so everyone in the district would be required to pay for work done in a lateral regardless of benefit. Cheryl Erb thanked Conley for the explanation of how the schedule was prepared. Jeff Murray questioned if the schedules for the lateral has anything to do with the open ditch project; Conley explained the proposed project is just for the open ditch and the lateral schedules are generated because it is most economical to do them now but they will only be used if work is done in a lateral. Erwin Johnson questioned if private tiles will be repaired in the project; Conley mentioned that private or district facilities will be repaired as part of the project to ensure they are done to a district standard and for the overall protection of the ditch facility. Goche commented that Iowa Code 468.126.3 with respect to people required to be paid for private pipe and believes the trustees can tell the private landowners to replace the pipe and the district does not have to pay for it. David McGregor mentioned he has never submitted a bill for fixing a lateral and he has one that constantly blows out due to capacity overload. Conley commented that trustees can set no fewer than 10 and no more than 20 years for the repayment of a project and set the years and interest rate when plan specifications are approved; Carr commented that on a project with costs not as high as this project, the trustees approved a 20-year spread for assessments of \$500 or more at a rate of 5% interest. Carr reported that prior to the hearing inquiries were received by Ralph McCartney, David McGregor, Erwin Johnson, and Cheryl Erb about the facility schedules; Kuhn commented on a letter received by John Souder, Woodland Farms, who was adding acres together from multiple facilities thinking he would be charged for more acres than what is owned, a misunderstanding that the schedules were benefited acres for different tiles. Keifer/Jorgensen moved to close the public hearing at 3:15 p.m. Motion carried 3-0. Jorgensen/Kuhn moved to approve the Drainage District #3 Reclassification report provided today. Motion carried 3-0.

Kuhn read Schweizer's letter to the Board regarding the Drainage District #3 processes, including Schweizer's position on the contract with Bolton & Menk's services, property owners obstructing a drainage way, a suggestion to give property owners a year to remove trees, and liability for damages of person willfully obstructing a ditch. Goodwin commented that Bolton & Menk was properly hired by the trustees, a number of the other items in the letter are issues with private property, there is no issue of blockage, and the only remaining issue is for the board to authorize the repair. Kuhn read a letter previously received by Goodwin addressing board

meetings where action was taken by the board, inequities of the schedule, and appointment of reclassification commissioners. Keifer asked if a resolution is valid if it doesn't have a roll call vote; Goodwin said it is valid without a roll call vote and an approved motion is a resolution.

Conley mentioned the next step is finalizing the plan specifications that would proceed to a bid letting. The project was paused due to the timing complete plans and work around nesting season. Schweizer questioned why the project couldn't be held off until the crops are out, clean the trees out and then clean the ditch out the next year and does not believe the district should have to pay for reseeding CRP ground. Conley responded that there could be additional mobilization costs if a contractor has to stop a project in the Winter and restart in the Spring but the trustees could get bids for both ways. Goodwin mentioned the construction season limits when the contractor can do the work. Crop damages within the drainage right of way are not required to be paid but there is a contradiction of rights on the land regarding CRP ground in a long and open ditch that they typically try to mitigate. Conley expects plans to be ready mid-July, going to bid in August, and starting after nesting season or November. Other discussion included tree removal, logging trees, burn and burying trees, all issues that should be worked out with the trustees. Wendy Johnson questioned if a tree maintenance plan is part of the project; Kuhn commented this should be part of a future discussion. Goodwin mentioned landowners can file a report with the Auditor about a repair to be considered. No action needs to be taken today as a previous motion allows Conley to proceed with plan specifications. Keifer asked if the board can do the bidding process or if it has to go through Bolton & Menk and questioned the cost in the project plans; Conley commented bids can be opened by the County with him participating virtually and the bid part of the cost is a small part of the cost in the report. Goche provided a handout on Bolton & Menk's work for the Board to consider reading.

The Board recessed until 4:08 p.m.

Spencer Pecht, ISG representative, presented information on assisting the county with a resolution on the construction of hazardous liquid pipeline, pipeline, electric transmission line, communication line, underground service line, or other similar installation, over, across, or beneath drainage district infrastructure in the county. Pecht proposes working with the county's drainage attorney to modify the resolution specific to Floyd County. Conley commented that this more clearly defines the scope of work of the utilities per Iowa Code 468.186. ISG's fee is up to \$3,500 for his portion of the resolution work; Goodwin commented that he could provide a letter of engagement for his services. Discussion included payment for services paid out of the general fund, ARPA fund, or rural services. ISG could also be hired to review application filed once the procedures are place.

Future agenda items: Resolution for utility infrastructure across drainage districts, annual resolutions for public purpose and transfers .

Keifer/Jorgensen moved to adjourn. Motion carried 3-0.

ATTEST: _____
Gloria A. Carr
Floyd County Auditor

Mark A. Kuhn, Chair
Floyd County Board of Supervisors