

Floyd County Board of Supervisors Meeting
March 28, 2017, 9:00 AM

UNAPPROVED MINUTES

The Floyd County Board of Supervisors met in the Board Room of the Floyd County Courthouse with the following in attendance: Supv Doug Kamm, Supv Linda Tjaden, and Supv Mark Kuhn.

Tjaden/Kuhn moved to approve the agenda as presented. Motion carried 3-0.

Public comments: None.

Kuhn/Tjaden moved to amend the March 20, 2017 minutes to read "reconvened at 12:30 p.m." instead of 1:30 p.m. Motion carried 3-0. Tjaden/Kuhn to approve March 13, 14 and amended March 20, 2017 meeting minutes. Motion carried 3-0.

Kuhn/Tjaden moved to approve the following claims as presented: County #6936-7071 and Secondary Roads #18250-18273. Motion carried 3-0.

The Board discussed Jeff and Gail Schwartzkopf's complaint against Brandon and Casey Wood d/b/a Candon Finisher Farm regarding a violation of the 200 feet minimum separation distance from the manure storage structure required from two abandoned, shallow wells on the Barbara and Melvin Frost property. Supv Kamm read a response from Randy Tilton, Assistant County Attorney, stating that when the Board of Supervisors receives a complaint per Iowa Code 455B and 567 Iowa Administrative Code 65.10(10) and 65.11, they are to evaluate the allegation and if it constitutes a violation, findings should be forwarded to the director of the Department of Natural Resources; Tilton stated Schwartzkopf's complaint could be a violation of Iowa Code. Jeff Schwartzkopf stated that in March he spoke with Steve Frost who told him about two unplugged wells on the Frost property. Schwartzkopf commented that his well is about 10 feet above the flat ground, 150 feet deep and 84 feet to the fence line and is concerned about contamination of the well water from spreading manure near his and other neighbor's shallow wells and questioned if it is legal to do so. Supv Kuhn stated that he had been in contacted Cindy Garza and Jeff VanSteenburg, DNR District II representatives, who informed him if the board believes there is a violation they should forward it to the IDNR who will then conduct an investigation. In response to Kuhn's questions about the complaint, Brandon and Casey Wood commented that the property had been vacated for over 15 years, they were not aware of the location of wells on the property, they checked with the County Sanitarian who had no record, had hoped to purchase the Frost property but did not inquire about well locations with the property owner, assumed the property was condemned by the county or DNR, would have built the confinement structure farther into the field had they known of the wells, and worked with the DNR and felt they were compliant when they built the original facility. Kuhn/Tjaden moved that Floyd County finds the Schwartzkopf complaint may be a violation of Iowa Code and that Wood/Candon Finisher Farm confinement site may be sited illegally and for the county to notify the DNR for further investigation. Motion carried 3-0.

The Board discussed proposed resolution #19-17 regarding setting standards to protect the health, safety and well-being of workers at proposed confinement feeding operations and follow up with the county attorney's office and EMC Insurance Companies regarding guidance and liability concerns. EMC directed the inquiry to the county attorney. Assistant County Attorney Randy Tilton responded by e-mail that the contents of the proposed resolution have been preempted by the Iowa Legislature, specifically by Iowa Code Section 331.304A and that the terms of the proposed resolution are similar to the terms of a Worth County ordinance which was struck down by the Iowa Supreme Court; if a county resolution is preempted by state legislation, the county resolution is void and unenforceable and would not recommend the adoption of the proposed resolution. Disagreeing with Tilton's opinion, Supv Kuhn provided a handout with comparisons of Worth County's ordinance and the county's proposed resolution; unlike Worth County's ordinance, Floyd County's resolution does not establish any county standards for human exposure to toxic air emissions for confinement feeding operations of any size nor does it impose a civil penalty for non-compliance. Kuhn agrees the Worth County ordinance was void and unenforceable because it violated the Iowa Code which prohibits a county from regulating livestock operations; however, the county's proposed resolution would only apply to confined animal feeding operations of 1,000 animal units or more that are required to complete a Master Matrix application with Floyd County and only those applicants who choose to score 10 points on Master Matrix item #37 would be required to meet three of the four best management practices contained in the proposed resolution including option 1, a requirement of verification of workers compensation insurance which conforms with existing state law, and options 2, 3 and 4, which do not regulate livestock operations but rather provide critical worker protection considerations that applicants may choose from to protect the health,

safety, and wellbeing of workers at a proposed confinement feeding operation. Kuhn commented if an applicant chooses not to score points for item #37 in order to meet the minimum threshold of 440 points, they would not have to meet any of the requirements of the resolution and the resolution does not require any existing confined feeding operation in the county to do anything now or in the future. Supv Kamm stated that this resolution is trying to re-enforce something that is already enforced at the state level and thinks the county is misleading people to think that what we are proposing fixes the Master Matrix. Supv Tjaden stated that the proposed resolution seems to add another layer of regulations where regulations already exist and through some verification she finds signage is already in place and manure handlers are certified as part of their training process and do what they are supposed to do; Tjaden isn't convinced this resolution is the approach to take and would rather see the county push concerns to the state level so they can be enforceable and regulated across the state rather than just applications that may come in front of the board. Kamm and Tjaden commented that they feel Tilton has addressed the issue and would have a difficult time passing something that is not recommended. Kuhn visited with Speaker Upmeyer, Senator Dix, Representative Grassley, and Senator Regan on Saturday and commented this issue is not on their radar but rather legislators are considering passing bills that provide even more nuisance suit protection for confinement operators making it even harder for people like the Schwartzkopf 's to sue. A segment of an IDNR webinar with Gene Tinker, IDNR Animal Feeding Coordinator, was played. Tinker encourages counties to set standards for certain Master Matrix questions and Kuhn believes this resolution is clearly in the county's authority. Kuhn read a letter from Renee Anthony, Great Plains Center of Agricultural Health Director and Associate Professor, regarding the Center's mission and comments supporting best practices related to safety protection plans, signage, access to manure pits, and use of gas monitors, all critical to improving the safety and long-term sustainable of a farmer's livelihood. Marilyn Jorgensen, Rudd resident, commented that she thinks this has to start with the supervisors, and all counties, and move up to the state. Chris Peterson, Clear Lake pig farmer, thinks it is important to address people ahead of pigs and safety in the workplace is important. Kuhn/Tjaden moved to table resolution #19-17 until April 11 to allow time for Supv Kuhn to meet with Asst County Attorney Tilton to seek common ground on a resolution that will do the following: 1) make sure we do not violate existing state law and 2) protects our most precious asset, the current and future farmers of Floyd County. Motion carried 3-0.

Kuhn/Tjaden to approve applications presented for property tax exemption for the Recreational Lakes, Forest Covers, Rivers and Streams, Rivers and Stream Banks, and Open Prairies, Property Tax Exemption ("Slough Bill). Motion carried, 3-0. Kuhn/Tjaden to approve the applications for property tax exemptions for Wildlife Habitat Property. Motion carried 3-0. Tjaden/Kuhn moved to approve the application for Native Prairie or Wetlands Property Tax Exemption. Motion carried 3-0.

The Board noted fees collected by the Clerk of Court for the month of February 2017.

Tjaden/Kuhn moved to approve the project FM-CO34(97)—Contract for Pavement Marking project with Vogel Traffic Services Inc. of Orange City, Iowa for \$91,338.99 and direct the chairman to sign when they become available. Motion carried 3-0.

Kuhn/Tjaden moved to approve the County Engineer's Employment contract and agreement for FY18. Motion carried 3-0.

Engineer report: Supv Kamm signed the rock resurfacing contract. The 5-year Construction map showing 3-5 year proposed road and bridge projects were reviewed. The Board will need to let Rolando know if they would like any other projects in the plan before the April 11 meeting. Some property east of Rockford will be coming up for sale and could be a potential site for a centralized out-shed to service the west side of the county, possibly storing trucks and motor graters and salt and sand. Rolando received a call regarding turning over Victory Avenue by Midway to adjacent property owner; Rolando recommends leaving it gated and a Class A road. April 18 is the letting for Marble Rock road, T26. Secondary Road crews are minimally blading roads at this time, spot rocking, doing some brushing, and edge rutting on T64. Rolando provided a handout of what the new the Federal Aid swap legislation that passed last week means. The 220th Ave bridge project will be starting next week.

Kuhn/Tjaden moved to adjourn. Motion carried 3-0.

ATTEST: _____
Sandra Hicks, Deputy Auditor

Doug A. Kamm, Chair