

Floyd County Board of Supervisors Meeting  
April 11, 2017, 9:00 AM

UNAPPROVED MINUTES

The Floyd County Board of Supervisors met in the Assembly 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.

Tjaden/Kuhn moved to approve the March 28, 2017 minutes. Motion carried 3-0.

Tjaden/Kuhn moved to approve the following claims as presented: County #7072-7258 and Secondary Roads #18274-18324. Motion carried 3-0.

Kuhn/Tjaden moved to approve the 2017 Weed Notice and publish in the newspaper as required. Motion carried 3-0.

Tjaden/Kuhn moved to approve Resolution #21-17, Floyd County Consent to the City of Floyd Regarding Exercising Urban Renewal Powers Per Iowa Code Chapter 403: WHEREAS, the City of Floyd, Iowa (the "City") has begun the process of establishing the Love's Commercial Park Development Urban Renewal Area, pursuant to Chapter 403 of the Code of Iowa; and WHEREAS, a portion of the property which is proposed to be included in the Love's Commercial Park Development Urban Renewal Area is located outside the city limits and is legally identified in the record books of the Floyd County, Iowa Courthouse Office of the County Auditor as: Parcel No. 71530100200 (aka – Floyd wastewater lagoon site) (the "Property"); and WHEREAS, in accordance with paragraph 4 of Section 403.17 of the Code of Iowa, a city may exercise urban renewal powers with respect to property which is located outside but within two miles of the boundary of a city only if the city obtains the consent of the county within which such property is located; and WHEREAS, the City Council of the City has requested that the Board of Supervisors of Floyd County adopt a resolution giving its consent that the City may exercise urban renewal powers with respect to the Property; NOW, THEREFORE, it is hereby resolved by the Board of Supervisors of Floyd County, Iowa, as follows: Section 1. The Board of Supervisors of Floyd County hereby gives its consent that the City of Floyd may exercise urban renewal powers pursuant to Chapter 403 of the Code of Iowa with respect to the Property. Section 2. This Resolution shall be deemed to meet the statutory requirements of paragraph 4 of Section 403.17 of the Code of Iowa and shall be effective immediately following its approval and execution. Motion carried 3-0.

Tjaden/Kuhn moved to approve Resolution #22-17, Adoption of Budget and Certification of Taxes, Whereas, on March 14, 2017, the Floyd County Board of Supervisors (Board) adopted the Fiscal Year 2017-2018 county budget setting the levy for the County Mental Health-Developmental Service Fund at \$0.66189 per \$1,000 of taxable value, estimated to produce \$561,473 in revenue, and Whereas, on March 22, 2017, the County Social Services Executive Committee voted to reduce the levy for the County Mental Health Developmental Services Fund by \$2 per capita for the 22-county region, thereby reducing Floyd County's revenue to \$529,553, and Whereas, per the Iowa Department of Management, the Board may reduce a levy after a budget has been certified by taking formal action at a regular meeting no later than April 30 and the county is not required to republish the budget notice or conduct a formal hearing for the reduction. Therefore, be it resolved, by the Floyd County Board of Supervisors to reduce the FY18 levy for the County Mental Health Developmental Services Fund by \$2 per capita, causing a levy rate of \$0.62426 per \$1,000 of taxable value, and approve the Adoption of Budget and Certification of Taxes for FY18 with said change. Motion carried 3-0.

Tjaden/Kuhn moved to set a public hearing to amend the FY17 County Budget for May 9 at 9:15 a.m. Motion carried 3-0.

Tjaden/Kuhn moved to approve a Fireworks Permit application for J&M Displays for an event at Gilbert's Sale Yard on April 22. Motion carried 3-0.

Tjaden/Kuhn moved to approve the renewal of Class C liquor license for Derailed Corporation for premises at 1406 Hwy 218N, Floyd. Motion carried 3-0.

At 9:15 a.m. the public hearing regarding K&K Hogs, LLC application for a construction permit application for a confinement feeding operation in Section 27 of Cedar Township for two new 2,498 head deep pit

swine finisher confinement buildings for a new swine confinement facility/1,998.4 animal units (4,996 head of finishing swine). Kent Krause, Pinnacle Group-Iowa Falls representative, explained the three components of a permit: 1) Construction Design Statement which identifies what is proposed to be built and provided specific details of the K&K Hogs facility location and structure criteria; 2) Manure Management Plan which considers the Iowa Phosphorous Risk Index for suitable manure application and nitrogen in manure with the crop utilization for the next crop; 3) Master Matrix process which scores criteria impacting air, water and community and allows county government to consider the same, hold public hearings and make a recommendation to the DNR to approve or deny applications. Krause reviewed specific items scored in the Master Matrix which totals 440 points, the minimum required of the 880 points to consider. In regard to item #6, Supv Kuhn commented that one of the failings of the matrix is that it allows producers to score points when there are no "critical public areas" in the county. In regard to item #8, Kuhn commented that a producer can score up to 50 points when there are no "major water sources." Kuhn mentioned that according to the DNR's review of scoring since the master matrix's implementation in 2003, primarily producers score on separated distances throughout the matrix and there are questions on the matrix that have never been scored. In regard to item #10, Kuhn commented that producers can score on the "high quality water" category which we don't have in the county and questioned if points should be allotted if a category doesn't apply. In regard to item #19, Kuhn commented that he appreciated the cooperation with Krause and the Knapp's to place three bollards around the well head in order to protect it from damage from traffic, a new standard set by the county and a standard that will be revised in the future to allow 10 foot access between two bollards in case the well needs to be pulled. In regard to item #35, Krause commented that the applicant has agreed to stay 400 feet away from "high quality waters" and if water classifications change, the applicant will need to comply; Kuhn commented that there are three impaired waterways in the county where efforts are being made to clean up and protect. Krause commented that commercial fertilizers are still unregulated and, as an environmental perspective, the best managed fields in the county are fields under a manure management plan. Krause commented that anything in the permit application, construction design statement and Master Matrix is regulated by the DNR for the life of the facility and the Manure Management Plan is a living document subject to change.

In response to public questions, Krause responded: 1) Life of a facility depends on producers, how they are maintained and many facilities using the same design as K&K's are going on 30 years. 2) Manure Management Plans are updated every year and once every five years the DNR audits application records for over application and soil samples. 3) The DNR reserves the right to count animals but Krause is not aware of situations where they felt the need to do so. 4) Points for high quality water can be taken because distance is measured to the nearest designation but once you get outside of the distance requirements to score points, no need to measure farther. 5) There are different distances for waterways determined by the size of the facility, e.g. a one building site would require a 1,250 feet minimum distance, a two building site is 1,875 feet, and then there are additional distances for larger facilities. 6) A facility under the category of K&K could go up to 7,500 pigs but this application is for 4,996.

Public comments were made by Barb Boyer, Deanna Friederich, Joan Chandler, Cheryl Meek, Gail and Jeff Schwartzkopf, Mike Rachut, and Chris Peterson regarding reduced quality of life, concerns of the well water, flies are terrible during warm weather, expectations of it being difficult to sell property, worked hard and spent lots of money to improve property and have a nice home but it's not enjoyable to be outside or entertain family and friends, manure plugging up rivers, Iowa legislators failed to establish codes for confinements, no decent air to breathe for those who have serious health issues, poor air quality, diminished outdoor activities because of odors and flies, property value decline, flies covering house and people when outside, no fresh air, unable to enjoy having windows open, don't want to smell the stench, signage in confinements like that in the 2016 Emergency Response Guidebook should be required in confinement facility for the safety of emergency responders, Master Matrix failings of going for the most points when filling out matrix and scoring points for categories that don't apply, taking points for "High Quality Water" but don't know where high quality water is, not being able to score negative points on the matrix, producers not having to answer all questions on the matrix, only have to get 50% scoring, meaningless points scored for non-existent nutrient retention, points irrelevant with heavy rain events and climate change, should be nitrogen and phosphorous based requirement, needs to be audits of number of livestock. (Supporting handwritten comments are on file in the Auditor's office.) On behalf of Jackie Ritter who could not attend the hearing, Supv Kuhn reported her comments of the obnoxious odors and the concentration of CAFOs in the general area of Cedar Township.

Chuck Knapp reported that this facility is about a mile from their home but also have two facilities within a quarter mile of their home. He does not intend to put a confinement on the Peterson property because it doesn't fit

the matrix. No manure is hauled on the road; they use an umbilical system piped under the road because they feel the weight is hard on the roads and it drags mud on the roads.

The hearing closed at 9:50 a.m. The Knapp's were thanked for their cooperation in complying with county resolutions for confinement application and Master Matrix scoring, Krause for explaining the process and answering questions, and the public for their comments. Supv Kuhn explained that although the county does not have grounds for denying the application, we can make sure their comments are included with the recommendation to the DNR. The consensus of the Board is that there are failings of the Master Matrix that need to be addressed. Tjaden/Kuhn moved to recommend to the DNR to approve the K&K Hogs application and provide all comments from attendees with the recommendation to the DNR. Motion carried 3-0.

The Board discussed Resolution 20-17, a resolution setting county standards on item #37 of the Master Matrix to protect the health, safety, and well-being of workers at a proposed confinement feeding operation. Since the last meeting, Supv Kuhn made the following changes: 1) In options #1, #4, and #5, language regarding contract manure applicators have been exempted from these sections. 2) Added a fifth option with language requiring the applicant and employees to watch a two hour educational video that warns workers of toxic air emissions and encourages best practices. 3) The title of the resolution now clarifies that this resolution only applies to Master Matrix item #37. 4) Prior language in Option #2 required specific signs to post but was changed to give the applicant their choice of signage warning of the dangers of hydrogen sulfide and other toxic gases to be posted at the entry and pump area. Kuhn made the following comments about each option: Option #1 the county isn't suggesting any additional requirement for workers compensation insurance per Iowa Code 85.1; the applicant only needs to include verification of coverage with the application. Option #2, there are currently no signs required to be put on any building but occasionally you will see bio security signs. Option #3, generally a producer protects access areas but it is not required by state. Option #4, Kuhn commented that the Great Plains Center for Health will provide training for gas monitors; however, the industry hasn't adopted the practice of using monitors. Option #5, there is no test to take, just simply view the video. Supv Kamm commented that we are dealing with responsible people, it isn't likely that anyone would score item #37, thinks people are being misled that resolution is going to make a difference and recommends that those who have expressed anger with the DNR to share concerns with legislators. Kamm suggested that Kuhn is campaigning for another office and is using this as publicity; Kuhn requested it be on record that comments about campaigning for another office are out of bounds. Supv Tjaden expressed appreciation on removing the contract manure applicators out of the resolution, applauded Kuhn for what he is trying to accomplish for the safety of people, but thinks to tie it to the Master Matrix falls short because there are so few people this would affect. Tjaden encourages getting the word out on workers safety by means such as engaging the high school students and setting up booths at fairs. Tom Willet commented on his experience and certification to work in confined spaces, hazardous situations and the cost to provide safety measures to ensure worker safety is worth it. Chris Peterson commented that if you can do one thing to make awareness to save one person from being unnecessarily hurt or killed, it is worth it. In a video clip of a presentation by Gene Tinker, DNR representative, Tinker states that counties can establish certain criteria and the DNR will make sure plan and maintenance program matches what the county has in place. Kuhn read a response from Tinker in regard to the revised resolution stating that he agreed with Assistant County Attorney Randy Tilton's opinion that the DNR would not follow a county's resolution if it is unreasonable but does not view the proposed resolution as unreasonable and he also agrees that the county cannot enforce such a resolution, however, the language for item #37 does state that the plan must be in the construction permit application and made a condition in the approved construction permit and then the DNR enforces the permit as issued. After meeting with Kuhn yesterday afternoon and reading Tinker's response, Tilton provided an e-mail to Kuhn stating that he is in agreement with the content of Tinker's e-mail. Kamm commented that he thinks if this is pushed too far, applicants will not cooperate with the county's resolutions and the county will end up in a legal battle. Kuhn believes the resolution stands on its own and we have the right to set the standards. Tjaden commented that as a farmer, she knows how accidents can happen with handling livestock and manure but would like to see efforts targeted at larger masses that would have more impact other than this resolution. Chris Baldes and Gail Schwartzkopf responded to questions about processes that can be implemented to reduce the odors. Kuhn commented that he visited with local ag lenders who informed him that a 2,500 head barn with land, a well drilled and driveway cost about \$750,000 and a 98,000 chicken confinement barn cost about \$1.2 million; a loan would typically be 12 years with a 30% down payment. Kuhn believes this resolution seems to ensure the health and safety of a young producer who makes that investment and thinks this is a teachable moment, not just item #37 on the Master Matrix, where Floyd County values the workers in our county. Kuhn also commented that both of the resolutions the county has passed are working and would hate to see the county turn back when we are on the verge of passing another important resolution. Kuhn moved to approve Resolution #20-17, a resolution setting county

standards on item #37 of the Master Matrix to protect the health, safety, and well-being of workers at a proposed confinement feeding operation. Motion dies for lack of a second.

Kuhn/Tjaden moved to approve the Iowa Department of Transportation/Floyd County Secondary Road Budget for FY18. Motion carried 3-0.

Tjaden/Kuhn moved to approve the Iowa Department of Transportation/Floyd County 5-Year Secondary Road Construction Program for FY18. Motion carried 3-0.

Kuhn/Tjaden moved to approve an Underground Construction Application from Windstream Communications. Motion carried 3-0.

Engineer report: Dusten Rolando, County Engineer, provided his timesheet and foreman's minutes. Rolando, Area Development Corp Executive Director Tim Fox, Floyd Mayor Travis O'Connell, and Sheriff Jeff Crooks attended the Iowa DOT meeting this morning to support the Floyd intersection project; Rolando reported that the meeting went well and they expressed appreciation of reducing the speed and look forward to an interchange. The T26 letting for the road north of Marble Rock will be let in two weeks. The bridge work on 220<sup>th</sup> St has started; the bridge has been removed. FEMA work continues. Crews have been grading gravel roads. A future agenda item will include discussion regarding a letter from Doris Williams and her position that there needs to be a bridge on Foothill Ave, approximately 2.5 miles south of Rockford because of water issues; per letter from previous County Attorney Norm Klemesrud, if a roadway is not impacted, the county is not responsible for water blockage. A dust issue on a road near Marble Rock was discussed. MSHA training is scheduled for tomorrow.

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

ATTEST: \_\_\_\_\_  
Gloria A. Carr, Auditor

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Doug A. Kamm, Chair