

Floyd County Board of Supervisors Meeting
August 20, 2018, 1:30 p.m.

UNAPPROVED MINUTES

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

Kamm/Kuhn moved to approve the agenda. Motion carried 3-0.

Public comment: none.

Update on various boards/commissions/activities: Supv Tjaden attended an airport authority meeting and a courthouse security meeting. Supv Kamm attended a landfill meeting.

The board discussed the Iowa Open Meetings Law with respect to Iowa Code 21.5.1.j with respect to going into closed session to discuss matters regarding the purchase of real estate. Supv Kuhn's expressed concerns of the August 6 closed session meeting to discuss negotiations for 111 S Jackson St and the taking 11 days for the Assistant County Attorney Randy Tilton to respond to Charles City Press editor Bob Steenson's e-mail regarding a potential open meetings violation. Since Kuhn was not present at the meeting, he asked questions of Supv Tjaden and Kamm, Tilton, and Auditor Carr regarding how property owner Paige Cerwinski was invited to the closed session meeting. Tilton responded that he believed he asked Tjaden for Cerwinski to come to the closed session meeting. Tjaden, Kamm, and Carr recalled the motion to go in to closed session and Tilton stating that Cerwinski could attend the meeting after the motion was made when other attendees were exiting the room and assumed Tilton's reason for doing so was appropriate. Tjaden read Steenson's August 6 e-mail with the allegation of non-compliance of the law, Tilton's e-mail response dated August 17 and Steenson's followup e-mail countering that Tilton's reason to go in to closed session does not meet the requirement of the law. Tilton commented that his response was rather narrow in regard to the issue that premature disclosure could reasonably be expected to increase the price a government entity would have to pay for property as opposed to other elements because Steenson's original concerns highlighted that particular statement of the code. Tilton also addressed the timing of the response was because he was waiting for direction from the board until Tjaden requested him to respond. In regard to future open meetings and negotiations, Tilton suggested that the board could give the county attorney's office a more active part as an agent for negotiations with the property owner but would not have the authority to make it binding; some property owners may not be comfortable doing negotiations in open session. Kuhn questioned the validity of Tilton's concerns of outside influences driving up the cost of the seller's demands, causing the seller to walk out on negotiations altogether, and keeping the discussion confidential prior to the approval of the offer to buy/acceptance to prevent a third party purchaser from offering the seller more in attempt to negotiate a higher price from the county. Kuhn referenced two e-mails as not rising to the level of concerns cited in Tilton's response to Steenson: a July 27 e-mail from Cerwinski to Tilton stating she accepted the offer, requested closing earlier to fund a new home down payment, and time to move and an August 3 e-mail from Tilton to the board with an attached proposed offer /acceptance and noting anticipated discussion on who would pay real estate taxes and abstract title costs. Kuhn commented that the majority of the board did not take Tilton's advice to go in to closed session at last week's meeting regarding the 101 S Jackson St property; Tjaden commented that she relies on and respects Tilton's judgement and questions whether she made the right decision to not go in to closed session at that meeting but felt it was the right decision at that time. Kuhn thinks it would be important to know what was discussed in the closed session meeting; Tjaden and Cerwinski mentioned some of the items discussed. Tilton stated that the closed session minutes and recording would be available when the transaction is completed, meaning the deed is signed and money is paid. Tilton commented that his advice was his opinion, where the statute references "reasonable" is subject to debate, and when it comes down to a legal opinion, unless there is a specific case from the Iowa Supreme Court or Iowa Court of Appeals that rules one way or another, that's all it is. Kuhn would like Tjaden to request Attorney Ginbey's opinion on Steenson's allegation and Tilton's opinion and to have Ginbey respond in a timely manner. Citizen Stewart Dalton informed the board of his inquiry to the issue with the Iowa Public Information Board (IPIB) who responded that the closed session might be improper and suggested to pose the question to the county attorney, let IPIB know the response, and he could file a formal complaint on the form provided in the e-mail if preferred. Tjaden appreciates anyone who has concerns about meetings, to share them so the board can be responsive to the issue.

The board noted the 101 S Jackson St property owner's acceptance of the \$55,000 offer plus \$10,000 for relocation expenses, taking possession on October 15, assuming all other costs will be paid by the County, with the

property owners receiving the full \$65,000. Discussion included completing the transaction the same as the 111 S Jackson St property where the property owner is responsibility for current taxes due and the county pays for the abstract, the county not obligated for any mortgages or other liens on the property, Iowa Code 6B.54(10) incidental expenses of transfer tax and recording fees, general provisions for insurance, the property owner's request to leave anything on the property they do not want at no additional cost to them, survey access to the property, closing and possession dates. Kamm/Kuhn moved to approve offer of \$55,000 plus 10,000 for moving expenses, closing on October 9, taking possession October 15, the county picks up real estate taxes except outstanding \$416 balance, the county will not pay any mortgages or liens, allow the property owner to remove any attached real estate if done by the property owner, leaving any property that is presently on the property is acceptable, house remains secure and insured, and allow access to land for hazardous material survey. Motion carried 3-0.

Tjaden/Kuhn moved to authorize the Assistant County Attorney to prepare an Offer to Buy Real Estate and Acceptance for the board to act on September 11 and have Tilton prepare legal documents such as a deed, groundwater hazard statement, declaration of value, title opinion, and closing statement for the acquisition of 101 S Jackson St. Motion carried 3-0. Tilton intends to get the abstract process started as soon as possible.

Supv Tjaden updated the board on open issues with the law enforcement center (LEC)/courthouse updates project. Tjaden is working on the roles and responsibilities for the core committee and showed a spreadsheet that she is tracking for all issues related to the project. Discussion included using only the garage as the board room and leaving the assembly room as a conference room, the current board room is 270 sq ft, the garage is estimated at 745 sq ft, unsure of how many seats would be available for the garage area or the proposed larger area, having the seating for the board members closer to the doorway to the existing hallway for safety purposes, making sure there is sufficient room for audio/video equipment, supposedly not able to have a sturdy sliding petition to divide the proposed area due to the ceiling height and ability to affix sliding petitions, costs of the project and looking at ways to reduce costs because of other issues that have come up. The Assessor was approached on moving to the second floor because of their working relationship with the Auditor, Treasurer, and Recorder but he feels the attorney's office would better suit their needs. Tjaden and Carr explored having DHS move to the courthouse but due to the number of staff and layout, the move was not conducive to relocating; the only potential for this was relocating the Engineer's office to a future addition built onsite at the Cedar V alley Transportation Center. Carr is seeking 28E information from counties who have Communications/Dispatch funded under EMA which may cause reason to locate Emergency Management in the LEC. Soil sample boring is completed. Tjaden is working with Prochaska regarding future meetings with the board and Dispatch employees. Kamm visited with John Fallis, City Engineer, regarding angled parking on Court St and options on Jackson St in the block adjacent to the river. Prochaska is also designing a staff parking lot on the south side of the LEC.

The Board discussed a potential request for the Upper Cedar Watershed Management Improvement Authority Special Fund. An e-mail from Dennis Carney, UCWMIA secretary, was reviewed. Tilton questioned if there is an opinion requested on the secretary and treasurer positions referenced in the e-mail; Tilton will follow up with Carr. Kuhn suggested not only the UCWMIA bylaws and 28E be referenced but also the Iowa Code concerning authorities not having levying capacity.

The board noted pay increases for the following employees: Amy Leaman, Conservation office assistant, from \$12.66/hr to \$14/hr, Janice Lovik, Home Care Aide from 11 to \$11.56 effective August 10, and Janine Schrieber, Child Support Recovery, from \$19.32/hr to \$19.88/hr. Discussion included the Conservation Board's intent to fund Leaman's increase covered "with available money" would prohibit this amount from being in a budget amendment.

Future agenda items: 101 S Jackson St offer/acceptance document.

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

ATTEST: _____
Gloria A. Carr
Floyd County Auditor

Linda Tjaden, Chair
Floyd County Board of Supervisors