

Floyd County Board of Supervisors Meeting
August 7, 2023, 9:00 a.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: Larry Bortz questioned when the topic of wind turbine projects going up in the county would be addressed. Supv Kuhn mentioned he will provide an update on the supervisor activities agenda item.

Jorgensen/Keifer moved to approve the July 24 and 28, 2023 minutes. Motion carried 3-0.

Keifer/Jorgensen moved to approve the claims presented: County #187-266, Engineer 10056-10082 and Drains 15388. Motion carried 3-0.

Updates on various boards/commissions/activities: Supv Keifer attended Communications Advisory Board and 911 meetings, met with Invenergy representatives regarding their interest in building a 70-tower wind farm near Marble Rock and attended a NextEra meeting regarding their wind turbine project. Supv Jorgensen met with the Ambulance Commission vice chair. Supv Kuhn mentioned he has been unsuccessful in getting responses from NextEra representatives to learn more about their wind turbine project plans and commented that the county zoning ordinance does have some regulations for turbines. Bortz mentioned he thinks it is important to have proper regulations for these turbine projects, the county's regulations are small, Mitchell County has put a moratorium on turbine projects, and he has provided copies of Worth County's ordinance to the supervisors. All three supervisors attended the pipeline meeting at the fairgrounds last week; Kuhn mentioned Dan Harvey, Gruver Fire Chief, presented plume modeling around Charles City area. Kuhn mentioned Summit held a safety meeting explaining their plans on implementing and plume modeling; our Emergency Management director reported he was not directly invited to the meeting. Kuhn read a section of the North Dakota Commission's order denying Summit Carbon Solutions siting permit, which is not the same as the sequestration permit; Ahlers-Cooney attorney Tim Whipple's response to findings was that Summit will be applying again in North Dakota and there is no requirement for the Iowa Utilities Board (IUB) to deny or slow down the process in Iowa.

Updates on Law Enforcement Center/Courthouse Project: Contractors continue working on punch list items. Discussion included transitioning to having the north atrium door including a temporary extension to the post outside of the atrium area, directional signage, and setting up the new board room. Other discussion included the options for the boiler/flume issue with pipes freezing up outside, a leak from the second floor mechanical room to the LEC, and a basement drain issue.

Keifer/Jorgensen moved to approve Res* #32-23 Resolution authorizing and approving a certain Loan Agreement and providing for the issuance of \$4,830,000 General Obligation Emergency Communications Bonds, Series 2023A and providing for the levy of taxes to pay the same: The Board proposed to enter into a General Obligation Emergency Communications Loan Agreement and to borrow money in a principal amount not to exceed \$4,830,000, pursuant to Iowa Code 331.402 and 331.441(2)(b)(17) for the purpose of paying the cost, to that extent, of acquiring and installing improvements to the E911 emergency communications system and pursuant to law and duly published notice of the proposed action, has held a hearing on July 10, 2023; and a Preliminary Official Statement has been prepared to facilitate the sale of General Obligation Emergency Communications Bonds, Series 2023A to be issued in evidence of the County's obligation under the Loan Agreement, and the County has made provision for the approval of the P.O.S. and has authorized its use by Northland Securities, Inc. as underwriter of the issuance of the Bonds; and a certain Bond Purchase Agreement has been prepared to set forth the terms of the Loan Agreement and the Bonds and the understanding between the County and the Underwriter, with respect to the purchase thereof and the Board of Supervisors has approved the Bond Purchase Agreement and made provision for its execution and delivery; and it is now necessary to make final provision for the approval of the Loan Agreement and authorize the issuance of the Bonds; therefore, be it resolved by the Board as follows: Section 1. The County shall enter into the Loan Agreement with the Underwriter, in substantially the form as has been placed on file with the Board, providing for a loan to the County in the principal amount of \$4,830,000, for the purpose or purposes set forth in the preamble hereof. The Board Chair and Auditor are authorized and directed to sign the Loan Agreement on behalf of the County, and the Loan Agreement is hereby approved. Section 2. The Bonds are hereby authorized to be issued in evidence of the obligation of the County under the Loan Agreement, in the total aggregate principal amount of \$4,830,000, to be dated August 22, 2023, in the denomination of \$5,000 each, or any integral multiple thereof, maturing on June 1 in each of the years. UMB BANK is hereby designated

as the Registrar and Paying Agent for the Bonds. The County shall enter into an agreement with the Registrar; the Chairperson and Auditor are hereby authorized and directed to sign the Registrar/Paying Agent Agreement on behalf of the County; and the Registrar/Paying Agent Agreement is hereby approved. The County reserves the right to optionally prepay part or all of the principal of the Bonds maturing in the years 2032 to 2034 prior to and in any order of maturity on June 1, 2031, or on thereafter. If less than all of the Bonds of any like maturity are to be redeemed, the particular part of those Bonds to be redeemed shall be selected by the Registrar by lot. The Bonds may be called in part in one or more units of \$5,000. Accrued interest on the Bonds shall be payable semiannually on the 1st day of June and December commencing June 1, 2024. Payment of interest on the Bonds shall be made to the registered owners at the close of business on the 15th day of the month next preceding the interest payment date and shall be paid to the registered owners on registration books. Principal of the Bonds shall be payable to the registered owners or their legal representatives upon presentation and surrender of the Bond(s) at the office of the Paying Agent. The Bonds shall not be valid or become obligatory for any purpose until the Certificate of Authentication thereon shall have been signed by the Registrar. The Bonds shall be fully registered as to principal and interest in the names of the owners on the registration books of the County kept by the Registrar, and after such registration, payment of the principal and interest shall be made only to the registered owners or their legal representatives or assigns. Each Bond shall be transferable only upon the registration books of the County upon presentation to the Registrar, with either a written instrument of transfer satisfactory to the Registrar or the assignment form thereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner. The record and identity of the owners of the Bonds shall be kept confidential as provided by Iowa Code 22.7. Section 3. Notwithstanding anything above to the contrary, the Bonds shall be issued initially as Depository Bonds, with one fully registered Bond for each maturity date, in principal amounts equal to the amount of principal maturing on each such date, and registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York. On original issue, the Bonds shall be deposited with DTC for the purpose of maintaining a book-entry system for recording the ownership interests of its participants and the transfer of those interests among its participants. In the event that DTC determines not to continue to act as securities depository for the Bonds or the County determines not to continue the book-entry system for recording ownership interests in the Bonds with DTC, the County will discontinue the book-entry system with DTC. If the County does not select another qualified securities depository to replace DTC in order to continue a book-entry system, the County will register and deliver replacement Bonds in the form of fully registered certificates, in authorized denominations of \$5,000 or integral multiples of \$5,000, in accordance with instructions from Cede & Co., as nominee for DTC. In the event that the County identifies a qualified securities depository to replace DTC, the County will register and deliver replacement Bonds, fully registered in the name of such depository, or its nominee, in the denominations as set forth above, as reduced from time to time prior to maturity in connection with redemptions or retirements by call or payment, and in such event, such depository will then maintain the book-entry system for recording ownership interests in the Bonds. Ownership interest in the Bonds may be purchased by or through Participants. Such Participants will not receive certificated Bonds, but each such Participant will receive a credit balance in the records of DTC in the amount of such Participant's interest in the Bonds, which will be confirmed in accordance with DTC's standard procedures. Each such person for which a Participant has an interest in the Bonds, as nominee, may desire to make arrangements with such Participant to have all notices of redemption or other communications of the County to DTC, which may affect such person, forwarded in writing by such Participant and to have notification made of all interest payments. The County will have no responsibility or obligation to such Participants or the persons for whom they act as nominees with respect to payment to or providing of notice for such Participants or the persons for whom they act as nominees. DTC will receive payments from the County, to be remitted by DTC to the Participants for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Bonds will be recorded on the records of the Participants whose ownership interest will be recorded on a computerized book-entry system kept by DTC. When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the County to DTC, and DTC shall forward the notices to the Participants so that the Participants can forward the same to the Beneficial Owners. Beneficial Owners will receive written confirmations of their purchases from the Participants acting on behalf of the Beneficial Owners detailing the terms of the Bonds acquired. Transfers of ownership interests in the Bonds will be accomplished by book entries made by DTC and the Participants who act on behalf of the Beneficial Owners. Interest and principal will be paid when due by the County to DTC, then paid by DTC to the Participants and thereafter paid by the Participants to the Beneficial Owners. Section 4. The Bonds shall be in substantially the following form: [see full resolution for bond form]. Section 5. The Bonds shall be executed as soon after the adoption of this resolution as may be possible, and thereupon they shall be delivered to

the Registrar for registration, authentication and delivery to or on behalf of the Underwriter, upon receipt of the loan proceeds (\$5,131,354.90), including original issue premium (\$301,354.90), and all action heretofore taken in connection with the Loan Agreement is hereby ratified and confirmed in all respects. A portion of the Loan Proceeds (\$60,375) shall be retained by the Underwriter as the underwriter's discount. A portion of the Loan Proceeds (\$4,868,393.02) received from the sale of the Bonds shall be deposited in a dedicated fund which is hereby created, to be used for the payment of costs of the Projects and to the extent that Project Proceeds remain after the full payment of the costs of the Projects, such proceeds, shall be transferred to the Debt Service Fund for the payment of interest on the Bonds. A portion of the Loan Proceeds received as "Capitalized Interest Proceeds" (\$167,186.88) shall be deposited into the Debt Service Fund for payment of interest on the Bonds as the same becomes due. The remainder of the Loan Proceeds (\$35,400), received from the sale of the Bonds shall be deposited in the Project Fund, and shall be used for the payment of costs of issuance of the Bonds, and to the extent that Cost of Issuance Proceeds remain after the full payment of the costs of issuance of the Bonds, such Cost of Issuance Proceeds shall be transferred to the Debt Service Fund for the payment of interest on the Bonds. The County shall keep a detailed and segregated accounting of the expenditure of, and investment earnings on, the Loan Proceeds to ensure compliance with the requirements of the Internal Revenue Code. Section 6. For the purpose of providing for the levy and collection of a direct annual tax sufficient to pay the principal of and interest on the Bonds as the same become due, there is hereby ordered levied on all the taxable property in the County in each of the years while the Bonds are outstanding, the following direct annual tax: [See full resolution for collection schedule]. Section 7. A certified copy of this resolution shall be filed with the Auditor, and the Auditor is hereby instructed to enter for collection and assess the tax hereby authorized. When annually entering such taxes for collection, the Auditor shall include the same as a part of the tax levy for Debt Service Fund purposes of the County and when collected, the proceeds of the taxes shall be converted into the Debt Service Fund of the County and set aside therein as a special account to be used solely and only for the payment of the principal of and interest on the Bonds hereby authorized and for no other purpose whatsoever. Any amount received by the County as accrued interest on the Bonds shall be deposited into such special account and used to pay interest due on the Bonds on the first interest payment date. Pursuant to Iowa Code 76.4, each year while the Bonds remain outstanding and unpaid, any funds of the County which may lawfully be applied for such purpose may be appropriated, budgeted and used for the payment of the principal of and interest on the Bonds as the same become due, and if so appropriated, the taxes for any given fiscal year as provided for in Section 6, shall be reduced by the amount of such alternate funds as have been appropriated for said purpose and evidenced in the County's budget. Section 8. The interest or principal and both of them falling due in any year shall be paid promptly from current funds on hand in advance of taxes levied and when the taxes shall have been collected, reimbursement shall be made to such current funds in the sum thus advanced. Section 9. It is the intention of the County that interest on the Bonds be and remain excluded from gross income for federal income tax purposes pursuant to the appropriate provisions of the Internal Revenue Code and the Treasury Regulations in effect with respect thereto. In furtherance, the County covenants to comply with the provisions of the Internal Revenue Code as they may from time to time be in effect or amended and further covenants to comply with the applicable future laws, regulations, published rulings and court decisions as may be necessary to insure that the interest on the Bonds will remain excluded from gross income for federal income tax purposes. Officers of the County are hereby authorized and directed to take any and all actions as may be necessary to comply with the covenants herein contained. The County hereby designates the Bonds as "Qualified Tax Exempt Obligations" as that term is used in the Internal Revenue Code Section 265(b)(3)(B). Section 10. The Securities and Exchange Commission has promulgated certain amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 that make it unlawful for an underwriter to participate in the primary offering of municipal securities in a principal amount of \$1,000,000 or more unless, before submitting a bid or entering into a purchase contract for the bonds, an underwriter has reasonably determined that the issuer or an obligated person has undertaken in writing for the benefit of the bondholders to provide certain disclosure information to prescribed information repositories on a continuing basis or unless and to the extent the offering is exempt from the requirements of the Rule. On the date of issuance and delivery of the Bonds, the County will execute and deliver a Continuing Disclosure Certificate pursuant to which the County will undertake to comply with the Rule. The County covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate. Roll call vote: Ayes-Keifer, Jorgensen, Kuhn; motion carried 3-0.

Jorgensen/Keifer moved to approve Res* #33-23 Resolution Adopting and Approving Tax Compliance Procedures Relating to Tax-Exempt Bonds: Pursuant to Iowa Code and Section 103 of the Internal Revenue Code, Floyd County, acting by and through the authority of its Board, has issued, and likely will issue in the future, tax exempt municipal bonds, notes or other obligations; and the County deems it necessary and desirable to adopt

certain procedures and practices to be followed by the County in connection with the issuance of Tax Exempt Bonds; and proposed tax compliance procedures as Exhibit A Compliance Procedures [see full resolution for procedures]; therefore, be it resolved by the Board as follows: Section 1. The Compliance Procedures are hereby adopted and shall be dated as of the date hereof. Section 2. The Auditor is hereby authorized and directed to periodically update the Compliance Procedures in accordance with the Internal Revenue Code and supporting Internal Revenue Service Rulings and Regulations, with advice from bond counsel. Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict. Roll call vote: Ayes-Jorgensen, Keifer, Kuhn-motion carried 3-0.

Keifer/Jorgensen moved to approve Res* #34-23 Establishing New Fund: The Board has identified a purpose to establish the following fund: Emergency Communications System, Fund 34000 – This budgetary fund will function as a Capital Project Fund for the purpose of paying the costs of acquiring and installing improvements to the E911 emergency communications system-the money for this fund is initially derived from a loan agreement and authorizing the issuance of General Obligation Emergency Communications Bonds; and, the County will oversee the operations of the fund established and ensure that assets, liabilities, fund balances, revenues and expenditures are accounted for; and, the Board has also identified a need to rename the Debt Service-LEC/Courthouse Updates Fund #40001 established by Res #37-18 on December 11, 2018 used to accommodate for debt payments related to the County Law Enforcement and Courthouse Improvement general obligation debt; and, the re-named fund will allow for other general obligation debt payments that are not associated with Tax Increment Finance property taxes; therefore, be it resolved that the Board hereby authorized to establish the Emergency Communications System Fund #34000 and be it also resolved that the Board hereby authorize the name of Fund #40001 to be changed to Debt Service-Non TIF Fund, a restricted fund for the purpose of payment such as principal and interest to accommodate the County’s general long-term debt not associated with Tax Increment Finance debt. Roll call vote: Ayes-Keifer, Jorgensen, Keifer; motion carried 3-0.

Jorgensen/Keifer moved to approve Ahlers-Cooney invoice #848892 in the amount of \$404.12 for pipeline ordinance and invoice #848903 in the amount of \$7,398.08 for the county’s portion of Summit Carbon IUB Permit Proceedings and to pay the invoices with American Rescue Act Plan funds. Motion carried 3-0.

Jacob Page, County Engineer, provided an update on secondary roads activities including crews are working on drive permits, work orders, mowing gravels and paved roads, general shop maintenance and patching. Rock resurfacing is about two-thirds complete. The 130th St bridge has been replaced with a new box culvert. The countywide pavement marking project should be completed this week. Office staff have been working on final documentation for S70, surveying 130th bridge replacement, T27 survey and design work, general office work and annual reports. Seven bidders bid on the 155th St bridge replacement project and bids came in about \$200,000 lower than the estimate. The staff is transitioning to electronic timesheets.

Jorgensen/Keifer moved to appoint Pat Lumley, David Luett, Jeff Stirling and Dawnett Willis to the Emergency Medical Services Advisory Council. Motion carried 3-0. Kuhn/Keifer moved to appoint Supv Jim Jorgensen as a non-voting member to the EMS Advisory Council. Motion carried 3-0.

Jorgensen/Keifer moved to set a county FY24 budget amendment hearing for August 28 at 9:15 a.m. in the Board Room. Motion carried 3-0.

Keifer/Jorgensen moved to approve a Wage Repayment Agreement between former county attorney Rachel Ginbey and Floyd County for \$1,002.47 due to the County. Motion carried 3-0.

The Board noted fees collected by the Auditor, Recorder and Sheriff for the quarter ending June 30, 2023.

Future agenda items: Nextera and Invenergy wind turbine project plans, wind turbine ordinance consideration, and drainage utility procedures/resolution.

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

**This is a summary of the resolution; full text of resolutions may be inspected during normal business hours in the Floyd County Auditor’s office and at www.floydcoia.org.*

ATTEST:

Gloria A. Carr
Floyd County Auditor

Mark A. Kuhn, Chair
Floyd County Board of Supervisors