

Floyd County Board of Supervisors Meeting  
August 21, 2023, 9:00 a.m.

The Floyd County Board of Supervisors met at Floyd County Courthouse Board 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 August 14, 2023 minutes. Motion carried 3-0.

Keifer/Jorgensen moved to approve the claims presented: County #351-388, Engineer/Secondary Roads 10101-10111 and Drains #15390. Motion carried 3-0.

Updates on various boards/commissions/activities: Supv Keifer attended Chamber of Commerce and North Cedar Aviation Authority meetings. Supv Kuhn met with the Charles City Area Development Corp (ADC) Executive Director Tim Fox and Charles City Mayor Dean Andrews regarding the August 23 Iowa Utilities Board public hearing regarding ADC's testimony in objection to the Summit Carbon Solutions pipeline crossing the industrial park area and taking the easement area by eminent domain. Kuhn also attended the Rural Economic Development Summit where he also had a conversation with Debbie Durham, Iowa Department of Transportation Director, regarding Summit's pipeline going through the ADC certified site.

Updates on Law Enforcement Center/Courthouse Project: Supv Keifer sent an e-mail to Samuels Group regarding the status of a temporary or permanent bollard at the atrium entrance with a directive for the bollard to be in place by Sept 1. Contractors continue with punch list items. Mick Gage Plumbing sucked out most of the rocks from the courthouse sewer drain and Kamm Excavating will be replacing both broken cleanouts; there is still an issue of whether remaining rocks in the drain need to be cleaned out, who is assuming responsibility of the problem and who is paying Mick Gage's bill. Keifer will follow up with Samuels Group on the status of when the board's office space will be available; Kuhn suggested the contractors could move items up to first floor.

Keifer/Jorgensen moved to approve the Motorola Solutions Communication System contract for ICIS Local Enhancement. Motion carried 3-0.

Bob Goodwin, Goodwin Law Office attorney, provided legal advice in regard to the Drainage District #3 project specifications calling out for replacing 20' sections of private tile in poor condition. Iowa Code 468.126(3) reads the board "may" repair private tile line that empties into a mutual drainage ditch and assess costs to the private tile landowner, however, Iowa Code 468.65(1) would require reclassifying the private tile to the district which would be a timely process and cost substantially more than the price of tile to replace the 20' sections. Replacing existing private tile benefits the district, ensuring the replaced tile doesn't cause erosion or ripple-effect downstream. The word "may" allows the trustees to have discretion to proceed with the project.

Tyler Conley, Bolton & Menk engineer, estimated there are more or less 50 private tiles draining to the district and encourages landowners to come forward with outlet information. The intent is to connect a corrugated metal pipe, which allows for better discharge into the flow of the ditch, to good sections of private tile. Only private tile that has animal guards would be replaced with animal guards. During construction and as trees are cleared, inspectors walk the entire project area on both sides of the ditch, mark and document the size and condition of the tile and take pictures of private tile located. Conley mentioned reclassification can be done on the original district because tile maps and the land served are on record and they have a right to do so; private tiles are not included in reclassifications because there is no way of knowing what the private systems look like nor would they have right to make assumptions on the private tile and they would need every map of every system that comes into the open ditch. Conley concurs with Goodwin that the 20' replacement of the private tile systems is a benefit of the mutual drain and the trustees have the ability to do so as part of the project. The estimate for private pipe and installation is \$30/foot and a total cost of \$30,000.

Kuhn commented that it appears legal to do as presented by Goodwin and Conley. Joe Goche asked for the code section that requires reclassification and stated this being a scare tactic of the professionals. Per Iowa Code 468.65(1) Goodwin explained if the board finds the existing assessment is inequitable then the board may ask for a reclassification, but it is up to the board's discretion if the assessments are inequitable and if it is inequitable to charge the landowners for the cost of the 20' of tile if it is a benefit to the district. The code gives the authority to work on the private extensions that are affecting the district. Merlyn Schweizer suggested 40' of pipe rather than

20' be replaced and the landowner pays \$500 to dig the tile up plus 40' of pipe, animal guard and riprap. Curtis Marth suggested the private tile landowners pay. Keifer commented that regardless of who pays for the private tile, the district as a whole will benefit and thinks the private tile should be paid by the private landowner. Carr expressed concerns of stamped drainage warrants issued from the district fund to pay contractors if the 20' of private tile is not part of the district project, the contractor having to split invoices, how the county would know who to assess for private tile work because the private tile may not be the adjacent landowner's tile, if specifications would need to be rewritten causing a further delay in the project, and the process seems to be tried and proven function for the 20' tile to be part of district's project. Conley commented on possibilities of landowners not paying an assessment, some contractors like to know if stamped warrants are being issued which has considerations on bid prices, specifications would need to be clear on invoicing, and a schedule would need to be pulled together for special assessments before changes could be made in specifications. Goche commented that he manages private projects where personal schedules are filed in abstracts; private landowners will have to figure out how to pay assessments, mechanic's lien could be filed and would get paid. Erwin Johnson suggested assessments for private tile would be complicated for tenants and landowners, is good with moving forward with the plans as they are and wants to get the project done. Jorgensen asked for a ballpark price to have a reclassification; Conley said to truly get to what the code reads on assessing the land served, he does not know how professionally or accurately this could be done because of the amount of private systems, variables and age of systems, whether maps exist, and does not have access to those systems to practically and accurately put a number to the cost and would have to decline giving a dollar amount. Goodwin commented that his sources tell him that the cost of reclassification would be substantially more than the tile itself. Gordy Boge asked what happens if replacing 20' isn't long enough; Jorgensen assumed after the 20' it is the landowner's responsibility and Goodwin and Conley agreed.

Doug Johnson questioned if there was any need to secure permits from Corp of Engineers, Iowa DNR or the county zoning. Conley responded this district work falls under level 3, a threshold of 10-100 sq miles where permits would be required for improvement projects but this project is a repair so no permit is required with the Corp and DNR. Carr believes because this project is a repair, the flood plain ordinance would not apply but will reach out to the zoning administrator. Johnson questioned where rock line shoots and pipe drop structures are in the plans; Conley responded where pipes are outlined on the plans, placement of riprap or side stabilization will be determined when construction starts based on sand seams and structural integrity, rock line shoots for surface water conveyance are included in the details as a cautionary, not a planned implementation. Johnson questioned if there is any planned grading so water doesn't pond; Conley mentioned there are notes in the plans for contractors to grade out areas of impounding water, the berms post spoil placement will retain less water than before the project, and additional surface pipes will be installed if needed. Johnson mentioned the design plans call for a 10/1 outside slope and 14-18' top and questioned if the top of existing spoil bank will be lower than it is now in some areas; Conley said the intent of the swell bank is that it would be traversable and farmable and where original spoiled materials were mounded as part of dredging, those will be cut down and blended with the rest to make for appropriate transitions with a 10/1 slope.

David McGregor questioned if they would be losing non-CRP filter strips in section 30 and is disappointed to learn that they are going away. Conley commented that the district has to preserve its right to get rid of spoil material in a cost-effective way but there is a possibility of avoiding or minimizing certain areas which are appropriate to consider and if elevation is the concern, that could be addressed as part of field engineering. Conley's recommendation for consideration of payment of damages has been for not only crops but also for reseeded or buffers whether they are CRP or not. The district has no obligation to pay within the right of ways but doesn't mean they couldn't consider damages for those buffers. Bolton & Menk will survey off and measure an estimate of damages for consideration and if landowners have additional claims, they have a right to file claims. Damages would be considered at the closing hearing.

Carr commented that Conley has received notices from David Bledsoe, landowner, and Alan McGregor, tenant, who have interest in unused spoils. Conley's experience is this is a matter of provisions from the trustees as well as private agreements between the contractor and landowners. Doug Johnson recommended if the landowner/operator has a CRP contract that they obtain a waiver from Farm Services Agency to allow spoil placement and determine if it is going to convert the wetland impacting the effect of Food Security Act eligibility.

Jorgensen/Kuhn moved to accept the Drainage District #3 Main Open Ditch Project Specifications as filed Motion carried 2-1 with Supv Keifer opposed. Jorgensen/Keifer moved to approve a Notice to Bidder with bids to be due September 14 by 10 a.m. to the Auditor's office and bids to be considered by the board on September 18.

Motion carried 3-0. Keifer/Jorgensen moved to set the interest rate on stamped warrants at 5% and assessment to property owners to include waiver terms for assessments of \$500 or more to be allowed for up to 20 years at 5% interest. Motion carried 3-0.

Tom Treharne, NextEra Project Manager, presented a PowerPoint on their interest in developing a project in the northwest side of the county. The project near Rudd is estimated to be 300-megawatt capacity with 100 turbines, taking up about 100 acres used for operations. A 5-year development timeline is currently in an early stage of land leasing, transmission queueing, conducting environmental studies, local permitting, construction and operations beginning in 2028. Turbines would have a 30-50-year lifespan. Jorgensen commented he has heard some constituents in his district have signed agreements and others have concerns. Erwin Johnson mentioned when MidAmerican Energy put up their turbines, the reason they didn't do more was because of transmission line limitations and questioned if there is a connection between Soo Green's underground transmission line project and NextEra; Treharne said they is not any relationship with Soo Green at this time but they are open to working with them if it were feasible. Candy Brandau-Larson questioned the plan to build around CO2 pipelines; Treharne is not aware of any issues but would negotiate easements or relocate plans for their towers. Larry Bortz questioned setbacks; Treharne responded height to tip would likely be 500 feet but they could go up to 599. Dean Tjaden, Zoning Commissioner, has heard concerns of setbacks and sound emissions. The Board referenced the county zoning ordinance for small and large wind energy systems and is not considering other county's ordinances at this time.

The Board discussed plans to present the accounting and review of the law enforcement center/courthouse project. Kuhn proposed he present history of his involvement in the project during his prior term as supervisor, Carr present from that point through December 2022 and Keifer present from then to present date. Cost of land acquisition, the project, including the number of change orders, and the lawsuit will be presented. Boge requested a breakdown of costs by contractor.

The Board discussed whether or not to have a board meeting the week of Labor Day. Consensus was to not have a meeting. Carr will notify department heads for purposes of claims not being paid that week.

The Board noted the resignation of James Freiberg, Conservation lawn mowing operator, effective August 11. The Board noted the retirement of Sandy Northrup, Child Support Recovery Unit Case Manager, effective September 18; Carr mentioned that only one employee remains for the 7-county region.

Future agenda items: LEC/Courthouse accounting, All Systems Permits for designated roads, selection of pipeline inspector, Invenergy wind turbine project, and drainage utility procedures/resolution.

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

ATTEST:

Gloria A. Carr  
Floyd County Auditor

Mark A. Kuhn, Chair  
Floyd County Board of Supervisors