

Courthouse
Emmetsburg, Iowa
January 18, 2022, 8:00 a.m.

The Palo Alto County Board of Supervisors met in regular session. Members present: Keith Wirtz, Chair; Ronald Graettinger, Roger Faulstick, Craig Merrill, Linus Solberg. Present: Diane Weiland, Reporter-Democrat.

Unless otherwise indicated, all of the motions offered at this meeting were carried with the following vote: Ayes: Graettinger, Faulstick, Merrill, Wirtz, Solberg. Nays: None. Abstentions: None.

Motion by Merrill, 2nd by Solberg to approve the agenda for January 18, 2022, with an addition to approve the contract with Calhoun Burns for bridge design. Motion Carried.

Motion by Graettinger, 2nd by Solberg to approve the minutes for January 11, 2022. Motion Carried.

Motion by Solberg, 2nd by Merrill to approve the contract with Calhoun Burns for bridge design. Motion Carried.

Kirby Sampson was present for public comment and commented that the Board should sell some of the land that the county owns.

The Board had an informational meeting with landowners regarding Telford Prairie and drainage issues in that area. Present: Randy Loomis, Bill Brown, Leon Wojahn, Dave Schneider, Rick Elbert, Kirby Sampson, Carter Williamson, Rich Rouse, Jacob Stewart. Present: Jim Hudson, Drainage Attorney; Jon Rosengren, Bolton & Menk; Jordan Morey, Drainage Clerk; Rob Allen, Conservation Director; Chris Towell, Engineer's Office.

The Board discussed the private open ditch in Section 1 of Silver Lake Township and Section 36 of Highland Township. Jim Hudson explained the difference between a private agreement or a drainage district facility. The private open ditch could be turned over to Drainage District 175 and be assessed based on relative benefit as a lateral of DD 175. The Board discussed the dirt work that has been done on Telford Prairie and the culvert work that will get done. It is the landowner's decision to change the private ditch to a drainage district facility. No action taken.

The Board considered the Compensation Board Recommendations. The compensation board recommended an 8% increase in salary for elected officials and an additional \$2,000 for the County Attorney.

Motion by Graettinger, 2nd by Faulstick to approve a 4% increase for all elected officials' salary for FY 23 with no additional amount for the County Attorney. Ayes: Graettinger, Faulstick, Merrill, Wirtz. Nays: Linus Solberg. Motion Carried. The elected official salaries for FY23 are as follows: Auditor, Treasurer, Recorder \$66,189; Attorney \$96,189; Sheriff \$89,589; Supervisors \$30,889.

The Board considered a resolution to terminate a 23E Agreement establishing North Racoon River watershed management coalition. Motion by Ron Graettinger, 2nd by Craig Merrill to approve the following Resolution.

Resolution to Terminate the 28E Agreement Establishing the North Racoon River Watershed Management Coalition

WHEREAS in 2016 the State of Iowa in response to an application from the Iowa Department of Homeland Security and Emergency Management was awarded \$97 million from the U.S. Department of Housing and Urban Development's National Disaster Resilience Competition to fund the creation, master watershed plans and pilot projects for nine watersheds organized as watershed management authorities under Iowa Code Chapter 466B but to do so using the Iowa Watershed Approach of the Iowa Flood Center at the IIHR - Hydro science & Engineering,

University of Iowa, but that federal funding has ended and the Iowa Watershed Approach is no longer in effect as to the organization and operation of the WMAs under the law.

WHEREAS, the Iowa Department of Natural Resources authored the Chapter 28E Agreement documents for these nine watershed management authorities and only the North Raccoon River Watershed Management Authority was organized to include lands not in the watershed described in the Chapter 28E agreement.

WHEREAS, there exist today a total 26 watershed management authorities in the state of which only the North Raccoon River Watershed Management Coalition was organized to include lands not in the watershed described in the Chapter 28E agreement.

WHEREAS, parts of Polk, Dallas, Warren and Madison Counties, including much of the City of Des Moines and many suburbs are directly tributary to the downstream Raccoon River and are not in the North Raccoon River watershed described in the 28E agreement and are erroneously included in the North Raccoon River WMA.

WHEREAS, the Iowa Code Subsection 466B.22(1) requires that the political subdivisions in a WMA occupy both the watershed described in the Chapter 28E agreement and the same USGS HUC 8 hydrologic unit and the bylaws of the North Raccoon River Watershed Management Authority at Article I, paragraph C limits membership to political subdivisions "located within the North Raccoon River Watershed" an obvious error has occurred. This fundamental error cannot be corrected and the only solution is to terminate the Chapter 28E agreement.

WHEREAS, the map provided in Attachment A to the Chapter 28E agreement establishing the North Raccoon River Watershed Management Authority has been erroneously labeled by the Iowa DNR as the North Raccoon River Watershed when in fact the map clearly shows the USGS 07100006 hydrologic unit assigned the label North Raccoon by the USGS and in fact it is not a watershed.

WHEREAS, the WMA has failed to comply with legal requirements of Iowa Code Chapter 28E regarding required publications and filings with the Secretary of State such that the voting membership has been made uncertain and the WMA has not observed its bylaws in managing the continued eligibility and terms of the members of the Board of Directors nor has it properly administered the use of proxy votes or recorded the casting of individual votes as per the bylaws.

WHEREAS, appointed directors for the members City of Clive, Boone County, and the Boone SWCD were employees of a consulting firm hired by the WMA to prepare the Watershed Management Plan and that these directors had obvious conflicts of interest.

AND WHEREAS, in the January 25, 2020, vote of the Board of Directors to approve the Watershed Management Plan all three of the above members voted in favor of the plan and at least two, if not three, of the votes were cast by a conflicted director and employee of the consultant.

AND WHEREAS, the recorded vote of the 26 voters present was 14 in favor and 12 opposed, but if two favorable votes were withheld due to the conflict of interest the vote would have failed 12-12 and if three favorable votes were withheld due to the conflict of interest the vote would have failed 11-12.

AND WHEREAS, the Chapter 28E agreement in Section 12 subjects the WMA to the conflicts of interest applicable to municipalities and municipal officers in general and Iowa Code Subsection 380.4(2) declares a municipal measure invalid if the vote of the conflicted member or members

of the council was decisive to passage of the measure. That is the circumstance in this matter and it was an error of the WMA Chair to declare the watershed management plan approved.

AND WHEREAS, the error of the DNR and the WMA organizers in failing to accurately map the boundaries of the land area of the North Raccoon River Watershed has no solution.

AND WHEREAS, the WMA has not complied with several legal requirements of its bylaws and Iowa Code Chapter 28E governing the establishment by the more than 40 political subdivision members of the North Raccoon River Watershed Management Coalition putting the continued validity of the WMA in doubt.

AND WHEREAS, obvious conflicts of interest have placed the validity of the approval of the Watershed Management Plan in doubt.

AND WHEREAS, this member of the North Raccoon River Watershed Management Coalition has no intention to approve annual ad valorem property taxes or to solicit, accept and receive non-regular gifts, grants or loans for funding the hiring of a watershed manager and other staff or to fund revisions to the watershed management plan and we find that the primary tasks of the WMA for which it was initially established is completed.

AND WHEREAS, it makes no sense for the WMA board to regularly meet any further and for the WMA to continue in existence risking the accumulation of debt and the imposition of future mandates upon the members or the entire watershed and we recognize that the HUC 12 and smaller local watersheds will be the vehicles by which water quality improvement plans and projects will best be pursued by cities, counties and SWCDs in the future.

BE IT RESOLVED, that the Palo Alto County Board of Supervisors hereby calls upon the members of the North Raccoon River Watershed Management Coalition to terminate the Chapter 28E agreement as provided in Section 15 of the Chapter 28E agreement.

Motion by Ron Graettinger, 2nd by Craig Merrill to approve the above Resolution on January 18, 2022. Ayes: Graettinger, Faulstick, Solberg, Merrill, Wirtz. Nays: none.

Resolution Passed.

/s/Keith Wirtz, Chair

/s/Attest: Carmen Moser, Auditor

MINUTES OF MEETING TO
APPROVE CONTRACTS AND
BONDS

419285-14 (L)

Emmetsburg, Iowa

January 18, 2022

The Board of Supervisors of Palo Alto County, Iowa, met on January 18, 2022, at 9:30 o'clock a.m., at the Courthouse Boardroom, Emmetsburg, Iowa.

The meeting was called to order by the Chairperson and the roll being called, there were present and absent the following named Supervisors:

Present: Keith Wirtz, Ron Graettinger, Craig Merrill, Roger Faulstick, Linus Solberg. Absent: none.

After due consideration and discussion, Supervisor Roger Faulstick introduced and moved the adoption of the resolution next hereinafter set out, the same being a resolution approving the executed contracts and performance and/or payment bonds for

the Palo Alto County Public Safety Center Project (Contracts 1-6). The motion was seconded by Supervisor Craig Merrill and passed with record vote as follows:

Ayes: Graettinger, Faulstick, Solberg, Merrill, Wirtz. Nays: none.

Thereupon, the resolution was declared adopted, as follows:

RESOLUTION NO. 1-18-2022(A)

Resolution approving contracts and performance and/or payment bonds for the Palo Alto County Public Safety Center Project (Contracts 1-6)

WHEREAS, the Board of Supervisors (the “Board”) of Palo Alto County, Iowa, has heretofore awarded contracts for the Palo Alto County Public Safety Center Project (Contracts 1-6) and fixed the amount of the performance and/or payment bonds to be furnished by each contractor, and instructed and authorized the Chairperson and County Auditor to execute the said contracts on behalf of the County, subject to the approval of the Board; and

WHEREAS, the said contracts have been duly signed by the contractors and by the Chairperson and County Auditor, and upon examination by this Board the same appear to be in proper form; and

WHEREAS, each contractor has filed satisfactory performance and/or payment bonds in the required amount;

NOW, THEREFORE, Be It Resolved by the Board of Supervisors of Palo Alto County, Iowa, as follows:

Section 1. The aforementioned contracts and performance and/or payment bonds are hereby approved and declared to be binding upon the parties thereto.

Section 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Passed and approved January 18, 2022.

/s/Keith Wirtz,
Chairperson, Board of Supervisors

Attest:/s/Carmen Moser, County Auditor. There being no further business to come before the meeting, it was upon motion adjourned.

/s/Keith Wirtz
Chairperson, Board of Supervisors
Attest:
/s/Carmen Moser, County Auditor

Motion by Craig Merrill, 2nd by Linus Solberg to approve correction for Precinct boundary ordinance description. Motion Carried.

Carmen Moser, reviewed proposed tax levies for FY23 budget.

Committee Reports: Roger—gaming corporation; Linus—North Central Emergency Response.

Motion by Graettinger, seconded by Faulstick to adjourn. Motion Carried.

Keith Wirtz, Chairman

Carmen Moser, County Auditor