

December 20, 2001

The Board of Supervisors of Shelby County, Iowa, met pursuant to law and rules of said board in special session at 9:00 a.m. in the Supervisors Chambers of the Shelby County Courthouse with the following members present: LaVon A. Christensen, Chairman; Gayle Petersen, Vice-Chairman; and Marsha J. Carter, Clerk. Absent: Richard Ferry.

It was moved by Petersen, seconded by Christensen, to approve the agenda with the addition of (1) Approval of Conservation Board Members and (2) Annual Bridge Inspection. AYES: Christensen, Petersen NAYES: None

The Chairman reported that Jeff Larson, County Attorney, had received the following letter from the Iowa Attorney General's Office regarding forcing the Auditor to act as budget director, which was in agreement with the original County Attorney Opinion Letter that was filed with this Board at their December 4, 2001 Session:

December 19, 2001

Dear Mr. Larson:

You have requested an opinion on the scope of duties of county auditors. You ask whether a county board of supervisors can force an auditor to act as county budget director and to perform certain budgetary functions. We are responding with this letter of informal advice, see 61 Iowa Admin. Code 1.5(5), because we understand county officials would like an expedited response.

Among other things, Iowa Code chapter 331 (2001) governs the county budget process. Section 331.434 specifically provides that the supervisors "shall prepare and adopt a budget...." This language imposes a requirement upon the supervisors. See Iowa Code 4.1 (30)(a) (unless otherwise defined, "shall" in statutes imposes a duty). "Prepare" means to make ready, work out the details, plan, put together. See Black's Law Dictionary 1182 (1990); Webster's Ninth New Collegiate Dictionary 901 (1979). See generally Iowa Code 4.1(38) (undefined words in statutes shall be construed according to context and approve English usage).

Chapter 331 does not specifically recognize the position of "county budget director" or require the auditor to act as one. See Iowa Code 331.503-.512.

The General Assembly, not the supervisors, decides what duties the auditor must perform regarding the county budget. It has done so in chapter 331. See Iowa Code 331.433-.435. Accordingly, the supervisors may not impose any additional duty upon the auditor.

Please note that this advice does not constitute an official opinion of the Attorney General. See generally 61 Iowa Admin. Code 1.5(5).

Sincerely,

Bruce Kempkes
Assistant Attorney General

This letter was placed on file in the Auditor's Office.

Christensen reported that, after much discussion, Marsha Carter had agreed to continue as budget director, if appointed. It was moved by Christensen, seconded by Petersen, to appoint Marsha J. Carter as Shelby County Budget Director for \$1000 annually. AYES: Christensen, Petersen NAYES: None

It was moved by Petersen, seconded by Christensen,, to approve the Annual Bridge Inspection Contract with Sundquist Engineering, Denison, for \$90/bridge. AYES: Christensen, Petersen NAYES: None

It was moved by Petersen, seconded by Christensen, to approve the appointment of the following two Conservation Board members: To replace Richard Wooster and Richard Burmeister—Roland Burton and Ken Shetler. AYES: Christensen, Petersen NAYES: None

There being no further business appearing, the Chairman declared the meeting adjourned at 9:23 a.m.

LaVon A. Christensen, Chairman

ATTEST:

Marsha J. Carter
Clerk to the Board of Supervisors

NOTE: These minutes are as recorded by the Clerk to the Board of Supervisors and are subject to Board approval at the next regular meeting.