

October 21, 2003

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

It was moved by Schmitz, seconded by Ferry, to approve the agenda AND the following items contained in the Consent Agenda:

- A. Minutes of October 7, 2003
- B. Office Reports – Sheriff, MIS, Recorder, and Weed Commissioner
- C. Committee Reports

AYES: Petersen, Schmitz, Ferry

NAYES: None

It was moved by Ferry, seconded by Schmitz, to approve the claims of October 21, 2003.
AYES: Petersen, Schmitz, Ferry NAYES: None

Ken Brinker and Mike Howard, representing the Shelby County Conservation Board, appeared before the Board to discuss a \$1996.00 charge submitted by Sundquist Engineering for a survey completed at NishnaBend. This survey was mandated by the DNR following the submission of a complaint in January that a cabin that had been constructed at NishnaBend was sitting on the Flood Plain of the Nishnabotna River. Attached to the notice from the DNR was a copy of an email from the DNR to Supervisor Ferry, notifying him that the DNR had sent a letter of response to the Board of Supervisors. The Conservation Board interpreted this to mean that the Board of Supervisors had filed the complaint. Supervisors Petersen and Schmitz strongly denied that the complaint had come from either of them. Supervisor Ferry did not respond. The Conservation Board received a letter from the DNR dated September 7, 2003, stating that there was no problem with the location of the cabin and that the cabin had been built following all the required State guidelines. The Conservation Board does not feel that the \$1996.00 charge should be taken from their already tight budget since the complaint was unfounded. Schmitz and Petersen agreed. After much discussion, it was moved by Schmitz, seconded by Petersen, to allow the Conservation Department to amend their FY2004 budget by \$1996.00 to not place any additional hardship on the department for this unnecessary expense. AYES: Petersen, Schmitz, Ferry NAYES: None

Marsha Carter, Auditor, presented a letter addressed to Shelby County from Public Entity Risk Services of Iowa, referring to the lawsuit of Bryce Schaben (Roadside Management) vs Supervisor Richard Ferry, which was filed June 14, 2001. The letter states “Your certificate of coverage is written with a \$2,500 deductible, making you responsible for the first \$2,500.00 of each claim. In the course of handling this claim we have paid Indemnity payments that total \$15,000.00 and Expense payment of \$15,426.49 making a total amount spent on this claim of \$30,426.49. Since this is over your deductible amount, please forward a check in the amount of \$2,500.00 made payable to Iowa Communities Assurance Pool.....” Carter questioned which department budget should be charged for the \$2,500, since this was not a budgeted item. It was moved by Petersen, seconded by Schmitz, to approve the payment of this claim for \$2,500 and to amend the Supervisor’s FY2004 Department Budget by \$2,500 to cover this added expense. AYES: Petersen, Schmitz, Ferry NAYES: None

Marsha Carter, Auditor, also presented information she had received from ISAC that, in addition to the earlier \$100,000+ amount that the State had cut from Shelby County’s FY2004 revenues, the State was now cutting an additional \$9,665.35. The first \$100,000 cut was covered by the savings the County negotiated with our health insurance provider. This latest nearly \$10,000 cut will be taken out of the County General Fund reserve.

It was moved by Schmitz, seconded by Ferry, to authorize the Chairman to sign the Releases of Mortgage for the following Down Payment Assistance Program Projects. All five have satisfied the five-year occupancy requirement: 94-HM-132-004, 010, 012, 013, and 015. AYES: Petersen, Schmitz, Ferry NAYES: None

It was moved by Schmitz, seconded by Ferry, to approve the following resolution:

**SHELBY COUNTY
RESOLUTION 2003-28**

**RESOLUTION APPROVING THE APPLICATION TO THE IOWA DEPARTMENT OF
ECONOMIC DEVELOPMENT REQUESTING CERTIFICATION OF AN ENTERPRISE
ZONE IN SHELBY COUNTY**

WHEREAS, Shelby County (hereinafter referred to as the “ County”), State of Iowa is a political subdivision organized and existing under the law and the Constitution of the State of Iowa (the “State”); and

WHEREAS, the purpose of 2001 Iowa Code Sections 15E.191 through 15E.196 and all subsequent amendments including 2002 Iowa Acts, House File 2378 (the “Act”) is to encourage mutual development objectives between communities and private business and to promote development and investment in economically distressed areas within the State; and

WHEREAS, the Act and administrative rules adopted by the Iowa Department of Economic Development require the County to approve, by resolution, the establishment of an Enterprise Zone and the submission of a request for certification to the Iowa Department of Economic Development Board of Directors; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF SHELBY COUNTY AS FOLLOWS:

SECTION 1. The County certifies that it is an eligible participant under the Act and meets the following distress criteria required under Section 15E.194 of the Act, as amended by 2002 Iowa Acts, House File 2378:

- a) Shelby County has an average weekly wage that ranks among the bottom 25 counties in the State.
- b) Shelby County has a percentage of persons 65 years of age or older that ranks among the top 25 counties in the State.

SECTION 2. The County hereby requests Enterprise Zone certification from the Iowa Department of Economic Development Board of Directors as authorized in Section 15E.194 of the Act for the 24.25 acres described below, which the County certifies, when added to previously certified zones, is less than 1% of the total area of the 378,379.2 acres in Shelby County.

- a) Shelby County, Portsmouth E Z #1 – Auditor Subdivision NE SE Part Lot 5 (except as Shown); Auditor Subdivision NE SE Lot 1 EX N 30’ and Part Lot 5 30’ X 142’; Auditor Subdivision NE SE N 30’ Lot 1 and S 50’ of N 231’ of E 142’ of Lot 5.
- b) Shelby County, Portsmouth E Z #2 – Part SE SE and EX Parcel A,(except as shown).
- c) Shelby County, Elk Horn E Z #1 – Outlot D of College Heights Addition to the City of Elk Horn, Iowa, Being a part of Lot 8 of The Original Town of Elk Horn, Iowa, except therefrom Lot 3 of Block 3 of College Heights Addition to the City of Elk Horn, Iowa.

SECTION 3. The County shall provide a copy of this resolution to the Iowa Department of Economic Development and shall file this resolution with the Shelby County Assessor.

SECTION 4. All resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. The provisions of this resolution are hereby declared to be severable and if any section, phrase, or provision shall be for any reason be declared to be invalid, such declaration shall not effect the validity of the remainder of the sections, phrases, and provisions hereof.

SECTION 6. This resolution shall become effective immediately upon its passage and approval.

Passed and approved: October 21, 2003

AYES: Petersen, Schmitz, Ferry NAYES: None

This being the time and date advertised for a public hearing on the proposed road vacation on the following sites:

A section of a highway part of road #306 as established April 7, 1879, the centerline of which is described as follows: Beginning at a point on the west section line being 102.9 feet south of the NW Corner of Section 7, T-80N, R-40W and continuing southerly along said west section line a distance of 2554.5 feet, terminating at the W1/4 Corner of said section 7.

The Chair opened said hearing at 9:50 a.m. and read opening remarks. The County Engineer gave a presentation on the proposed vacation and abandonment. The Auditor reported having received no written or oral comments, however the Engineer reported being in receipt of a phone call from Mr. Marvin Kenkel, adjacent landowner, in favor of the proposed action. The floor was opened to receive comments. No one appeared speaking in favor or opposed to the action.

There being no other comments, it was moved by Schmitz, seconded by Petersen, to vacate and abandon the above described right of way, abandon all stream crossings therein, and to revert the land to adjacent landowners as per Iowa Code and to close the public hearing. The hearing was closed by the Chairman at 10:00 a.m. AYES: Petersen, Schmitz, Ferry NAYES: None

It was moved by Ferry, seconded by Schmitz, to vacate the described roads as follows:

RESOLUTION NO. 2003-29
ROAD VACATION

The Shelby County Board of Supervisors took final action on the hearings and Engineer's reports as stated below, related to the vacating and abandoning of right of way for sections of the Shelby County Secondary Road system as described below. The Board also heard reports from the County Engineer that all crossings, fences and banks were removed and section lines established.

IT IS THEREFORE ordered that the following sections of the Shelby County Secondary Road system be vacated, the crossings abandoned, and all right of way abandoned. The abandoned right of way described below shall revert to the adjoining land owners per Iowa Code.

1. Hearing held December 19, 2000. A section of a 66 foot wide highway, the centerline of which is described as follows: Commencing at a point 335.0 feet easterly along the center section line of the W1/4 Corner Section 1, T-18N, R-39W and thence continuing easterly along the center section line a distance of 4917.21 feet, terminating at a point 33 feet westerly of the E1/4 Corner of said Section 1, T-78N, R-39W.
2. Hearing held August 15, 2000. A section of a 66 foot wide highway, road #255 as established October 15, 1877, the centerline of which is described as follows: Beginning at the NW Corner of Section 14, T-81N, R-38W (Greeley Township) and running easterly to and terminating at the NE Corner of said Section 14.
3. Hearing held January 27, 1998. A highway the centerline of which is described as follows: Commencing at a point on the section line, approximately 300 feet south of the E1/4 Corner of Section 20, T-81N, R-40W and running thence north on the section line to a point approximately 300 feet north of the SE corner of the NE1/4SE1/4 Section 17, T-81N, R-40W; thence northwesterly, north and northeasterly to its intersection with existing County Road #49 in the SE1/4 Section 17, west a distance of approximately 1.19 miles. (The foregoing is a part of County Road #56.) and a road 66 feet in width from county Road #49 in the SW1/4NW1/4 Section 16, T-81n, R-40W, with suitable drainage structures and all weather surfacing, to the E1/4 Corner of said section 17 to service all lands adjacent to that point.
4. Hearing held March 5, 1996. A highway, the centerline of which is described as follows: Commencing at a point 33 south of the NW corner section 18, T-79N, R-40W (Cass Township), thence southerly 550 feet along the west line of the NW1/4 NW1/4 Section 18 and terminating at that point, being part of the road as originally established as Road Number 476.

5. Hearing held February 22, 2000. A section of road #43 as established December 3, 1870 the centerline of which is described as follows: Beginning at a point 1977.0 feet easterly of the W1/4 Corner Section 27, T-79N, R-39W (Lincoln Township) of the 5th P.M., Shelby County, Iowa and continuing thence easterly terminating at a point 787.6 feet westerly of the E1/4 Corner of Said Section 27.
6. Hearing held August 15, 2000. A section of a 66 foot wide highway, road #757 as established May 19, 1906, the centerline of which is described as follows: Beginning at the SW Corner of Section 30, T-80N, R-37W (Polk Township) and running easterly to and terminating at a point 650 feet west of the S1/4 Corner of said Section 30.
7. Hearing held August 15, 2000. A section of a 66 foot wide highway, road #117 as established August 4, 1873, the centerline of which is described as follows: Beginning at the NW Corner of Section 36, T-80N, R-38W (Douglas Township) and running easterly to an terminating at the NE Corner of said Section 36.
8. Hearing held August 15, 2000. A section of a highway part of road #137 as established June 1, 1874, the centerline of which is described as follows: Beginning at the NE Corner of Government Lot 2, Section 6, T-78N, R-38W (Monroe Township) and running southerly to an terminating at the SE Corner of Government Lot 17 of said section 6.
9. Hearing held December 30, 1997. A section of road #52 as established, the centerline of which is described as follows: Beginning as a point on the East right of way line of Highway 59, east of the S ¼ corner of Section 36, T-79N, R-39W (Lincoln Township) and continuing easterly along the section line a distance of 4650 feet to the Nishna Botna River.
10. Hearing held October 7, 2003. A highway, the centerline of which is described as follows: A section of road #179 as established July 19, 1875 the centerline of which is described as follows: Commencing at a point on the section line, 1322.5 feet south of the NE1/4 Corner 23-80-38 (Douglas Township, Shelby County, Iowa) thence running south along the section line terminating at the SE Corner 23-80-38.

Passed and approved this 21st day of October, 2003

AYES: Christensen, Ferry, Schmitz NAYES: None

The County Engineer updated the Board on ongoing Secondary Road projects

There being no further business appearing, the Chairman declared the meeting adjourned at 10:18 a.m.

Gayle Petersen, 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.