

February 3, 2004

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:, Roger Schmitz, Chairman; Richard Ferry, Vice-Chairman; and Gayle Petersen; and Marsha J. Carter, Clerk.

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

- A. Minutes of January 20, 2004
- B. Office Reports – MIS
- C. Treasurers Semi-Annual Report
- D. Budget Review
- E. Committee Reports

AYES: Schmitz, Ferry, Petersen

NAYES: None

It was moved by Petersen, seconded by Ferry, to approve the claims of January 31, 2004.  
AYES: Schmitz, Ferry, Petersen                      NAYES: None

It was moved by Ferry, seconded by Petersen, to approve the publication of the salaries of regular County employees for Calendar Year 2003. AYES: Schmitz, Ferry, Petersen    NAYES: None

Marsha J. Carter, \$36,702.79; Karen Goans, \$29,353.89; Michael Hansen, \$39,189.60; Gerald Lawson, \$44,402.55; Sandra Ronfeldt, \$26,029.76; Kathaleen Stinn, \$35,230.25; Sherry Heller, \$28,183.78; Marie Madsen, \$27,127.74; Joann Christensen, \$28,183.78; Sharon Oman, \$27,127.74; Linda Jacobsen, \$35,230.25; Linda Stroehrer, \$28,183.78; Janet Johannsen, \$21,498.00; Jeffrey Larson, \$23,699.55; Marcus Gross, Jr., \$15,151.92; Susan Larson Christensen, \$26,932.50; Durwood Cavanaugh, \$44,752.59; Glenyce Wendelin, \$27,122.32; Karla Kramer, \$14,160.85; Mark Hervey, \$39,239.22; John Kelly, \$38,449.73; Aaron Anderson, \$40,797.75; Robin Ambrose, \$37,114.15; Kelly Lefeber, \$34,625.62; Mark Kaufman, \$37,364.73; Chad Butler, \$34,657.46; Mark Hervey, \$5,992.64; Bradley Butler, \$25,319.66; Cynthia Murphy, \$26,379.72; Harold Brensel, \$27,426.60; Karen Klein, \$25,189.05; Ruth Mortensen, \$26,540.68; Charles Parkhurst, \$33,795.38; Penny Anderson, \$22,474.49; Charles Parkhurst, \$4,018.25; Richard Ferry, \$21,325.52; Gayle Petersen, \$21,810.62; Roger Schmitz, \$20,668.81; Marsha Carter, \$1000.00; Darby Sanders, \$40,113.42; Kay Hupp, \$3,054.80; Nicholas Preston, \$26,912.37; Christina Groen, \$14,745.38; Joseph Stroehrer, \$39,685.71; Terri Daringer, \$27,780.00; Robert Nielsen, \$22,466.03; Richard Emery, \$15,274.26; Julie Goeser, \$5,964.64; Charles Trailer, \$4,614.23; Rhonda Brown, \$843.52; Thomas Walker, \$7,998.08; Thomas McMullen, \$8,191.76; Rhonda Brown, \$27,906.81; Ylonda Maguire, \$39,940.87; Jill Schiltz, \$30,209.37; Jessica Broughton, \$29,543.77; Julene Shelton-Beedle, \$18,047.64; Connie Boysen, \$21,437.84; Bryce Schaben, \$36,051.61; Kay Hupp, \$2,811.60; Greg Boysen, \$20,384.00; Dennis Anastasi, \$40,123.03; Roger Andersen, \$18,959.73; Behrens, Lyle, \$33,000.94; Kenneth Blackwell, \$32,243.01; Allen Bruck, \$32,360.71; Thomas Ferry, \$31,285.41; Daniel Ahart, \$96,406.32; Robert Kimball, \$34,104.60; Donald Gessert, \$32,351.21; Ralph Gessert, \$33,444.44; Marvin Goans, \$49,204.61; Richard Hastert, \$29,594.72; Franklin Sick, \$29,264.55; Michael Kienast, \$33,596.58; Gerald Kohles, \$31,941.20; Richard Musfeldt, \$31,954.71; James Baughman, \$18,737.87; Curtis Sonderman, \$30,782.27; David Sternberg, \$32,240.62; Charles Trailer, \$51,502.32; Edward Schmitz, \$31,932.02; Michael Whitaker, \$47,761.40; Bruce Waddell, \$33,301.64; Ann Wolken, \$28,805.14; David Gau, \$36,994.13; Bernard Swenson, \$30,769.77; Douglass Daringer, \$27,899.59; Ron Brus, \$27,861.83; Christina Groen, \$9,169.39.

It was moved by Ferry, seconded by Petersen, to authorize the Chairman to sign a 5-year lease with Country Care Corporation for the use and maintenance of the Shelby County Care Facility, effective July 1, 2004, as recommended by the County Attorney. AYES: Schmitz, Ferry, Petersen                      NAYES: None

Now being the time for the 3<sup>rd</sup> and final reading of Shelby County Ordinance No. 2004-1, An Ordinance for the Protection of Community From Drug Paraphernalia, the Chairman opened the hearing. It was moved by Petersen, seconded by Ferry, to introduce the Ordinance. AYES: Schmitz, Ferry, Petersen    NAYES: None. It was moved by Petersen, seconded by Ferry, to dispense with the reading of the Ordinance. AYES: Schmitz, Ferry, Petersen    NAYES: None.

The Auditor reported that there were no written or oral comments. It was moved by Ferry, seconded by Petersen, to close the hearing and adopt the following Ordinance. AYES: Schmitz, Ferry, Petersen      NAYES: None

SHELBY COUNTY ORDINANCE NO. 2004-1  
AN ORDINANCE FOR THE PROTECTION OF THE  
COMMUNITY FROM DRUG PARAPHERNALIA

The following Ordinance is enacted by the Board of Supervisors of Shelby County, Iowa:

SECTION ONE

DEFINITIONS.

1. Controlled Substance. The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

2. Drug Paraphernalia. The term “drug paraphernalia” as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

a. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

b. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

c. Isomerization Devices. Isomerization devised used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

e. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

f. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

g. Separators – Sifters. Separation      gins and sifters used, intended for use, or  
designed for use in removing twigs      and seeds from, or in otherwise cleaning or  
refining marijuana.

h. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

i. Containers. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

j. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

k. Injecting Devices. Objects used, intended for use, or designed for use in ingesting, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish

oil into the human body, such as:

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured bowls;
- (2) Water pipes;
- (3) Carburetor tubes and devices;
- (4) Smoking and carburetor masks;
- (5) Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
- (6) Miniature cocaine spoons and cocaine vials;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air driven pipes;
- (11) Chillums;
- (12) Bongs;
- (13) Ice pipes or chillers.

## SECTION TWO

### DETERMINING FACTORS.

In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or Federal law relating to any controlled substance.
3. Proximity to Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
4. Proximity to Substance. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom such an owner or other person knows, or should reasonably know, intent to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended, of use or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

### SECTION THREE

#### POSSESSION OF DRUG PARAPHERNALIA

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body controlled substances in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

### SECTION FOUR

#### MANUFACTURE, DELIVERY OR OFFERING FOR SALE.

It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

### SECTION FIVE

#### NUISANCE.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Ordinance is guilty of a misdemeanor under this Ordinance and shall be punished by a fine of not more than five hundred dollars, or by imprisonment not to exceed thirty days.

Adopted this 3<sup>rd</sup> day of February, 2004.

It was moved by Petersen, seconded by Schmitz, to approve the Release of Mortgages for Down Payment Assistance Program Project No. 94-HM-132-107 and 94-HM-132-009.  
AYES: Schmitz, Ferry, Petersen                      NAYES: None

The Auditor presented a letter to the Board from the Harlan Library stating that a meeting had taken place between the Harlan Library and the Elk Horn Library and the FY2005 funding for libraries will be divided as follows: 87% - Harlan Library; 12% - Elk Horn Library; 1% - Irwin Library.

Due to the change in the funding for libraries in FY2005, it was moved by Ferry, seconded by Petersen, that the County Attorney give the required 60-day notice to the Harlan Library of the termination of the existing contract. AYES: Schmitz, Ferry, Petersen                      NAYES: None

It was moved by Petersen, seconded by Ferry, to approve the Iowa Department of Transportation (IDOT) Agreement between Shelby County and the IDOT for Federal Aid Highway Bridge Replacement and Rehabilitation (HBRR) program for Shelby County project BROS-C086(35)—5F-83 in 23 Fairview “Lee’s Bridge”. AYES: Schmitz, Ferry, Petersen 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 9:57 a.m.

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Roger Schmitz, Chairman

ATTEST:

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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.