

July 6, 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; Gayle Petersen, and Marsha J. Carter, Clerk.

It was moved by Ferry, seconded by Petersen, to approve the agenda with the addition of (1) Provider Agreement with Harlan Crest Home and (2)Contract for Services from Mercy Hospital AND the following items contained in the Consent Agenda:

- A. Minutes of June 15 & 22, 2004
- B. Office Reports – None
- C. Committee Reports

AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Petersen, seconded by Ferry, to approve the Claims of June 30, 2004, as listed in the Claims Register. AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Ferry, seconded by Petersen, to approve the Contract for Services for Mercy Hospital, Council Bluffs, as recommended by the Lonnie Maguire, Community Services Director. AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Ferry, seconded by Petersen, to approve the Provider Agreement with Harlan Crest Home for \$41.90/day, as recommended by the Lonnie Maguire, Community Services Director. AYES: Schmitz, Ferry, Petersen NAYES: None

The Chairman asked for the bids on the 40' X 60' Metal Building and the 4-6 Ton Bulk Tank with Auger located at the County Farm. Carter reported that a notice has been published in the Harlan Newspapers on June 22 and 29, 2004, and in the Danish Villages Voice on June 24, 2004, but no bids had been received. The Chairman stated that the building would be used for storage and the bulk tan would probably be removed.

Now being the time for the public hearing on the 3rd and final reading of Shelby County Ordinance No. 2004-2, Amendment to Shelby County Subdivision Ordinance, the Chairman did open the hearing. There were no written or oral comments. It was moved by Ferry, seconded by Schmitz, to close the hearing and approve the following:

SHELBY COUNTY ORDINANCE NO. 2004-2
SHELBY COUNTY SUB-DIVISION ORDINANCE

AMENDMENT – ORDINANCE NO. 2001-1

ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE UNINCORPORATED
AREA OF SHELBY COUNTY, PRESCRIBING STANDARDS FOR SUBDIVISIONS AND FOR
THE IMPROVEMENT THEREOF, PRESCRIBING PROCEDURES FOR THE REVIEW OF
PROPOSED SUBDIVISION PLATS AND ESTABLISHING FEES THEREFORE, AND
PRESCRIBING PENALTIES FOR THE VIOLATION OF SUCH ORDINANCE.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF SHELBY COUNTY, IOWA.

ARTICLE I: GENERAL PROVISIONS

- 1.01 **Short Title:** This ordinance shall be known as the "Subdivision Regulations" of Shelby County, Iowa.
- 1.02 **Purpose:** The purpose of this ordinance is to provide for the balance between the review and regulatory authority of governmental agencies concerned with the subdivision of land and the rights of landowners. Further, this ordinance provides minimum standards for the design, development, and improvement of all new subdivisions

and resubdivisions of land, so that existing land uses will be protected, and so that growth occurs in an orderly manner, consistent with planned expansion of public services and utilities, consistent with the Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of Shelby County, Iowa.

- 1.03 **Application:** Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel ~~into three (3) or more~~
~~parts, any part of which is less than forty (40)~~
~~acres,~~ for the purpose of laying out an addition, subdivision, building lot or lots, acreage or suburban lots within the County, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling or offering for sale any lots therein contained or placing the plat on record.
- 1.04 **Recording of Plat:** No subdivision plat, resubdivision plat or street dedication within Shelby County, Iowa shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provision of this ordinance.
- Upon the approval of the final plat by the Governing Body, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded, and evidence thereof filed with the Governing Body within such thirty (30) days.
- 1.05 **Fees Established:** The Governing Body shall, from time to time establish by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Governing Body, unless and until said plat is accompanied by the fee, as established by resolution of the Governing Body, and as required by this ordinance.
- 1.06 **Penalties:** Any person who shall dispose of, or offer for sale, any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the Governing Body, as required by law, shall forfeit and pay fifty dollars (\$50.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the County's right to any other remedies available to the County for the enforcement of this ordinance.
- 1.07 **Zoning Certificate/Occupancy Permit to be Denied:** No Zoning Certificate/Occupancy Permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the

improvements required by this ordinance have been installed.

1.08 **RESERVED**

- 1.09 **Access to Public Roads:** Access to the Secondary Road system shall be limited to two (2) per tract. Frontage roads with single access will be considered the preferred method.

ARTICLE II DEFINITIONS

- 2.01 **Terms Defined:** For the purposes of this ordinance, certain words herein shall be defined as, and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the masculine gender shall include the feminine, the term "shall" is always mandatory, and the term "may" is permissive:

- a. **Administrator:** The term "Administrator" shall mean the Zoning Administrator assigned the duty to administer this ordinance by the Governing Body or other appointing authority.
- b. **Alley:** The term "alley" shall mean public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
- c. **Auditor's Plat:** The term "Auditor's Plat" shall mean a subdivision plat required by the auditor and prepared by a surveyor under the direction of the auditor.
- d. **Block:** The term "block" shall mean an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
- e. **Comprehensive Plan:** The term "Comprehensive Plan" shall mean the general plan for the development of the County, which may be titled master plan, general plan, comprehensive plan or some other title, which plan has been adopted by the Governing Body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
- f. **Commission:** The term "Commission" shall mean the Planning and Zoning Commission appointed by the Governing Body for the purposes of this ordinance, and may also be the zoning commission, in which case such commission shall be known as the Planning and Zoning Commission.
- g. **County Engineer:** The term "County Engineer" shall mean the professional engineer registered in the State of Iowa designated as County Engineer by the Governing Body.
- h. **Cul-de-Sac:** The term "cul-de-sac" shall mean a

street having one end connecting to another street, and the other end terminated by a vehicular turn around.

- i. Division: The term "division" shall mean a tract or parcel of land divided into two parcels of land by conveyance or for tax purposes. The Conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of these regulations.
- j. Easement: The term "easement" shall mean an authorization by a property owner for another to use a designed part of his property for a specified purpose.
- k. Flood Hazard Area: The term "flood hazard area" shall mean any subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designed by the ~~Iowa Natural Resources Council or the Federal Insurance Administration~~ Federal Insurance Rate Map..
- l. Floodway: The term "floodway" shall mean the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than (1) foot.
- m. Governing Body and County: The term "Governing Body and County" shall mean the Board of Supervisors of Shelby County, Iowa.
- n. Improvements: The term "improvements" shall mean changes to land necessary to prepare it for building sites including but not limited to grading, filing, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainage ways, and other public works and appurtenances.
- o. Lot: The term "lot" shall mean a portion of a subdivision or other parcel or tract intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development designated on an official plat.
- p. Lot, Corner: The term "corner lot" shall mean a lot situated at the intercession of two streets.
- q. Lot, Double Frontage: The term "double frontage lot" shall mean any lot that is not a corner lot which abuts two streets.
- r. Owner: The term "owner" shall mean the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
- s. Plat: The term "plat" shall mean a map, drawing, or chart on which a subdivider's plan for the subdivision of land is presented, which

- he submits for approval and intends, in final form, to record. Such plat shall conform to all of these regulations and the standards and procedures for land surveying in accordance with Chapter 355 of the Iowa Code.
- t. Resubdivision: The term "resubdivision" shall mean any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
 - u. Street: The term "street" shall mean public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property or may refer to the paving installed within such right-of-way.
 - u.1 Hard Surfaced Street: A street which has a full depth surfacing consisting of 8" concrete or asphalt with a structural capacity equivalency of concrete, constructed in accordance with ~~appropriate local, county or state regulations and standards~~ AASHTO Local Urban Streets.
 - v. Street, Major: The term "major street" shall mean an arterial street or other street which has or is planned to have continuity to carry traffic from one section of the County to another.
 - w. Subdivider: The term "subdivider" shall mean the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.
 - x. Subdivision: The term "subdivision" shall mean the division of land ~~into three or more parts~~, for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to process of subdividing or to the land subdivided. However, the sale or exchange of small parcels of land to or between the owners of adjacent platted lots, where such sale or exchange does not create any additional lots, and where the land sold or exchanged constitutes less than fifty (50) percent of the area of the enlarged lot after such transfer, shall not be considered a subdivision.
 - y. Tract: Any aliquot, 40 acre portion of a section, a lot within an official plat or a government lot.
 - z. Utilities: The term "utilities" shall mean systems for the distribution or collection of water, gas, electricity, telecommunications, wastewater and storm water.
 - aa. Dwelling Group: As defined in the Shelby County

Zoning Ordinance.

ARTICLE III: IMPROVEMENTS

- 3.01 **Improvements Required:** The subdivider shall, at his expense, install and construct all improvements required by this ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the County, and as shown on the approved preliminary plat.
- 3.02 **Inspection:** All improvements shall be inspected to insure compliance with the requirements of this ordinance. The cost of such inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the County.
- 3.03 **Minimum Improvements:** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare:
- a. **Streets:** The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving on all streets prior to application to County for inclusion into the Secondary Road system.
 - b. **Sanitary Sewer System:** The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. Where connection to a central sewer system, or the construction of a central sewage collection and treatment system cannot reasonably be accomplished, septic systems may be allowed. No subdivision to be served by septic systems shall be approved until and unless percolation tests have been performed and the results of such tests have been provided to and reported on by the County Environmentalist. Such septic systems, if approved, may be installed by the subdivider, or by a subsequent owner at the time development of a lot takes place.
 - c. **Storm Sewer System:** The subdivider of land being platted shall install and construct a storm water drainage and/or storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas, so as to prevent undue runoff onto adjacent land.
 - d. **Water System:** The subdivider of land being platted shall make appropriate provision for a suitable water supply for each platted lot or parcel. Such water supply shall be appropriate for the character of development proposed. No subdivision shall be approved until and unless the proposed system for providing water has been approved by the County Environmentalist. Individual wells, if approved, may be installed

by the subdivider or by a subsequent owner at the time development of a lot takes place.

- e. **Other Improvements:** The subdivider of the land being platted shall be responsible for and the Supervisors may require improvements to prevent erosion; protection of native trees or other conservation measures; installation of sidewalks and walkways necessary to secure pedestrian safety; grading and seeding or sodding of all lots; the planting of any required trees; and the installation of street signs and street lighting as required; and such off-site improvements as may be warranted by the impact of development of the proposed subdivision.

3.04 Easements Required:

- a. **Utility Easements:** Where required for the placement of present or future utilities, easements of not less than ten feet in width shall be granted by the owner along rear and where necessary, along side, lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines, Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures except as necessary for utilities shall be permitted on such easements.
- b. **Easements Along Streams and Watercourses:** Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his own expense, make adequate provisions for the proper drainage of surface water and shall also provide and dedicate to the County an easement along said streams and watercourses as necessary for the proper maintenance of the watercourse, and as approved by the County.

- 3.05 **Maintenance of Improvements:** ~~Unless otherwise by the Supervisors~~ Improvements required to be installed shall remain the property and the responsibility of the subdivider, or successors in interest to the lands being subdivided. No subdivision shall be approved until and unless legal covenants, running with the land, sufficient to ensure that the County will not need to assume maintenance responsibility for any such improvement, have been approved by the County Attorney and the Supervisors.

ARTICLE IV: MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

- 4.01 **Standards Prescribed:** The standards set forth in this ordinance shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.
- 4.02 **Land Suitability:** No land shall be subdivided which is found to be unsuitable for subdividing by reason

of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety, or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the County.

If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the Supervisors shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Governing Body may reaffirm, modify, or withdraw its determination regarding such unsuitability.

- 4.03 **Lands Subject to Flooding:** No subdivision containing land located in a floodway or a flood hazard area shall be approved by the County without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the floodway or flood hazard area, suitable for development as allowed by the zoning ordinance for the zone in which the lot is located.

Land located within a flood hazard or a floodway may be included within a plat as follows, subject to the approval of the County:

- a. Included within individual lots in the subdivision, subject to the limitations of this section.
- b. Reserved as open space for recreation use by all owners of lots in the subdivision, which an appropriate legal instrument, approved by the County, providing for its care and maintenance by such owners.
- c. If acceptable to the County, dedicated to the County as public open space for recreation or flood control purposes.

- 4.04 **Plat to Conform to Comprehensive Plan:** The arrangement, character, extent, width, grade and location of all streets; and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the County, provided such plan has been adopted by the County; and shall conform to such other plans, including but not limited to a county road or street plan, a sanitary sewer system plan, a water system plan, or a parks and open space plan, provided such plan has been adopted by the County.

- 4.05 **Construction Standards for Improvements:** ~~In addition to the standards set forth in this ordinance, the County Engineer shall from time to time prepare, and the Supervisors shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards for public improvements shall contain the minimum acceptable specifications for the construction of improvements. Such technical~~

~~standards may vary for classes of improvements,~~
~~giving due regard to the classification of streets~~
~~and roads, or other improvements, and the extent~~
~~and character of the area served by the improvements.~~
Upon adoption by the Governing Body by resolution,
such technical standards for public improvements
shall have force and effect as if they were fully
set forth herein.

a. Subdivision Severe weather shelter required: All subdivisions with five or more manufactured homes shall be required to construct a "tornado safe above ground shelter", or an underground shelter with enough capacity house the total number of residents living in the subdivision on a "daily basis. The shelter may be used for other purposes as long as it is available during severe weather and the usable area is not reduced below the capacity to house the total number of residents present on a "daily" basis

4.06 **Street Standards:** The following standards shall apply to all streets to be located within the subdivision:

- a. Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets into adjoining unplatted areas. Where a plat encompasses the location for a major street proposed in the comprehensive plan or county road or street plan, the plat shall provide for such major street.
- b. Street grades shall align to existing streets, and all grades for streets shall be as approved by the County.
- c. New arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
- d. Street right-of-way and pavement widths shall be specified in the Comprehensive Plan, or other adopted plan or standards.
- e. Half-streets are prohibited, except, where an existing platted half-street to complete the street shall be required.
- f. Minor streets should be designed to discourage through traffic which safely connecting to major streets or roads.
- g. Street jogs with centerline offsets of less than one hundred twenty five feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.
- h. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.
- i. At intersections of major streets, and otherwise

as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

- j. Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.
- k. Streets which connect with other streets, or loop streets, are preferable, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed five hundred (500) feet in length, unless a greater length is unavoidable.
- l. In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.
- m. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Supervisors, be made a requirement of the plat.
- n. Streets that are, or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. Street names and street numbering shall be in conformance with the Shelby County Rural Addressing System, as assigned by the Emergency Management Coordinator.

4.07 **Block and Lot Standards:** The following standards shall apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions:

- a. The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the zoning ordinance.
- b. Block and lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
- c. The size and shape of all lots shall comply with all requirements of the zoning ordinance for the zone in which the lot is located.

- d. All lots shall abut a public street, or upon an approved private street, with a minimum frontage and setbacks adequate to provide for the use intended, and to meet the requirements for such uses contained in the zoning ordinance.
- e. Reserved.
- f. All lots lines shall be at right angles to straight street lines or radial to curved street lines, except where a variation to this provision will provide a better street and lot layout.
- g. Corner lots shall have sufficient extra width to permit the required front yard setback as specified in the zoning ordinance, oriented to either street.
- h. Reserved frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

4.08 **Parks Open Space and Conservation Areas:** All residential subdivisions should be so designed, as to meet the neighborhood park and open space needs of its residents. Furthermore, areas of unique environmental or recreational potential should be controlled to maximize public benefits and enjoyment. Such needs may be met by dedication and acceptance of public park land, and/or by reservation by covenant of private space, provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefiting from such open space.

4.09 **Parks and School Sites Reserved:** When a tract being subdivided includes lands proposed to be parks or school sites in the Comprehensive Plan or other official plan of the County, the subdivider shall indicate such areas on the plat.

- a. Proposed park sites shall be reserved for three (3) years, giving the County or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets, that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park sites not be purchased within three(3) years, the subdivider may then revise the final plat.
- b. Proposed school sites shall be reserved for three (3) years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also

include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between date of reservation and date of purchase by the school district. Should the school sites not be purchased within three (3) years, the subdivider may then revise the final plat.

ARTICLE V: PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

- 5.01 **Pre-Application Conference:** Whenever a subdivision located in the County is proposed, the owner and subdivider shall schedule a preapplication conference with the administrator. The conference should be attended by the administrator and such other County or Utility representatives as it deemed desirable; and by the owner and his engineer or the planner, as deemed desirable. If any portion of the land to be subdivided lies within two (2) miles of any Municipality within the County ~~that has adopted subdivision regulations in accordance with the provisions of Chapter 354, Code of Iowa~~, the administrator shall notify the City representatives to attend the Pre-Application Conference. The purpose of such conference shall be to acquaint the County with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and special problems relating to the proposed subdivision and to apply for any necessary zoning district changes.
- 5.02 **Sketch Plan Required:** For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.
- 5.03 **Presentation to Planning Commission or Governing Body:** The subdivider may present the sketch plan to the Planning and Zoning Commission and Governing Body for review, prior to incurring significant costs preparing the preliminary or final plat.
- 5.04 **Subdivision Classified:** Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision:
- a. **Minor Subdivision:** Any subdivision of a tract of land ~~by repeated or simultaneous division into three or more parcels, any three having separate ownership and~~ which is not for the purpose of a Dwelling Group, which does not require the construction of any public improvements, and which does not adversely effect the remainder of the parcel shall be classified as a minor subdivision ~~plat as per 354.6 Iowa Code.~~
 - b. **Major Subdivision:** Any tract of land that is subdivided ~~in to three or more lots, any of~~

~~which are five acres or less~~ for the purpose of a Dwelling Group, and regardless of ownership of any of the lots, shall be considered a major subdivision and will require plats as herein set forth.

5.05 **Plats Required:** In order to secure approval of any proposed subdivision, the owner and subdivider shall submit to the County, plats and other information as required by this ordinance. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. ~~The owner and subdivider of a minor subdivision may elect to omit the submission of a preliminary plat.~~ The owner and subdivider of a minor subdivision shall submit to the County a Plat of Survey whenever such division requires a metes and bounds description to include bearing and distance measurements. Parcel descriptions shall denote no less than $\frac{1}{4}$ $\frac{1}{4}$ section without plats of survey. (See also 2.01.x).

5.06 **Requirements of the Preliminary Plat:** The subdivider shall prepare and file with the administrator, five(5) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1"-100') or larger. Sheet size shall not exceed twenty-four two inches by thirty-six four inches(~~24"x36"~~22"x34"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

- a. Title, scale, north point and date on each sheet.
- b. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
- c. The name and address of the owner and the name, address and profession of the person preparing the plat.
- d. A key map showing the general location of the proposed subdivision in relation to surrounding lands.
- e. The names and locations of adjacent subdivisions and the names of record owners and location adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.
- f. The location of property lines, street and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plan.
- g. Existing and proposed zoning of the proposed subdivision and adjoining property.

- h. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) per cent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) per cent or greater.
- i. The legal description of the area being platted.
- j. The boundary of the area being platted, shown as a dark line, with the appropriate length of boundary lines and the approximate location of the property in reference to known section lines.
- k. The layout, numbers and approximate dimensions of proposed lots.
- l. The location, width and dimensions of all streets and proposed driveways.
- m. The proposed names for all streets in the area being platted.
- n. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
- o. Proposed easements showing locations, widths, purposes and limitations.
- p. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.
- q. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat shall be attached.
- r. Any other pertinent information, as requested by the administrator.
- s. The fee, as required by this ordinance.

5.07 Procedures for Review of Preliminary Plats:

- a. The administrator shall provide copies of the plat to the County Engineer, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning and Zoning Commission. The administrator shall maintain a copy of the plat for public inspection.
- b. The County Engineer shall examine the plat as to its compliance with the requirements of the ordinances and standards of the County and good engineering practice and shall report his findings regarding the plat to the Planning and Zoning Commission.
- c. The Planning and Zoning Commission shall examine

the plat and the report of the County Engineer, and such other information as it deems necessary or desirable to ascertain whether the plat conforms to the Comprehensive Plan and other duly adopted plans of the County. The Planning and Zoning Commission shall, within forty-five (45) days of the filing of the plat with the administrator, forward a report and recommendation regarding the plat to the Supervisors. If such recommendation is to disapprove or modify the plat, the reasons therefore shall be provided to the applicant.

- d. The Supervisors shall examine the plat, the report of the County Engineer, the report of the Planning and Zoning Commission, and such other information as it deems necessary or desirable. Upon such examination, the Supervisors shall ascertain whether the plat conforms to the ordinances and standards of the County, conforms to the Comprehensive Plan and other duly adopted plans of the County, in order to protect the public health, and welfare. Following such examination, the Supervisors may approve, approve subject to conditions, or disapprove the plat. If the decision of the Supervisors is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefore shall be set forth in writing in the official records of the Supervisors and such decisions shall be provided to the applicant. Action on the preliminary plat by the Supervisors shall be taken within sixty (60) days of the filing of the plat with the administrator, unless such time period is extended by agreement between the subdivider and the County. However, such time limitation notwithstanding, if any portion of the land to be subdivided lies within two (2) miles of any Municipality within the County which has adopted subdivision regulations in accordance with the provisions of Chapter 354, **Code of Iowa**, the Supervisors shall defer final action on the plat until action has been taken by the Municipality.

5.08 **Duration of Approval of Preliminary Plat:** The approval of a preliminary plat by the Supervisors shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the Supervisors.

5.09 **Authorization to Install Improvements:** The approval of the preliminary plat shall constitute authorization by the Supervisors for the installation of improvements as required by this ordinance, and as shown on the preliminary plat; provided, no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvement has been submitted to, and approved in writing by, the County Engineer.

- 5.10 **Completion and Acceptance of Improvements:** Before the Supervisors will approve the final plat, any improvements to become the Property of the County shall be constructed and accepted by formal resolution of the Supervisors. Before passage of said resolution of acceptance, the County Engineer shall report that said improvements meet all County specifications and ordinances or other County requirements, and the agreements between the subdivider and the County.
- 5.11 **Performance Bond Permitted:** In Lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond with the County, guaranteeing that improvements not completed, shall be completed within a period of one (1) year from the date of approval of such final plat.
- 5.12 **Requirement of the Final Plat:** The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Administrator five (5) copies of the final plat and required attachments, as set forth in this ordinance. Except for a final plat for a minor subdivision as set forth herein no final plat shall be considered by the Supervisors until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.

The final plat shall be drawn at a scale of one inch equals one hundred (1"-100') or larger. Sheet size shall be no greater than eighteen inches by twenty four inches (18"x24") nor smaller than eight and one half inches by eleven inches (8 1/2"x11") and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.

The final plat shall be clearly marked "Final Plat" and shall show the following:

- a. The name of the subdivision.
- b. Name and address of the owner and subdivider.
- c. Scale, and a graphic bar scale, north arrow and date on each sheet.
- d. All monuments to be of record, as required by **Code of Iowa**.
- e. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other areas show on the plat, as well as the outer boundaries of the subdivided lands.
- f. All distance, bearing curve, and other survey data as set forth in **Code of Iowa**.

- g. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of the subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
- h. Street names and clear designation of public alleys.
- i. Block and lot numbers.
- j. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
- k. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
- l. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat".
- m. A strip of land shall not be reserved by the subdivider unless the land is a sufficient size and shape to be of some practical use as determined by the Supervisors.
- n. Legal description.
- o. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- p. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal; and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.

5.13 **Attachments to the Final Plat:** The following shall be attached to and accompany any final plat:

- a. All attachments as specified in the **Code of Iowa** shall be attached and accompany any final plat.

- b. Where any improvements are to become the Property of the County, a resolution accepting and approving such improvements, along with the maintenance bond required by this ordinance.
- c. On a form prescribed by the EMA director, such certification from all Township Trustees and district fire chiefs involved in the subdivision stating that adequate fire/rescue protection will be available.

5.14 Procedures for the Review of Final Plats:

- a. The administrator shall provide copies of the plat to the County Engineer, and such other persons as are necessary to review the plat; and shall schedule that plat for review by the Supervisors. The administrator shall maintain one copy for public inspection.
- b. The administrator and the County Engineer shall examine the plat as to its compliance with the ordinances and standards of the County, and its conformance with the preliminary plat; and shall set forth their findings in writing. A copy of the findings shall be provided to the subdivider.
- c. If the plat is found to substantially conform to the preliminary plat is approved, the final plat shall be forwarded to the Supervisors for review. If the plat is found not to conform to the preliminary plat, it shall be referred to the Planning and Zoning Commission for review prior to review by the Supervisors. The Planning and Zoning Commission shall then Review the plat and shall forward a written recommendation thereon to the Supervisors within forty-five (45) days of the filing of the plat with the administrator. If the recommendation is to disapprove the plat, or to require modification of the plat, the reasons, therefore shall be set forth in writing, and a copy of the recommendation shall be provided to the subdivider.
- d. Upon receipt of the plat and written reports there-on, the Supervisors shall review the plat and attachments thereto. If the plat is found to conform to the ordinances and standards of the County and the Comprehensive Plan and other duly adopted plans, all as of the date of approval of the Preliminary Plat; and is found to substantially conform to the preliminary plat, the Supervisors shall approve the plat, and shall cause its approval to be entered on the plat.
- e. Action on the final plat, by the Supervisors shall be taken within sixty (60) days of the date of filing of the plat with the administrator, unless such time period is extended by agreement between the subdivider

and the County. However, such time limitation not withstanding, if any portion of the land to be subdivided lies within two (2) miles of any Municipality within the County ~~that has adopted subdivision regulations in accordance with the provisions of Code of Iowa.~~, the Supervisors shall defer final action on the plat until action has been taken by the Municipality. If the action is to disapprove the plat, the reasons therefore shall be set forth in the official records of the Supervisors and such decisions shall be provided to the subdivider.

Article VI: OTHER PROVISIONS

- 6.01 **Variances:** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Supervisors may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this ordinance. In no case shall variance or modification be more than minimal easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Supervisors may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.
- 6.02 **Severability Clause:** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.
- 6.03 **Changes and Amendments:** This ordinance or any provision of this ordinance may be changed or amended from time to time by the Supervisors, provided however that such changes or amendments shall not become effective until after a public hearing has been held following due public notice.
- 6.04 **Ordinance Not to Limit Other Ordinances:** Nothing contained herein shall serve to abrogate, limit, repeal, or otherwise modify any other ordinance or regulation except as expressly set forth herein. If any provision of this ordinance conflicts with the provisions of any other ordinance, regulation, or statute, the most restrictive shall apply.
- 6.05 **When Effective:** This ordinance shall be effective after its final passage, approval and publication as provided by law.

Passed and adopted this 6th day of July, 2004.

AYES: Schmitz, Ferry, Petersen

NAYES: None

It was moved by Ferry, seconded by Petersen, to rescind the following motion from the May 18, 2004 minutes: "It was moved by Ferry, seconded by Petersen, to appoint John Mock to replace McMullen at

an annual salary of \$8,289 for two days per week. AYES: Schmitz, Ferry, Petersen NAYES:
None.” AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Petersen, seconded by Ferry, to approve the recommendation of the Veterans Affairs Commission to hire Joel Sharpling as the Veterans Affairs Executive Director and to approve his employment contract, with his salary being prorated to his actual start date. AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Petersen, seconded by Ferry, to adopt the following resolution:

RESOLUTION NO. 2004-21
APPROPRIATE FUNDS TO OPERATE COUNTY OFFICES AND DEPARTMENTS
FOR FISCAL YEAR 2005

WHEREAS, in accordance with Section 331.434(6) of the Code of Iowa which requires the Board of Supervisors of Shelby County, Iowa, to appropriate funds to operate all offices and departments of said county for Fiscal Year 2005.

THEREFORE BE IT RESOLVED, that the Board of Supervisors do hereby authorize the appropriations for Fiscal Year 2005 as follows:

SECTION 1: The amounts itemized by department on the following Schedule A are hereby appropriated from the resources of each fund so itemized.

SECTION 2: Subject to the provisions of other county procedures and regulations, and applicable state law, the appropriations authorized under Section 1 shall constitute authorization for the department or officer listed to make expenditures or incur obligations from the itemized fund, effective July 1, 2004.

SECTION 3: In accordance with Section 331.437, Code of Iowa, no department or officer shall expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money for any purpose in excess of the amount appropriated pursuant to this resolution.

SECTION 4: If at any time during the budget year the Auditor shall ascertain that the available resources of a fund for that year will be less than said funds total appropriations she shall immediately so inform the Board and recommend appropriate corrective action.

SECTION 5: The Auditor shall establish separate accounts for the appropriations authorized in Section 1, each of which account shall indicate on a report the status of such accounts to the applicable department monthly during the budget year.

SECTION 6: All appropriations authorized pursuant to this resolution lapse at the close of business June 30, 2005.

SCHEDULE A

POLICY AND ADMINISTRATION	\$	1,174,118
MIS		179,450
AUDITOR/GIS		319,458
RECORDER		148,814
TREASURER		241,356
ATTORNEY		140,832
COURT RELATED COSTS		85,889
SHERIFF/JAIL		827,430
CONSERVATION/LAND USE		372,059
PUBLIC HEALTH		214,280
SOCIAL SERVICES		82,963
VETERANS		28,250
MH/MR/DD		1,670,796
SECONDARY ROAD		4,596,100
TOTAL		\$10,081,795

The above and foregoing resolution was adopted by the Board of Supervisors of Shelby County, Iowa, on July 6, 2004, the vote thereon being as follows:

AYES: Schmitz, Ferry, Petersen NAYES: Naves

It was moved by Petersen, seconded by Ferry, to adopt the following resolution:

RESOLUTION NO. 2004-22
AUTHORIZE AUDITOR TO TRANSFER FUNDS

WHEREAS, it is desired to transfer monies from the General Funds and from the Rural Basic Fund, and

WHEREAS, said operating transfers are in accordance with Sections 331.432, Code of Iowa,

NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of Shelby County, Iowa, as follows:

SECTION 1. The Auditor is hereby authorized to transfer funds from the General Basic and Supplemental Funds and from the Rural Basic Funds to the Capital Fund to cover expenditures as set out in the County Budget for Fiscal Year 2005.

SECTION 2. The Auditor is hereby authorized to transfer funds from the Rural Basic Fund to the Flood & Erosion Control Fund to cover expenditures as set out in the County Budget for Fiscal Year 2005.

SECTION 3. The Auditor is hereby authorized to transfer funds from the General Basic Fund to the Conservation Land Acquisition Trust Fund to cover expenditures as set out in the County Budget for Fiscal Year 2005.

SECTION 4. The Auditor is hereby authorized to transfer funds from the General Basic and Rural Basic Funds to the Secondary Road Fund to cover expenditures as set out in the County Budget for Fiscal Year 2005.

The above and foregoing resolution was adopted by the Board of Supervisors of Shelby County, Iowa, on July 6, 2004, the vote thereon being as follows:

AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Ferry, seconded by Petersen, to rescind the following motion from the December 2, 2003, minutes: "It was moved by Ferry, seconded by Schmitz, to send a letter to the Shelby County DevelopSource Board notifying them that, due to budget constraints and the need to investigate all possible options before investing our limited Economic Development funds, Shelby County will be withdrawing from the 28E Agreement as of June 30, 2004. AYES: Petersen, Schmitz, Ferry NAYES: None." AYES: Schmitz, Ferry, Petersen NAYES: Naves

It was moved by Petersen, seconded by Ferry, to fund DevelopSource for FY2005 in the amount of \$25,000. AYES: Schmitz, Ferry, Petersen NAYES: Naves

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

RESOLUTION NO. 2004-23
LOCAL OPTION SALES AND SERVICES TAX

WHEREAS, the City of Harlan has filed a motion with the County Auditor to put the Local Option Sales and Service Tax question on the ballot for the General Election,

WHEREAS, the Board of Supervisors also wishes to present the question of imposition of a Local Option Sales and Services Tax, and

WHEREAS, the Iowa Department of Revenue has estimated that the Local Option Sales and Services Tax would bring in approximately an additional \$300,000 in revenue for the County,

WHEREAS, the City of Harlan and the rural area of Shelby County comprise more than 50% of the population of Shelby County.

THEREFORE, the Local Option Sales and Services Tax question shall be put on the ballot for the November 2, 2004, General Election in the Cities of Harlan and Panama and the rural area of Shelby County, these being the only areas in Shelby County where the Local Option Sales and Services Tax is not already in effect.

WHEREAS, the Board of Supervisors has set the Local Option Sales and Services Tax at a rate of One Percent (1%), and

WHEREAS, the Local Option Sales and Services Tax will be effective July 1, 2005, with no sunset clause, if approved, and

WHEREAS, it is the Board of Supervisors who determines the uses of the revenue for the unincorporated areas of Shelby County, and

BE IT HEREBY RESOLVED by the Shelby County Board of Supervisors that the revenues of the Local Option Sales and Services Tax for the Unincorporated Area of Shelby County will be as follows:

- 33% for General Fund property tax relief
- 33% for Rural Fund property tax relief
- 34% for Secondary Road Infrastructure

All without a sunset clause.

Passed and approved this 6th day of July, 2004.

AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Ferry, seconded by Petersen, to approve Policy No. 19, Postage Metering Machine, as amended and place on file in the Auditor’s Office. AYES: Schmitz, Ferry, Petersen NAYES: None

It was moved by Petersen, seconded by Ferry, to repeal Policy No. 22, MIS Department Request for Services Policy & Procedures. AYES: Schmitz, Ferry, Petersen NAYES: None

County Engineer updated the Board on ongoing Secondary Road projects.

It was moved by Ferry, seconded by Petersen, to approve the low bid of \$186,100.90 from Agriland FS, Harlan, for 2004 Fuel Supply. AYES: Schmitz, Ferry, Petersen NAYES: None

There being no further business appearing, the Chairman declared the meeting adjourned at 9:53 a.m.

Roger Schmitz, 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.