

May 17, 2005

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; LaVon Christensen; and Marsha J. Carter, Clerk.

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

- A. Minutes of May 3, 2005
- B. Office Reports – IT
- C. Committee Reports

AYES: Schmitz, Ferry, Christensen

NAYES: None

It was moved by Ferry, seconded by Christensen, to approve the Claims of May 17, 2005, as listed in the Claims Register. AYES: Schmitz, Ferry, Christensen

NAYES: None

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

RESOLUTION NO. 2005-16  
ENTRY RECORD OF THE HEARING AND DETERMINATION OF  
THE AMENDMENT TO THE COUNTY BUDGET FOR FISCAL YEAR 2005

BE IT REMEMBERED on this 17<sup>th</sup> day of May, 2005, the Board of Supervisors met in scheduled session for the filing and considering of an amendment to the Shelby County Budget for Fiscal Year 2005.

THEREUPON, the Board investigated and found that the notice of the time and place of hearing had, according to law, and as directed by the Board, been published and that the affidavit of publication is on file with the County Auditor.

THEREUPON, on said day, the hearing was taken up and considered. There were no written or oral comments.

THEREFORE, BE IT RESOLVED, that the Shelby County Budget Service Areas be amended as follows:

Public Safety & Legal Services from \$1,437,125 to \$1,507,825  
Mental Health, MR & DD from \$1,670,796 to \$1,770,796  
County Environment & Education from \$340,190 to \$447,690  
Roads & Transportation from \$3,994,710 to \$3,996,710  
Government Services to Residents from \$317,732 to \$344,172  
Administration from \$932,424 to \$1,009,374  
Nonprogram Current from \$544,185 to \$764,185  
Debt Service from \$56,740 to \$70,240  
Capital Projects from \$1,644,265 to \$1,978,421

The Department Appropriations will be as follows:

Policy & Administration	2,792,218
IT	167,960
Auditor/GIS	488,508
Recorder	173,154
Treasurer	241,356
Attorney	147,532
Misc Court	122,889
Sheriff	876,430
Conservation/Land Use	394,505
Public Health	214,280
Social Services	82,963
Veterans	28,250
MH/MR/DD	1,770,796
Secondary Road	4,746,100

TOTAL	12,246,941
-------	------------

The Capital Fund Purchases will be as follows:

Building & Grounds	27,700
Western Ventures Sewer Project	770,000
IT Dept	67,210
Election	170,000
GIS	28,200
Sheriff	50,300
Jail	8,000
Conservation	6,499
Roadside Management	17,627
Environmental Health	11,085

TOTAL	1,156,621
-------	-----------

The above and foregoing resolution was adopted by the Board of Supervisors of Shelby County, Iowa, on May 17, 2005, the vote thereon being as follows:

AYES: Schmitz, Ferry, Christensen    NAYES: None

Now being the time for the Third Reading of Shelby County Ordinance No. 2005-4, AN ORDINANCE TO REPRECINCT SHELBY COUNTY AND ADJUST VOTING PRECINCT BOUNDARIES, the Chairman did open the hearing. Schmitz reported that another letter of objection had been received from Urban Henscheid of Harlan. A group of interested voters from Panama and Portsmouth appeared to voice objections to eliminating the Panama and Portsmouth precincts. Another petition was presented signed by Washington Township voters, objecting to closing the Panama polling place and losing their right to vote. The following comments were made by Board Members – Supervisor Christensen stated that about 40 other counties already had or were eliminating precincts to save money and that statistics prove that the lowering the number of polling places does not decrease voter turnout. He also talked about the wars being fought to protect our right to vote. Supervisor Ferry stated that the precincts were set up in horse and buggy days. Times are changing and it is hard for all of us to adapt to those changes. But it is about the money. Supervisor Chairman Schmitz stated again the \$70,000 savings for the new voting equipment for the seven precincts being eliminated plus at least \$50,000 in savings over the next 10 years in ballot printing, precinct election officials' wages, annual maintenance costs, etc. He also stated that no one is losing their right to vote and that the Board had shown no favoritism because he and Supervisor Christensen were both losing their precincts. It was moved by Ferry, seconded by Christensen, to close the hearing and adopt Shelby County Ordinance No. 2005-4 as set out below.

SHELBY COUNTY ORDINANCE NO. 2005-4  
AN ORDINANCE TO RE-PRECINCT SHELBY COUNTY AND  
ADJUST VOTING PRECINCT BOUNDARIES

(REPLACES ORDINANCE NO. 2001-3)  
(REPLACES ORDINANCE NO. 1991-5)

BE IT ENACTED BY THE SHELBY COUNTY BOARD OF SUPERVISORS:

SECTION 1. Purpose. The purpose of this ordinance is to re-precinct Shelby County in this year following the Federal Decennial Census as required by Section 49.7, Code of Iowa.

SECTION 2. Division into Precincts. The County of Shelby shall be divided into nine (9) precincts plus the Absentee Precinct. The number of precincts, precinct name, precinct population, and legal descriptions are described in the attached exhibit marked as Exhibit A and, by this reference, made a part hereof.

SECTION 3. When Effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Adopted and passed by the Board of Supervisors of the County of Shelby this 17<sup>th</sup> day of May, 2005.

EXHIBIT A

<u>SHELBY COUNTY PRECINCTS</u>	<u>POPULATION</u>	<u>DESCRIPTION</u>
1. ABSENTEE		
2. CASS-CENTER-JACKSON-LINCOLN	1638	CASS, CENTER, JACKSON, & LINCOLN TOWNSHIPS, T79N-R40W & T79N-R38W & T79N-R37W & T79N-R39W, of the 5 <sup>th</sup> P.M., including the Incorporated City of Portsmouth, Iowa, and except therefrom the Incorporated City of Harlan, Iowa
3. CLAY-MONROE	1226	CLAY & MONROE TOWNSHIPS, T78N-R37W & T78N-R38W of the 5 <sup>th</sup> P.M., and including the Incorporated City of Elk Horn, Iowa
4. DOUGLAS-GREELEY-JEFFERSON-POLK	1366	DOUGLAS, GREELEY, JEFFERSON, & POLK TOWNSHPS T80N-R38W & T81N-R38W & T81N-R37W & T80N-R37W of the 5 <sup>th</sup> P.M., including the Incorporated Cities of Irwin & Kirkman, Iowa
5. FAIRVIEW-SHELBY	1272	FAIRVIEW & SHELBY TOWNSHIPS, T78N-R39W & T78N-R40W of the 5 <sup>th</sup> P.M., including the Incorporated Cities of Shelby and Tennant, Iowa
6. GROVE-UNION-WASHINGTON-WESTPHALIA	2389	GROVE, UNION, WASHINGTON & WESTPHALIA TOWNSHIPS, T81N-R40W & T81N-R39W & T80N-R40W & T80N-R39W of the 5 <sup>th</sup> P.M., including the Incorporated Cities of Defiance, Earling, Panama, and Westphalia, Iowa
7. HARLAN WARD NO. 1		
8. HARLAN WARD NO. 2		
9. HARLAN WARD NO. 3	5282	Incorporated City of Harlan, Iowa (Redistricting to be done by City Council)
10. HARLAN WARD NO. 4		

GRAND TOTAL POPULATION FOR SHELBY COUNTY 13,173

AYES: Schmitz, Ferry, Christensen                      NAYES: None

Now being the time for the First Reading of Shelby County Ordinance No. 2005-5, AREA SERVICE “C” ROAD MAINTENANCE ORDINANCE, the Chairman did open the hearing. Dan Ahart, County Engineer, appeared to explain the changes to the existing ordinance. There were no oral or written comments. It was moved by Ferry, seconded by Christensen, to suspend future readings of this Ordinance, to close the hearing and to adopt Shelby County Ordinance No. 2005-5 as set out below.

SHELBY COUNTY ORDINANCE NO. 2005-5  
AREA SERVICE “C” ROAD MAINTENANCE ORDINANCE  
(TO REPLACE ORDINANCE NO. 1997-5)

Title: An Ordinance Establishing the Area Service “C” Road Classification in Shelby County, Iowa.

Be It Enacted by the Board of Supervisors,                      Shelby County, Iowa:

Section 1. PURPOSE

The purpose of this ordinance is to classify certain roads on the area service system in the county as Area Service “C” roads so as to provide for a reduced level of maintenance effort and restricted access, pursuant to Iowa Code Section [309.57](#).

Section 2. DEFINITIONS

For use in this ordinance, certain terms or words used herein shall be interpreted or defined as follows:

- “Area Service System” include those public roads outside of municipalities not otherwise classified.

- a. “Area Service System “A” roads shall be maintained in conformance with applicable state statutes.
  - b. “Area Service System “C” roads shall not require standards maintenance equal to farm to market, or area service system A roads. Area Service System C roads shall not mean what is construed in the normal sense as a driveway or private lane to a farm building or dwelling.
2. “Board” shall mean the Board of Supervisors of Shelby County.
  3. “Engineer” shall mean the County Engineer of Shelby County.
  4. “County” shall mean Shelby County.

### Section 3. **HOW ESTABLISHED**

- A. RESOLUTION: Roads may only be classified as Area Service “C” by resolution of the Board. The resolution shall specify the level of maintenance effort and the persons who will have access rights to the road.
- B. NOTICE OF ACTION: Before the Board may take action to establish an Area Service “C” road, a notice of the proposed action, including the location of the Area Service “C” road and the time and place of the meeting at which the Board proposes to take action on the petition, shall be published as provided by law.
- C. BOARD ACTION: At the meeting, the Board shall receive oral or written comments from any resident or property owner of the county.

After all comments have been received and considered, the Board, at that meeting or date to which it is adjourned, may take action after consultation with the County Engineer.

### Section 4. **ACCESS**

Access to any Area Service “C” road shall be restricted by means of a gate or other barrier, as determined by the County Engineer. The gate shall be purchased and installed by the County, and maintained by the adjoining landowners. If not so maintained, the County may remove the gate.

### Section 5. **SIGNS**

Area Service “C” roads shall have signs conforming to the Iowa Signing Manual Per 761 Iowa Administrative Code (IAC) [Chapter 130](#). The signs shall be installed and maintained by the County at all access points to the Area Service “C” roads from other public roads to warn the public that access is limited.

### Section 6. **TRESPASS**

Entering an Area Service “C” road without justification after being notified or requested to abstain from entering or to remove or vacate the road by any person lawfully allowed access shall be a trespass as defined in Iowa Code Section [716.7](#).

### Section 7. **RECLASSIFICATION**

A road with an Area Service “C” classification shall retain the classification until such time as a petition for reclassification is submitted to the Board. The petition shall be signed by one or more adjoining landowners. The Board shall approve or deny the request for reclassification within 60 days of receipt of the petition.

### Section 8. **POWERS OF THE BOARD**

All jurisdiction and control over Area Service “C” roads shall rest with the Board, pursuant to the Iowa Code Section [309.57](#)

Section 9. **EXEMPTION FROM LIABILITY**

As provided in Iowa Code Section [309.57](#), the County and officers, agents and employees of the County are not liable for injury to any person or for damage to any vehicle or equipment which occurs approximately as a result of the maintenance of a road which is classified as Area Service “C”, if the road has been maintained to the level of maintenance effort described in the establishing resolution.

Section 10. **REPEALER**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 11. **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.

Section 12. **WHEN EFFECTIVE**

This ordinance shall be in effect after its final passage, approval and publication, as provided by law.

Passed by the Board of Supervisors on this 17<sup>th</sup> day of May, 2005.

AYES: Schmitz, Ferry, Christensen                      NAYES: None

It was moved by Ferry, seconded by Christensen, to transfer the following amounts: From TIF Funds from the City of Harlan 28E Agreement: \$35,000 to the General Basic Fund to reimburse for DevelopSource and Fairgrounds funding; \$13,176.50 to the Rural Basic Fund to reimburse for Harlan Library Funding AND from TIF Funds collected on the County Urban Renewal Area \$8,178.17 to the General Basic Fund for existing debt. AYES: Schmitz, Ferry, Christensen                      NAYES: None

Amanda Brewer, Director of WESCO, appeared before the Board to give an annual update and also to request consideration for an increase in service fees.

Proposals for the County’s annual audit were reviewed. No action was taken.

It was moved by Christensen, seconded by Ferry, to authorize the Chairman to sign the Renewal Agreement with TPA, LTD of Bettendorf, Iowa, as our third party administrator for the self-funded portion of the health insurance program with an increase from \$6.50 per policy to \$6.75. AYES: Schmitz, Ferry, Christensen                      NAYES: None

It was moved by Ferry, seconded by Christensen, to set the fuel letting date and time as June 21, 2005, at 9:30 a.m. AYES: Schmitz, Ferry, Christensen                      NAYES: None

The County Engineer gave a secondary road project update.

There being no further business appearing, the Chairman declared the meeting adjourned at 10:59 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.

