

August 1st, 2017

The Board of Supervisors of Shelby County, Iowa, met pursuant to law and rules of said board in regular session at 9:04 a.m. in the Supervisors Chambers of the Shelby County Courthouse with the following members present: Steve Kenkel, Chairman; Charles Parkhurst; Vice-Chairman, Roger Schmitz and Mark Maxwell, Clerk.

The Chair asked that any Conflict of Interest be stated concerning any item on the agenda. No conflicts were stated.

A motion was made to approve the agenda by, Parkhurst seconded by Schmitz with no additions to the agenda AYES: Unanimous NAYES: None

A motion was made by Parkhurst, and a second by Schmitz, to approve the Minutes of August 1st, 2017, as presented AYES: Unanimous NAYES: None

It was moved by Parkhurst, seconded by Schmitz, to approve the Claims now submitted, as listed in the Claims Register. AYES: Unanimous NAYES: None

Steve Kenkel, voting delegate for the Southwest Iowa Mental Health Regional planning board, then notified the board of the next meeting August 7th.

Chris Nelson representing Gronewald, Bell and Kyhnn Company P.C. gave final audits as requested by both the former Auditor and Sheriff and with permission granted by the Board of Supervisors. Recommendations included that County departments have 2 separate employees reconcile checkbooks also claims by the elected officials or Department Heads be approved by one other employee of the department as well as the department head. Other recommendations, using the results of this audit, included that time cards should be initialed by the department head and signed by the employee. Any salaried non-elected department heads shall have their time record reviewed and signed by a member of their governing boards.

Upon receiving the report Chairman Kenkel asked the Auditor to let department heads know of the deficiencies, as the recommendations by this audit shall be part of County procedure.

A motion was made by Schmitz and a second by Parkhurst to approve the following resolution:

RESOLUTION NO. 2017-22
PROPOSED DISPOSAL OF COUNTY INTEREST IN REAL ESTATE AND
HEARING PUBLICATION

WHEREAS, the Board of Supervisors wishes to dispose of County interest in the following described real estate:

Legal Description for 2 Parcels numbered 831008402000 & 831008401001

All that part of the Northwest Quarter of the Southeast Quarter of Section 8, Township 79 North, Range 38 West of the 5th P.M., Shelby County, Iowa, lying South and East of the right-of-way of the Chicago and Northwestern Railway Company, excepting therefrom the following described tract: Beginning at a point 508.3 feet West of the Southeast corner of said 40 acre tract, running thence at an angle of 30° S a distance of 388.5 feet, thence turn an angle to the left 33°18'30" and run a distance of 92.8 feet to a point on the Easterly right-of-way of said Chicago and Northwestern Railway, thence Southwesterly along said Easterly right-of-way line a distance of 244.4 feet to the South line of said 40 acre tract, running thence East along the South line of said 40 acre tract a distance of 583.4 feet to the place of beginning and except part lying South and East of Drainage Ditch #11.

WHEREAS, disposal of the County's interest in this real estate would be by Quit Claim Deed according to County Policy; and

WHEREAS, Iowa Code Section 331.361(2) requires a public hearing on disposal of an interest in real estate;

NOW THEREFORE BE IT RESOLVED that a public hearing on this proposed disposal of County interest in real estate is set for August 15th, 2017, at 9:10 a.m. in the Supervisors Chambers in the Shelby County Courthouse, and the Shelby County Auditor is directed to publish the notice of hearing. This notice being approved by the Board of Supervisors with the addition that immediately after the public hearing and with no objections the property will be disposed of by Auction at the same meeting. Bidding will start at \$34,000.00

AYES: Kenkel, Parkhurst, Schmitz NAYES: None

A motion was made by Parkhurst and seconded by Schmitz to approve the following resolution:

RESOLUTION NO. 2017-23

Notice of Public Hearing on the adoption of an ordinance to be numbered 2017-3, an ordinance to designate that portion of the highways upon which off-road vehicles may be operated during a specified period, and to establish regulations of such operation.

This would exempt vehicles covered under Iowa Code Section 321I.9(3) Public Notice is hereby given that the Board of Supervisor of Shelby County, Iowa, will meet at 9:00 am on August 15, 2017, in the Supervisors Chambers in the Courthouse for the first reading of this Ordinance.

Copies of the proposed ordinance are available at the Auditors office, the ordinance is also displayed on the 2nd floor bulletin board at the Shelby County Courthouse, along with referenced codes.

Persons interested may appear at this time and place and file objections thereto.

The ordinance reads as follows: WHEREAS the County Board of Supervisors has evaluated the traffic conditions on all County highways and designated roadways and has determined that Off-Road Utility Vehicles can be operated without unduly interfering with or constituting an undue hazard to conventional motor vehicle traffic, and;

WHEREAS, pursuant to Iowa Code Section 321I.10, the County may permit operation of said vehicles on the roadways of that portion of county highways designated by the County Board of Supervisors for use during a specified period, and;

WHEREAS, the operation of said vehicle would be regulated under Iowa Code Chapters 321I, 321.20B, 321A.21, and other applicable provisions of Iowa law;

NOW, THEREFORE, be it resolved by the County Board of Supervisors of Shelby County, Iowa, that the following regulations are hereby adopted regarding operation of Off-Road Utility Vehicles on county highways within Shelby County:

- .01 Purposes
- .02 Definitions
- .03 Operation and Roadways
- .04 Restrictions
- .05 Identification Stickers

.06 Exempt Vehicles

.07 Penalties

Section .01, Purpose: The purpose of this Resolution is to designate that portion of county highways upon which Off-Road Utility Vehicles may be operated during a specified period, to specify said period, and to establish regulations regarding such operation.

Section .02, Definitions:

- (1) "Off-Road Utility Vehicle", as defined in Iowa Code Section 321I.1, means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 1,800 pounds and that has a seat of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.
- (2) "Roadway", as defined in Iowa Code Section 321I.1, means that portion of a highway improved, designed, or ordinarily used for vehicular travel.

Section .03, Operation on Roadways: A registered Off-Road Utility Vehicle may be operated on any Shelby County, Iowa, roadway, such operation limited to roadways lying outside the city limits of any incorporated city which does not have an ordinance or other regulation in effect allowing such operation, and such operation further limited to the hours from official sunrise to official sunset of the same day, as established by the National Weather Service.

Section .04, Unlawful Operations:

- (1) A person shall not drive or operate an Off-Road Utility Vehicle:
 - a. At a rate of speed in excess of the posted speed limit, nor greater than reasonable or proper under all existing circumstances.
 - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
 - c. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
 - d. Without a lighted headlight and taillight at such times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of five hundred feet ahead.
 - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
 - f. On any public land, ice, or snow, in violation of official signs of the commission prohibiting such operation in the interest of safety for person, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of person, property, or the environment.
 - g. In any park, wildlife area, preserve, refuge, game management area, or any portion of a meandered stream, or any portion of the bed of a non-meandered stream, which has been identified as a navigable stream or river by rule adopted by the department and which is covered by water, except on designated riding areas and designated riding trails. This paragraph does not prohibit the use of ford crossing of public roads or any other ford crossing when used for agricultural purposes; the operation of construction vehicles engaged in lawful construction, repair, or maintenance in a streambed; or the operation of all-terrain vehicles on ice.
 - h. Upon an operating railroad right-of-way. An Off-Road Utility Vehicle may be driven directly across a railroad right-of-way only at an established crossing and, notwithstanding any other provisions of law, may, if

necessary, use the improved portion of the established crossing after yielding to all oncoming traffic. This paragraph does not apply to a law enforcement officers or employee's duties or to an employee of a utility with authority to enter upon the railroad right-of-way in the lawful performance of the employee's duties.

- (2) A person shall not operate or ride in an Off-road Utility Vehicle with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a non-ambulatory person may carry an uncased and unloaded forearm while operating or riding in an Off-Road Utility Vehicle.
- (3) A person shall not operate an Off-Road Utility Vehicle:
 - a. With more persons on the vehicle than it was designated to carry.
 - b. Paragraph "a" does not apply to a person who operates an Off-Road Utility Vehicle as part of a farm operation as defined in Iowa Code Section 352.2.
- (4) A person shall not operate an Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to Off-Road Utility Vehicle operation.
- (5) A person shall not operate a vehicle other than an Off-Road Utility Vehicle on a designated riding area or designated trail unless the riding area or trail is signed as open to such other use.
- (6) A person shall not operate an Off-Road Utility Vehicle unless the operator is 18 year of age or older and has a valid Iowa Driver's License; unless the vehicle is duly registered; and unless the operator has proof of insurance complying with that required of the operator of a motor vehicle pursuant to applicable Iowa Statutes, Rules, and Regulations, including but not limited to Iowa Code Sections 321.20B and 321A.21.

Section .05, Identification Stickers: Individuals who operate an Off-Road Utility Vehicle on the roadways of Shelby County must obtain an identification sticker from the office of the Shelby County Recorder. The following conditions apply:

- (1) The owner of each Off-Road Utility Vehicle shall be required to provide proof of ownership including but not limited to bill of sale, registration, and other documentation as may be accepted by the Recorder.
- (2) Each applicant for an identification sticker must provide proof that the vehicle is properly registered pursuant to Iowa Code Section 321I.3 and DNR regulations.
- (3) Each applicant for an identification plate must pay a fee in the amount of \$25.00
- (4) Identification Stickers shall be affixed to the right-rear portion of all Off-Road Utility Vehicles in such a manner as to be clearly visible.

Section .06. Exempt Vehicles: Registration shall not be required for vehicles exempted under Iowa Code Section 321I.9(3).

Section .07, Penalties: Violation of this Ordinance shall constitutes a SIMPLE MISDEMEANOR punishable by a minimum fine of \$65.00, a maximum fine of \$625.00, plus applicable surcharges and court costs, and/or up to thirty (30) days in jail.

Section .08, Effective Date: This ordinance shall become effective on September 1, 2017.

A vote was taken concerning adoption of this resolution, with the following results.
AYES: Parkhurst, Schmitz and Kenkel NAYES: None

Shelby County Chamber Director Todd Valline updated the board on current activities including an update on the Inland Sea project. As announced last week, Inland Seas has acquired an anchor investor for the project and with projects like this that is a very positive step forward. Also, the Hansen House Memory Care project is moving forward. Last Friday (July 28) was the due date for construction bids. The Harlan Plaza expansion project is progressing nicely and the Danish Inn Property has been sold in

Elk Horn. The “Welcome Back” for the HCSD teachers will be held August 17th at 11:30 AM on the south steps of the Courthouse concluding by 12:00 noon.

Mark Maxwell, Shelby County Auditor presented the Board with the yearly Courthouse Security Report. It was moved by Parkhurst, seconded by Kenkel, to approve FY2018 Courthouse Security Annual Report, as presented by Auditor Maxwell, and authorize Maxwell to file it with the Judicial District Court Administrator and the State Court Administrator, as required by law. AYES: Schmitz, Kenkel, Parkhurst NAYES: None

The secondary road report by Dan Ahart gave an update on current secondary roads projects, which included the following: The Nielsen bridge project is proceeding with a full crew working on the project. Slurry leveling is proceeding as well as road patching, the road crew is at the Smith dead end road by Irwin, as well as shouldering and scarifying work and many other various summer duties of secondary roads.

There being no further business appearing, the Chairman declared the meeting adjourned at 9:37 A.M.

Steve Kenkel, Chairman

ATTEST:

Mark Maxwell
Clerk to the Board of Supervisors

Note: These minutes are subject to approval at the next Board of Supervisors meeting.