

May 5, 2026

The Shelby County Board of Supervisors met in regular session at 9:00 A.M. in the Supervisors Chamber in the Courthouse with the following members present: Charles Parkhurst, Mike Kolbe, Bryce Schaben, and Taryn Knapp, Clerk.

Chairman, Charles Parkhurst, asked that any conflict of interest be stated concerning any item on the agenda. None was stated

It was moved by Kolbe, seconded by Schaben, to approve the agenda with the amendment of approving the minutes from the April 28<sup>th</sup> meeting instead of the April 21<sup>st</sup> meeting. Motion carried unanimously.

It was moved by Schaben, seconded by Kolbe to approve the minutes of April 28<sup>th</sup>, 2026. Motion carried unanimously.

Kolbe made a motion to approve the recently processed claims; Schaben seconded the motion. Motion carried unanimously.

Schaben made a motion to recess the meeting and open the posted hearing for the 1<sup>st</sup> reading of Ordinance 2026-2 repealing Ordinance 2022-4, Kolbe seconded the motion. Motion passed unanimously.

There were no verbal or written comments submitted to the Auditor's office concerning the Ordinance. Sherry Webb and Jan Reinig both spoke on behalf of Shelby County landowners and thanked the Board of Supervisors for all the work that had been put in the last 5 years. Schaben made a motion to close the budget hearing and reopen the regular meeting; Kolbe seconded the motion. Motion carried unanimously.

Kolbe made a motion to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings of Ordinance 2026-2 repealing Ordinance 2022-4, Schaben seconded the motion. Motion carried unanimously.

Schaben made a motion to adopt Ordinance 2026-2 repealing Ordinance 2022-4, as set out below, Kolbe seconded the motion. Motion carried unanimously.

#### **ORDINANCE NO. 2026-2**

#### **AN ORDINANCE REPEALING SHELBY COUNTY ZONING ORDINANCE NO. 2022-4 (AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE SHELBY COUNTY ZONING ORDINANCE 2006-6 FOR THE PURPOSE OF REGULATING AND RESTRICTING THE USE OF LAND FOR THE TRANSPORT OF HAZARDOUS LIQUID THROUGH A HAZARDOUS LIQUID PIPELINE) FOLLOWING A COURT RULING FINDING THE ORDINANCE TO BE PREEMPTED BY FEDERAL LAW.**

WHEREAS, on November 1, 2022, the Shelby County Board of Supervisors enacted Shelby County Ordinance No. 2022-4, An Ordinance Amending Various Sections of the Shelby County Zoning Ordinance 2006-6 for the Purpose of Regulating and Restricting the Use of Land for the Transport of Hazardous Liquid through a Hazardous Liquid Pipeline; and

WHEREAS, various other Iowa counties enacted their own ordinances regulating hazardous liquid pipelines in or around this same time, including Story County, Iowa; and

WHEREAS, a company endeavoring to install a hazardous liquid pipeline within Shelby County challenged Shelby County's Ordinance No. 2022-4 in U.S. District Court for the Southern District of Iowa, by filing a lawsuit against the County, the Board of Supervisors, and the Supervisors in their official capacities, alleging the ordinance was preempted by both federal and state law, thus preventing the County from exercising such power and implementing such regulations; and

WHEREAS, at the time, the company also filed suit against Story County, Iowa to challenge its hazardous liquid pipeline zoning ordinance on similar grounds in a separate legal action also brought

before the U.S. District Court for the Southern District of Iowa; and

WHEREAS, the U.S. District Court for the Southern District of Iowa heard the two cases challenging Shelby and Story Counties' ordinances together and found the ordinances were both preempted by either federal law, state law, or both; and

WHEREAS, Shelby County and Story County both sought further review of the District Court's decisions before the United States Court of Appeals for the 8th Circuit; and

WHEREAS, a three-judge panel of the Eighth Circuit Court of Appeals upheld the District Court's finding of federal preemption, but for different reasoning, in *Couser, et al. v. Shelby County, et al.*, Nos. 23-3758 & 23-3760 (June 5, 2025); and

WHEREAS, all appellate options have now been exhausted by Shelby County and Story County; and

WHEREAS, while Shelby County remains concerned with the impact of the Eighth Circuit's ruling on local power, generally, and land use, specifically, the County recognizes the decision is final regarding the question of the validity and legality of Ordinance No. 2022-4, and, as a result and in the interests of good governance and lawful order, now wishes to repeal Ordinance No. 2022-4.

NOW THEREFORE, BE IT ENACTED BY THE SUPERVISORS OF SHELBY COUNTY, IOWA THAT:

SECTION 1. Shelby County Ordinance No. 2022-4, An Ordinance Amending Various Sections of the Shelby County Zoning Ordinance 2006-6 for the Purpose of Regulating and Restricting the Use of Land for the Transport of Hazardous Liquid through a Hazardous Liquid Pipeline, is hereby repealed in its entirety and shall no longer have any force or effect.

SECTION 2: REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are repealed.

SECTION 3: 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 4: EFFECTIVE DATE. This Ordinance No. 2026-2 repealing Ordinance 2022-4, as adopted, shall be in effect from and after its final passage, approval, and publication as provided by law.

AYES: Parkhurst, Kolbe, Schaben NAYES: None

Schaben made a motion to approve ROW permits for FMCTC and West Central Iowa Rural Water Association, Kolbe seconded the motion. Motion carried unanimously.

Engineer, Chris Fredericksen then presented revision #1 to his FY2026 budget which included increases in expenditures for hail repair costs which was reimbursed by insurance as well as increases in material costs. Kolbe made a motion to approve the FY2026 DOT Budget Revision #1, Schaben seconded the motion. Motion carried unanimously.

Schaben made a motion to approve FY2027 DOT CFYP, Kolbe seconded the motion. Motion carried unanimously.

Fredericksen then gave a brief department update on rock haul, reclaiming rock, and dust control on roads. He asked landowners to put out their flags and leave them out for crews to apply the dust control.

Kyle Lindberg presented the Jail department update stating they had 14 people processed over the weekend and are on track to see over 500 intakes this year. Lindberg also stated he is looking to fill a full-time and a part-time position. If interested reach out to Kyle. A special thank you to the correction officers who sometimes get overlooked in the law enforcement world. We celebrate them this week during National Correction Officers' Week.

Supervisors gave a brief update on meetings they attended.

Kolbe made a motion to approve Building and Grounds Use Application submitted by the City of Harlan to use the parking lot for a dumpster from July 18th through July 20<sup>th</sup>, Schaben seconded the motion. Motion carried unanimously.

The Supervisors then discussed the Shelby County Fair Boards request of consideration to act as Fiscal Sponsor and enter into a lease agreement for the purpose of having a tractor available at the Shelby County Fairgrounds for the 2026 Summer. The Shelby County Fair Board will pay the insurance costs and liability, and any other costs associated with this agreement. The tractor will be stored at the fairgrounds and be available for use during the races at the Shelby County Speedway. Schaben made a motion to approve Fiscal Sponsorship for the Shelby County Fair Board's agreement to lease a tractor for use at the Shelby County Fairgrounds and Shelby County Speedway and approve the Shelby County Auditor to sign any documents related to this agreement, Kolbe seconded the motion. Motion carried unanimously.

After a brief discussion about potential handbook changes, the meeting was adjourned at 9:40 A.M.

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Charles Parkhurst, Chairman

ATTEST:

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Taryn Knapp  
Clerk to the Board of Supervisors