

September 17, 2019

The Winnebago County Board of Supervisors met in session at 9:00 A.M. September 17, 2019 adjourned from September 10, 2019.

Present: Supervisors Jensvold, Stensrud, and Durby

Absent:

On a motion by Jensvold and seconded by Stensrud the Supervisors moved to approve the minutes for the September 10, 2019 Board Meeting and approve the Agenda for September 17, 2019. All voted aye. Motion carried.

On a motion by Durby and seconded by Jensvold the Supervisors moved to approve a three year contract with Waste Management for Rural Recycling. All voted aye. Motion carried.

On a motion by Durby and seconded by Stensrud the Supervisors moved to set the public hearing for the Master Matrix for Newton 28 for October 8, 2019 at 9:00 A.M. All voted aye. Motion carried.

Scott Meinders, Engineer discussed Secondary Road matters including the rain slowing down work on the box culverts and hauling gravel.

On a motion by Jensvold and seconded by Stensrud the Supervisors moved to approve the Utility Permit for Heartland Power to install overhead poles and wire in Buffalo Township, Sec 11. All voted aye. Motion carried.

On a motion by Stensrud and seconded by Jensvold the Supervisors moved to approve the Utility Permit for Alliant Energy to install underground electrical service in Center Township, Sec 10. All voted aye. Motion carried.

Kris Oswald, Drainage Clerk discussed Drainage matters including the Supervisors signed the contract with Larson Contracting for DD 21, DD 68-136, and DD 69-136 Lat 2.

On a motion by Stensrud and seconded by Durby the Supervisors moved to approve the Drainage District Buffer Strip Resolution. All voted aye. Motion carried.

RESOLUTION NO. 2019-09-17-01-01

Resolution Banning the Placement of Buffer Strips and General Plantings Enrolled in the USDA Conservation Reserve Program On or Adjacent to Drainage District Facilities Within the Boundaries of Winnebago County

WHEREAS, the laws of the state of Iowa require the Board of Supervisors of Winnebago County to keep the facilities of permanently established drainage districts under their jurisdiction in repair so as to maintain the efficiency and capacity of drainage outlets upon which owners, tenants and occupants of the land in the county rely.

WHEREAS, Iowa Code Section 468.152 allows landowners "...any beneficial use of the land...which is occupied by the waste banks of an open ditch when such use does not interfere in any way with the easement or rights of the drainage district."

WHEREAS, prior to 2009 the USDA Farm Service Agency (FSA) routinely granted waivers from program rules to the owners of CRP-enrolled lands which were subjected to vegetative cover damage resulting from the repair or improvement of drainage district facilities, the only condition being that the landowners restore the vegetative cover following the completion of the project as directed by the National Resources Conservation Service (NRCS). The waiver policy and guidelines were established by a June 3, 1998 letter to all NRCS and FSA county offices from Leroy Brown, State Conservationist of National Resources Conservation Service and Thomas L. Grau, State Executive Director of Farm Service Agency, a photocopy of which is attached and incorporated by reference.

WHEREAS, many landowners in Winnebago County have enrolled land lying adjacent to and upon the rights-of-way of drainage district facilities into the Conservation Reserve Program (CRP) which is administered by the United States Department of Agriculture (USDA) in good faith reliance upon the waiver policy.

WHEREAS, commencing in 2009/2010 the FSA applied an additional condition upon granting of waivers forbidding the disturbance of the CRP lands during the primary nesting season which is identified as May 15th through August 1st of each year and further provided substantial farm program penalties accruing to the landowners if the CRP areas are disturbed by the drainage district during the described nesting season.

WHEREAS the Board of Supervisors of Winnebago County recognize the benefits of conservation buffers and CRP programs and have long supported the placement of CRP buffers on drainage district facilities, including open ditches and other environmentally sensitive areas, but the nesting season prohibition against disturbance of any kind extends through more than half of the normal construction season and is a clear and obvious interference to the easement and right of way and to the statutory duties, responsibilities, and authority of the Board of Supervisors in keeping the drainage district facilities in good repair.

WHEREAS Iowa Code Section 468.149, 468.150, and other salient sections of the Code of Iowa provide that there is to be no interference with the proper preservation, operation or maintenance of drainage district facilities and further provides that individual counties and joint drainage districts may provide by resolution activities which are deemed nuisances which can be prosecuted as a serious misdemeanor and/or abated by nuisance abatement procedures. It is necessary to adopt a resolution to implement and enforce these code sections.

NOW, THEREFORE, It Is Hereby Resolved by the Board of Supervisors of Winnebago County that:

SECTION 1. PROHIBITION OF ENROLLMENT OF LAND INTO THE CRP PROGRAM ON OR ADJACENT TO DRAINAGE DISTRICT FACILITIES

The enrollment of lands into the general CRP or CRP conservation buffers which lie on or adjacent to drainage district facilities is hereby found to be an interference to the easements, rights of way, and with the proper preservation, operation and maintenance of drainage district facilities and is hereby prohibited. Land shall be considered adjacent if it lies within 100 feet of the established centerline or within 80 feet of the top of the nearest bank, whichever is farther, of a drainage district open ditch, or surface drain or settling basin or watercourse and said facility is not separated from the land by a public road or a railroad right of way. The land should also be considered adjacent if it lies within 50 feet of any other drainage district facility.

SECTION 2. DECLARATION OF NUISANCE

The enrollment or re-enrollment of land lying on or adjacent to a drainage district facility into the CRP after the date of the adoption of this resolution is declared to be an interference as above defined and said enrollment or re-enrollment is declared a nuisance.

SECTION 3. CONTINUATION OF EXISTING ENROLLED LANDS

The land lying on or adjacent to a drainage district facility which is enrolled in the CRP on the date of adoption of this resolution may remain enrolled until the end of the CRP contract or until such time as circumstances require that the Board declare the individual CRP enrollment to be a nuisance, and/or order it to be abated pursuant to Iowa Code Section 468.149 the land may not be re-enrolled in the CRP following expiration or cancellation of the existing CRP contract.

SECTION 4. EXEMPTIONS – APPLICATION AND CONDITIONS

The Board may, upon the written application of a landowner, consider and grant an exemption to the general prohibition of the enrollment or re-enrollment of land on or adjacent to a drainage district facility, but said exemption should be only granted for a defined time period of no more than 15 years, or the maximum amount of any CRP program. Said exemption shall be subject to immediate cancellation at the discretion of the trustees as circumstances require. As part of said application the applicant shall agree in writing to not object to the drainage district's decision should it occur upon the CRP during the primary nesting season to maintain,

repair, improve, or inspect the drainage district facilities and the landowner further specifically agrees to not seek reimbursement from the drainage district, or any joint County drainage districts, herein for any CRP forfeitures or penalties or for any related costs that may result from a possible future finding by the trustees that the exempted CRP is a nuisance and/or abatement is ordered. This exemption is intended but not limited to be used to allow the temporary placement of buffer strips on the leveled spoiled piles following major open ditch repairs or improvements. The active enrollment in a CRP Program shall operate as a waiver by any landowner of any type of reimbursement or claim against the drainage district with or without the application for exemption.

SECTION 5. DURATION OF RESOLUTION

This resolution is rescinded under the following conditions:

1. The USDA terminates the conservation reserve program and when all CRP contracts on lands adjacent to or on drainage district facilities have expired.

Or in the alternative:

2. When the Board has determined that the FSA has permanently rescinded the prohibition against disturbing CRP lying on or adjacent to drainage district facilities during the primary nesting season (May 15th through August 1st) and all existing and future CRP contracts have been amended to reflect this permanent change.

SECTION 6. EFFECTIVE DATE AND SEVERANCE

This resolution shall become effective upon its adoption and passage. If any section herein shall be found void or improper the remaining sections shall remain in full force and effect.

Passed and approved on September 17, 2017.

By: Terry Durby
Terry Durby, Chairman
Winnebago County Board of Supervisors

Attest: Karla Weiss
Karla Weiss
Winnebago County Auditor

During open forum Robert Schwartz, Conservation discussed the new building.

On a motion by Jensvold and seconded by Stensrud the Supervisors moved to approve the following Auditor's transfers: #3764 from Rural Basic to Secondary Roads for \$80,689.85, #3765 from Rural Basic to Winnebago County Fair Association for \$3,045.55; and #3766 from General Basic to Public Health for \$32,930.00. All voted aye. Motion carried.

The following claims were approved and ordered to be paid:

Advanced Drainage System Inc	Supplies	1,033.11
Ag Vantage FS Inc	Fuel	5,268.99
Alliant Energy	Utilities	92.33
Black Hills Energy	Utilities	36.63
Cavetts Lawn & Garden Equipment	Supplies	2.80
Cintas Corporation	Services	478.93
City of Buffalo Center	Utilities	37.00
City of Forest City	Utilities	317.91
City of Lake Mills	Utilities	164.96
City of Thompson	Utilities	118.50
Clear View Auto Glass	Parts	272.95
Dave Syverson Inc	Parts	316.59
Farmers Coop Assn	Fuel	5,298.60
Fastenal	Supplies	816.36
Five Star Cooperative	Fuel	781.00
Fleener Auto Parts & Service	Supplies	21.08
Folkerts, Dave	Reimbursement	174.40
G & H Motor Parts	Supplies	44.99
Global Hydraulics & Supply Inc	Parts	353.91
H & S Autoparts	Supplies	795.65
Harrison Truck Centers	Parts	3,160.90
Hassebroek, Travis	Services	235.00
Heartland Power	Utilities	329.00
Huber Supply Co	Supplies	172.79
Iowa Prison Industries	Supplies	2,021.25
Jack's OK Tire Service	Supplies	385.97
Johnson, Wayne	Borrow Pit	180.00
K1 Excavating & Drainage	Supplies	2,812.15
KC Nielsen Ltd	Parts	91.39
Lake Mills Lumber Co	Supplies	30.00
Mason City Tire Service	Tires	6,877.53
Midwest Wheel & Equip Co	Parts	737.90
Murra Hardware	Supplies	49.99
Napa Auto Parts	Parts	8.99
Nuway - K&H Coop	Fuel	9,025.32
Peterson Sanitation Inc	Services	60.00
Petroblend Corp	Supplies	2,102.51
Pitney Bowes	Machine Rental	26.72
Rognes Brothers Excavating Inc	K-21-N Bridge Replacement	15,535.95

Ron's LP Gas Service	Supplies	15.00
Schnebly's 66	Supplies	337.95
Thompson, Jeff	Reimbursement	103.87
Waste Mgmt of WI-MN	Services	1,629.24
WCTA	Telephone	363.85
Weavers Leather Store	Supplies	270.00
Ziegler Inc	Parts	8,730.12
A-1 Portables	Services	170.00
Abele, Brian	Meeting	20.00
Abele, Paul	Meeting	20.00
Accurate Controls Inc	Services	12,456.80
Ackerman, Jennifer	Mileage	156.60
AH Hermel Co	Jail Food	1,933.26
Alliant Energy	Utilities	45.84
Amazon Capital Services	Supplies	814.41
American Lung Assn	Supplies	120.00
Asmus, Harlan	Meeting	20.00
AT&T Mobility	Telephone	330.16
Austin Office Products	Supplies	385.39
B & W Control Specialists Inc	Services	2,000.00
Bauer Built Tires	Supplies	606.28
Black Hills Energy	Utilities	111.28
BMC Aggregates LLC	Supplies	268.78
Bob Barker Co	Supplies	414.40
Bodzioch, Alexis	Mileage	141.48
Century Link	Telephone	14.00
Charm-Tex Inc	Supplies	11.90
Christenson, Palmer	Rent	400.00
City of Forest City	Utilities	5,391.02
Culligan	Supplies	21.60
DLT Solutions Inc	Supplies	2,214.80
Duve, Melissa	Meeting	30.00
Enderson, Mark	Meeting	30.00
Farmers Coop Assn	Fuel	2,520.89
Five Star Cooperative	Fuel	376.71
Forest City Auto Inc	Services	1,300.75
Forest City Post Office	Postage	463.65
Forest City Vet Clinic	Supplies	46.00
G & H Motor Parts	Supplies	95.74
GlaxoSmithKline	Supplies	4,006.56
Grp & Associates	Services	42.00
Hagen, Al	Meeting	20.00
Hall, Steve	Rent	300.00
Hancock Co Memorial Hospital	Services	161.10
Hancock Co Treasurer	Drainage Assessment	6.00
Hassebroek Mowing & Tilling	Services	255.00
Health Partners	Health Ins	101,326.78
Healthcare First	Services	104.74
Heartland Power	Utilities	577.56
Helgeson, Gary	Meeting	40.00

Hotsy Corp	Supplies	137.46
ICIT	Education	60.00
Iowa Outdoors	Subscription	35.00
Iowa Secretary of State	Notary Fee	30.00
IP Pathways	Services	532.10
ISAC	Education	70.00
IT Savvy LLC	Services	1,900.00
Janitors Closet Ltd	Supplies	652.11
Johnson, Mark	Rent	425.00
Kids Love Stickers	Supplies	25.68
Kriss Premium Products Inc	Supplies	318.52
Kvale, Ron	Mileage	196.56
Lake Mills Graphic Inc	Advertising	25.00
Lake Mills Motor Sports Inc	Services	105.00
Larson Printing Co	Services	369.50
Legal Shield	Services	171.35
Lutheran Services	Education	675.00
Lyles Sales & Service	Supplies	17.57
Mail Services	Services	352.14
Marco Inc	Services	177.79
Martin Gardner Arch	Services	8,756.44
McColloch, Suzanne	Reimbursement	19.98
MDS Records Management	Services	35.70
Medline Industries Inc	Supplies	2,231.55
Med-Pass Inc	Supplies	31.98
Michaelis, Melissa	Mileage	390.32
Mittelstadt Funeral Home	Services	2,200.00
Next Generation Technologies	Services	1,195.00
NG-911	Services	300.63
North Central Iowa Alliance	Services	3,250.00
North Iowa Lumber & Design Inc	Supplies	14.52
Nutrien AG Solutions	Supplies	1,408.20
Nuway - K&H Coop	Fuel	628.22
Office Depot	Supplies	197.45
Office Elements	Supplies	126.99
Pitney Bowes	Machine Rental	133.57
Quamme, Bennett	Meeting	20.00
Reliance Telephone Inc	Supplies	800.00
Ricoh USA Inc	Services	134.91
Sanofi Pasteur Inc	Supplies	490.49
Satre, Cordell	Meeting	20.00
Schneider Corporation	Services	2,325.00
Schumacher Elevator Co	Services	220.78
Schutter, Bill	Meeting	20.00
Schwartz, Robert	Reimbursement	65.00
Singelstad Hardware	Supplies	5.97
Sirchie Fingerprint Labs	Supplies	95.60
Skellenger, Willemina	Mileage	136.08
Solomonson, Roger	Meeting	20.00
Staples Credit Plan	Supplies	138.18

Stark Surveying Inc	Services	825.00
State Hygienic Laboratory	Supplies	338.00
Storey Kenworthy	Supplies	25.05
Thorson, James	Meeting	30.00
Tjelle, Denise	Mileage	515.86
Visa	Supplies	2,008.02
Wagner Tire	Supplies	12.00
Waste Mgmt of WI-MN	Services	360.06
WCTA	Telephone	1,781.68
Wex Bank	Fuel	253.71
Windstream	Telephone	123.84
Winnebago Co Auditor	CSS Reimbursement	992.49
Winnebago Co Fair Assn	Transfer	3,045.55
Winnebago Co Sheriff	Services	149.24
Winnebago Co Treasurer	Drainage Assessments	4,863.71

On a motion by Jensvold and seconded by Stensrud the Supervisors moved to approve the payroll claims. All voted aye. Motion carried.

The following Manure Management Plans were received by the Auditor's office: Newton Finisher Farm #64401 and Linden Finisher Farm #64399, Winnebago County.

On a motion by Durby and seconded Jensvold the Supervisors moved that the discussion with outside counsel for Winnebago County regarding potential litigation involving the Winnebago County Workmen's Association be made in closed session as the purpose of this discussion will be to discuss strategy with outside counsel and the County Attorney where litigation is imminent and its disclosure would be likely to prejudice or disadvantage the position of Winnebago County in that litigation. Voting aye – Durby, Stensrud, and Jensvold. Motion carried.

It has been moved to hold a closed session pursuant to Iowa Code Section 21.5(1)(c), and the members of the Board have voted unanimously to hold the closed session. I ask that all persons other than the supervisors, outside counsel, County Attorney and County Auditor leave the room until we come into open session again.

On a motion by Jensvold and seconded by Durby the Supervisors moved to return to open session. Voting aye – Durby, Stensrud, and Jensvold. Motion carried.

The session was adjourned until 9:00 A.M. September 24, 2019.

Terry Durby, Chairperson

Attest: _____
Karla Weiss, Auditor